

## EEOC's Pay Data Collection Requirement Suspended

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On August 29, 2017, the U.S. Office of Information and Regulatory Affairs (“OIRA”), a division of the U.S. Office of Management and Budget, informed the U.S. Equal Employment Opportunity Commission (“EEOC” or “Commission”) that it is implementing an immediate stay and initiating a review of the effectiveness of the pay data collection aspects of the revised Equal Employer Information Report (“EEO-1 report”).

Last year, as noted in our previous [Act Now Advisory](#), the EEOC published regulations that amended the EEO-1 report to require federal contractors and private employers with at least 100 employees to include pay and hours worked data by race, ethnicity, and sex, grouped by occupational category, by March 31, 2018.

According to the U.S. Chamber of Commerce, OIRA cited concerns with cost, utility, and confidentiality as the basis for its decision to suspend part of the revised EEO-1 report.

OIRA's action does not completely rescind the revised EEO-1 report, but it does relieve employers of their obligation to file pay and hours worked data. The previous EEO-1 form, which collects data on race, ethnicity, and sex by occupational category, remains in effect, and employers should plan to comply with this requirement by the previously set filing date of March 31, 2018.

Despite OIRA's action, acting EEOC Chair Victoria Lipnic stressed that the EEOC's commitment to fighting wage inequality remains a high priority for the Commission. Lipnic added that the stay of last year's regulation provides the Commission with “an opportunity to address the wage gap in a holistic way.”

The EEOC will be publishing further details about what actions it will be taking, as well as any future deadlines and timelines, in the *Federal Register*.

## What Employers Should Do Now

- As with years past, plan to collect and file information on employees' race, ethnicity, and sex by occupational category, by the March 31, 2018, deadline (not the historical deadline of September 30).
- For 2017, use employment data from any pay period between October 1 and December 31, 2017, instead of the historical window of July 1 through September 30.
- Consider suspending any plans to collect *pay and hours worked data* by race, ethnicity, and sex but continue to monitor for updates with respect to OIRA's review.

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