

## EEO-1 Reporting Opening Soon

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The Equal Employment Opportunity Commission (“EEOC”) recently announced that EEO-1 Reporting will open in early March 2019, and covered employers must submit their EEO-1 reports on or before May 31, 2019. The EEO-1 filing deadline was extended due to the lapse in the EEOC’s appropriations. According to the EEOC, more specific information about EEO-1 filing will be published “in coming weeks.”

### What is the EEO-1 report?

[The EEO-1 report](#) is conducted annually under the authority of Title VII of the Civil Rights Act of 1964 (as amended). Covered employers must file this report annually, which includes, among other things, a count of employees by establishment and job category, with race and gender information for every employee.

### Which employers must file an EEO-1 report?

- All private employers with 100 or more employees that are subject to Title VII of the Civil Rights Act of 1964, as amended.
- Some private employers with fewer than 100 employees, if the employer is owned or affiliated with another employer -- or there is centralized ownership, control or management -- so that the employers together legally constitute a single enterprise, and the entire enterprise employs a total of 100 or more employees.
- Federal contractors that employ 50 or more employees and are prime contractors or first-tier subcontractors and have a single contract, subcontract or purchase order amounting to \$50,000 or more.

### Who are considered “Employees”?

The EEO-1 instruction booklet defines “Employee” as any individual on the payroll of an employer who is an employee for purposes of the employer’s withholding of Social Security taxes. This includes full and part-time employees. The definition of “Employee” does not include individuals who are temporarily hired on a casual basis for a specified time, or for the duration of a specified job.

## **How is this data used?**

The Office of Federal Contract Compliance Programs (OFCCP) reviews EEO-1 data when selecting employers to audit, and may further cross-reference EEO-1 data with a contractor’s affirmative action plan. Accordingly, federal contractors and subcontractors should pay careful attention to how their EEO-1 is completed.

## **What are common errors with EEO-1 reports?**

- Not preparing a separate report for each establishment, or reporting all employees in the “Headquarter Report.”
- Not providing notice to the EEO-1 Joint Reporting Committee that the filing employer experienced a merger, acquisition, or spinoff.
- Failing to include employees who chose not to self-identify race or gender. An employer is required to report on all “Employees.” Even if an employee declines to self-identify, the employer must still report both race and gender for that employee. There is no “unknown” race or gender category. While self-identification is the preferred means for obtaining race and gender information, employment records or visual identification may be used.

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