

# EEOC and OFCCP Updates – Upcoming Deadlines, Revised Benchmarks and New Race Categories

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The start of spring has brought with it important deadlines and announcements from the EEOC, OFCCP, and the OMB regarding the reporting of employee demographic data to the federal government.

As announced by the Equal Employment Opportunity Commission (EEOC) earlier this year, the 2023 EEO-1 data collection process will open on April 30, 2024 with a deadline to file by Tuesday, June 4, 2024. Private employers with at least 100 employees and federal contractors with at least 50 employees can begin to report their data as of April 30, 2024 in order to meet the deadline. To support filers, the EEOC has now made available the [2023 EEO-1 Component 1 Instruction Booklet](#) and the [EEO-1 Component 1 Data File Upload Specifications](#). There are several changes to this year's process so employers should review the support fliers. For example, the EEOC modified the names of different reports and how they are used. The reports now require the use of Unique Entity IDs (UEI) for federal contractors instead of DUNS numbers, and the agency also updated guidance for how to handle remote employees and non-binary employees.

Additionally, as of April 1, 2024, the Office of Federal Contract Compliance Programs (OFCCP) opened its Contractor Portal, and federal contractors can now begin to certify their Affirmative Action Program (AAP) compliance. Contractors have until July 1, 2024 to certify that they are in compliance with their AAP obligations.

Federal contractors also have an updated veteran hiring benchmark. For contractors required by the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) to develop an AAP, the OFCCP announced that, effective March 31, 2024, the VEVRAA hiring benchmark for 2024 will be 5.2%.

Finally, on March 29, 2024 the Office of Management and Budget (OMB) published revisions to Statistical Policy Directive No. 15: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity (SPD 15) that will change how federal agencies collect race and ethnicity data. SPD 15 aims to provide consistent data on race and ethnicity throughout the federal

government. Federal agencies that collect race and ethnicity data must adhere to the SPD 15.

The key revisions to the SPD 15 include combining the race and ethnicity categories, as opposed to the old standard which posed race and ethnicity as two separate questions. Additionally, the revised SPD 15 adds a new category of Middle Eastern or Northern African, which brings the total race/ethnic categories to seven. Although the EEOC and OFCCP have not announced any action to comply with these changes yet, SPD 15 requires federal agencies to submit a publicly available Agency Action Plan for complete compliance within 18 months so that all data collections and programs comply with revised SPD 15 within five years.

Practically speaking, employers will not see these changes from federal agencies yet. The implementation process will likely not come quickly as the process for federal agencies to comply will need to align the adoption of these standards with the processes of other agency processes. For example, as the federal government currently collects race and ethnicity data critical to other agencies' process using census data through the American Community Survey (ACS), the ACS needs to be updated to comply with SPD 15 first to collect the needed information. In turn, in order for the EEOC to create an EEO tabulation file, it needs at least 5 years of relevant ACS data. Yet EEO tabulation files are normally not released until a few years later. For example, the current EEO tabulation file (2014-2018) was released in March 2021, and OFCCP did not require contractors to use it until their January 1, 2022 AAPs. For now, employers and contractors should be aware of the upcoming changes and monitor our alerts on any agency actions that begin to implement the changes required by SPD 15.

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