

EEO-1 Component 2 Data: What Employers Need to Know

Earlier this month, the EEOC issued a series of frequently asked questions (FAQs) regarding the new filing requirements under the EEO-1 Component 2 data. As the deadline to produce this data is coming up fast (September 30, 2019), employers with more than 100 employees will be required to electronically submit Component 2 data regarding hours worked and W-2 Box 1 income, each across 12 pay bands and for each job categorized by sex, ethnicity, and race.

The EEOC's 28 FAQs cover topics ranging from filing requirements, summary compensation data, hours worked, multi-establishment reporting, online filing system, and confidentiality of data. There are a few items of significance worth pointing out:

- Employers will count their employees during the *workforce snapshot period*, a specific date chosen by the employer from the date range of October 1 and December 31 of the reporting year. Employers may use a different workforce snapshot period for 2017 and 2018.
- Compensation and hours-worked data reported are for full-time and part-time employees who were on the employer's payroll during the snapshot period.
- Employers are required to use W-2 Box 1 earnings.
- Actual hours worked for non-exempt employees are required.
- For exempt employees, employers must report the following:
 - Actual hours worked, if accurate hours exist or
 - A proxy of 40 hours per week for full-time employees and 20 hours per week for part-time employees.
- Of interest is that the employer can use a combined approach and report actual hours for some exempt employees and use a proxy for the rest.

One of the controversial items of the filings relates to confidentiality. Also, it is worth noting that the EEOC states that Freedom of Information Act exemption protecting privileged and confidential trade secrets and commercial or financial information may protect an employer's Component 2 reports from disclosure. However, the website further states the following:

"all internet-based communication is subject to the remote likelihood of tampering from an outside source."

The EEOC states that, in early July, employers will be notified about deadline reminders and will be issued login credentials. The portal was open as of July 15, 2019.



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