



## Federal Court Ruling Could Cost EEO-1 Employers Billions in Compliance

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**Update:** On May 1, 2019, the EEOC announced that in mid-July, 2019 it will begin collecting Component 2 data for calendar year 2017 in addition to the Component 2 data for calendar year 2018. Employers must submit this data by the September 30, 2019 deadline. The EEOC expects to notify employers of the precise date the survey for the Component 2 data will be open as soon as it is available. In the meantime, Filers should continue to use the currently open EEO-1 portal to submit Component 1 data from 2018 by May 31, 2019.

On April 25, 2019, a District of Columbia federal judge issued a ruling that may collectively cost employers billions in compliance. The judge ordered the Equal Employment Opportunity Commission (EEOC) to collect detailed pay data from employers sorted by job category, pay band, race, ethnicity, and gender by September 30, 2019. Employers will report this data on the EEOC's EEO-1 form. Prior to this ruling, a business with at least 100 employees, or a government contractor with at least 50 employees and a contract with the federal government of \$50,000 or more, was required to report the number of employees by job category, sex, race, and ethnicity (Component-1 data). Now, in addition to the Component-1 data, employers must also report W-2 wage information and total hours worked for all employees within 12 EEOC-created pay bands (Component-2 data). This must be done by September 30, 2019.

Important dates/deadlines for employers to consider:

- April 29, 2019: The EEOC will post information regarding employers' obligation to submit Component-2 data for 2018 by the September 30, 2019 deadline.
- May 3, 2019: This is the EEOC's court-mandated deadline to inform employers whether it will collect 2017 or 2019 Component-2 data. For now, Employers should focus on collecting their 2018 pay and hours data.
- May 31, 2019: Employers must submit the Component-1 demographic data to the EEOC by this date (this requirement existed before the April 25 ruling). Employers should already be preparing to report this information.
- July 15, 2019: The EEOC said that it could make the collection portal available to employers by this date and would provide information and training to employers prior to this date, according to

documents filed with the court.

Unfortunately, given the nature of the parties involved in the underlying case and the approaching deadlines, it is likely that little attention was given to the burden being placed on businesses. Further, the EEOC has yet to issue any additional guidance regarding compliance with reporting the Component-2 data. Moving forward, it is important for employers to begin assessing their internal and/or vendor resources to ensure compliance.

Whether your company conducts payroll in house, or outsources this process through a vendor, it is important to begin locating resources to compile, aggregate, test and submit Component-2 data for 2018 in advance of the September 30 deadline. Depending on the size and structure of your business, it may be more efficient to contact your payroll company to ascertain whether it currently has a system in place that will assist in compliance, or whether it plans on implementing such a system in time to assist with reporting before the applicable deadlines.

If you have any questions about the new EEO-1 pay data reporting requirements, or what you should be doing to prepare, you should consult legal counsel.

## **Related People**

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