Blog Post

Alert: The 2022 EEO-1 Collection Period Will Begin October 31

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By Emily C. Ayvazian

EEO-1 reporting season will soon be upon us. As we previously wrote, the 2022 EEO-1 reporting deadline has been a moving target. Almost since its founding in the 1960's, the Equal Employment Opportunity Commission (EEOC) has collected data from employers about the demographics of their workforces as a means of ensuring compliance with equal employment laws. This data is now submitted to the EEOC as a confidential EEO-1 report. The EEOC recently announced that the collection window for 2022 data will now be open from Tuesday, October 31, 2023, to Tuesday, December 5, 2023. Because the collection period will not likely be postponed again, employers should begin gathering the required information now in order to ensure they complete their submissions by the deadline.

Am I Required to File?

As a quick reminder, filing EEO-1 reports is mandatory for the following employers, with limited exceptions:

- Private sector employers that are subject to Title VII of the Civil Rights Act of 1964 (Title VII) and have 100 or more employees;

- Employers subject to Title VII with fewer than 100 employees if the employer is affiliated with another company and, together, they employ 100 or more employees; and

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- Certain federal contractors employing 50 or more employees.

What Do I Have To Submit?

The EEO-1 data is currently collected electronically through the EEO-1 Component 1 Online Filing System (OFS). Essentially, employers must upload data for a "workforce snapshot period" (defined below) that depicts the racial, ethnic, and gender breakdowns of their employees in each of the following job categories:

(1) executive/senior level officials and managers — such as C-suite executives

(2) first/mid-level officials and managers — such as vice presidents, directors, and managers

(3) professionals — such as pilots, architects, and doctors

(4) technicians — such as EMTs

(5) sales workers — such as insurance sales agents, retail workers, and cashiers

(6) administrative support workers — such as office clerks and bookkeepers

(7) craft workers — such as electricians and plumbers

(8) operatives — such as machine operators

(9) laborers and helpers — such as construction workers or refuse materials collectors

(10) service workers — such as bartenders, hairdressers, and medical assistants

If an employer is only located in a single "establishment," which is defined as the physical location where business is conducted or where

services or operations are performed, then the employer only needs to prepare a "Single-Establishment Employer Report" for that single establishment.

Alternatively, multi-establishment employers, who have more than one physical location where business is conducted or where services or operations are performed, are required to prepare three separate reports: (1) a "Consolidated Report," which must include information for all employees at the employer's headquarters and at all establishments; (2) a "Headquarters Report," which must include all employees at the employer's main office site; and (3) a "Establishment-Level Report" for each non-headquarters establishment of the employer. Remote workers should be included in the report for the specific establishment to which they report.

What Should I Do Now?

Employers should begin collecting the necessary information now so they can be prepared to upload the data during the collection window.

First, employers should select a "workforce snapshot period," which is defined as an employer-selected pay period between October 1, 2022, and December 31, 2022, to provide their data for. All individuals who were employed at any time during this selected pay period should be included in the EEO-1 report, including part-time, full-time, temporary, and remote workers.

Next, employers should determine how many establishments they have. For each establishment, the employer should classify all its employees who were employed during the workforce snapshot period into the ten job categories. Finally, the employer should identify the race/ethnicity and gender for each of those employees.

With respect to identifying each employee's race or ethnicity, the employer can rely on employee self-identification, employment records, or even observer identification. The EEOC recognizes the following racial/ethnic categories for purposes of EEO-1 reporting: Hispanic or Latino; White (not Hispanic or Latino); Black or African American; Native Hawaiian or Other Pacific Islander; Asian; American Indian or Alaska Native; or Two or More Races. With respect to disclosing gender identification, the EEO-1 Component 1 data collection currently only recognizes male and female genders. However, employers may voluntarily report their non-binary employees in the "comments" section of their report(s).

If you need assistance in gathering or submitting your workforce data or have questions regarding whether you are a covered employer required to file an EEO-1 report, please contact your Akerman labor and employment attorney.