

## EEOC Proposes To Collect Pay Data From Employers

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The U.S. Equal Employment Opportunity Commission (EEOC) plans to collect pay data from employers with more than 100 employees in order to reveal potentially discriminatory pay practices. Through a [proposed revision](#) to the Employer Information Report (EEO-1), large employers will report the number of employees by race, gender, and ethnicity that are paid within each of 12 pay bands. The revision is expected to apply to the September 30, 2017 EEO-1 reports.

By gathering this new pay data by race, gender, and ethnicity, the EEOC and the Office of Federal Contract Compliance Programs (OFCCP) intends to identify pay disparities across industries and occupational categories. These federal agencies plan to use the pay data “to assess complaints of discrimination, focus agency investigations, and identify existing pay disparities that may warrant further examination.” The agencies also believe the data will assist employers in promoting equal pay in their workplaces.

### Employers To Be Covered By Revised EEO-1

Employers with 100 or more employees, including federal contractors, would be required to submit pay data on the revised EEO-1. Federal contractors with 50-99 employees would *not* be required to report pay data, but still would be required to report sex, race, and ethnicity, as is currently required.

### Pay Bands For Proposed EEO-1 Reporting

Under the EEOC’s proposal, employers would use employees’ total W-2 earnings for a 12-month period looking back from a pay period between July 1st and September 30th. For each of the EEO-1 job categories, the proposed EEO-1 would have 12 pay bands. Employers would tabulate and report the number of employees whose W-2 earnings for the prior 12 months fell within each pay band.

The proposed pay bands mirror the 12 pay bands used by the Bureau of Labor Statistics in the Occupation Employment Statistics survey:

(1) \$19,239 and under;

(2) \$19,240 - \$24,439;

(3) \$24,440 - \$30,679;

(4) \$30,680 - \$38,999;

(5) \$39,000 - \$49,919;

(6) \$49,920 - \$62,919;

(7) \$62,920 - \$80,079;

(8) \$80,080 - \$101,919;

(9) \$101,920 - \$128,959;

(10) \$128,960 - \$163,799;

(11) \$163,800 - \$207,999; and

(12) \$208,000 and over.

The EEOC published a [Question & Answer page](#) on its website to help explain how the pay data would be reported.

### **Comment Period to Follow**

The EEOC's announcement of the pay data collection on the revised EEO-1 coincides with a White House commemoration of the seventh anniversary of the Lilly Ledbetter Fair Pay Act. The proposed changes will be officially published in the Federal Register on February 1, 2016. Interested parties and members of the public may submit comments for the 60-day period ending April 1, 2016.

We expect that a significant number of employers, business organizations, and industry associations will submit comments, opposing this additional reporting requirement. Groups also may challenge the changes in court. We will keep you posted as this proposal goes forward.

In the meantime, if your organization has concerns about its pay practices, now is a good time to review those practices and proactively address any troubling issues.

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