

## Labor Law Release

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### The Equal Employment Commission Revises EEO-1 Report and Reporting Requirements

In 2006, the Equal Employment Opportunity Commission ("EEOC") announced its first major change to the EEO-1 Report in 40 years. Beginning with the 2007 reporting cycle, companies are required to report on new ethnic and racial information of employees, as well as revised job categories. Covered employers will be required to use the EEOC's revised EEO-1 Report form for their 2007 EEO-1 survey. This report is due on or before September 30, 2007.

#### What is the EEO-1 Report?

The EEO-1 Report, formally known as the "Employer Information Report", is a government form requiring certain employers to provide a count of their employees by job category, ethnicity, race and gender. The EEO-1 report is submitted to the EEOC and the Office of Federal Contract Compliance Programs (OFCCP) at the Department of Labor.

#### Who must file an EEO-1 Report?

Private employers with 100 or more employees and federal contractors with 50 or more employees must comply with reporting requirements.

Standard Form 100 (EEO-1) must be filed by:

- A. All private employers who are:
1. Subject to Title VII of the Civil Rights Act of 1964 with 100 or more employees, State and local governments, primary and secondary school systems, institutions of higher education, Indian tribes and tax-exempt private membership clubs other than labor organizations; or

2. Subject to Title VII and have fewer than 100 employees if the company is owned or affiliated with another company, or there is centralized ownership, control or management (such as central control of personnel policies and labor relations) so that the group legally constitutes a single enterprise, and the entire enterprise employs a total of 100 or more employees.

B. All federal contractors (private employers), who:

1. Are not exempt as provided for by 41 CFR 60-1.5,
2. Have 50 or more employees, and
  - a. is a prime contractor or first-tier subcontractor, and has a contract, subcontract, or purchase order amounting to \$50,000 or more; or
  - b. serves as a depository of Government funds in any amount, or
  - c. is a financial institution which is an issuing and paying agent for U.S. Savings Bonds and Notes.

#### How has the report changed?

The EEOC has made the following changes to the race/ethnicity categories:

- A "Two or more races (Not Hispanic or Latino)" category has been added
- The "Asian and Pacific Islander" category will be replaced with two separate categories: "Asian (Not Hispanic or Latino)" and "Native Hawaiian or other Pacific Islander (Not Hispanic or Latino)"
- "Black" will be renamed "Black or African American (Not Hispanic or Latino)"

- “Hispanic” will be renamed “Hispanic or Latino”

The EEOC claims the revisions to the EEO-1 Report reflect the changes in the demographics of today’s workforce.

Changes to the EEO-1 form also provide a new two-tiered job category for the “Officials and Managers” job category. The categories are:

- (1) “Executive/Senior Level Officials and Managers”; and
- (2) “First/Mid-Level Officials and Managers”

The EEOC also instructs that non-managerial officials with expertise in business or financial occupations should be reclassified as “Professionals” rather than “Officials and Managers.”

### **How should employers collect new racial and ethnic information?**

The EEOC has noted that self-identification is the preferred method of collecting racial and ethnic data. However, employers must communicate to employees that self-identification is strictly voluntary. When employees decline to self-identify, employers must utilize a visual identification process. Employers are encouraged to record the method of identification. Employers should begin updating all forms and any electronic or software tracking systems to reflect the new EEO-1 changes.

### **What actions do effected employers need to take for new hires?**

Employers must survey all new hires utilizing a two-part self-identification format. Employees reported as “Hispanic or Latino” are not to be reported under any remaining race/ethnicity groupings. Employees who do not self-identify or are not reported as “Hispanic or Latino must be reported in one of the following racial groupings:

- White;
- Black or African American;
- Native Hawaiian or Other Pacific Islander;
- Asian;
- American Indian or Alaska Native; or
- Two or more of the preceding races.

### **What actions do employers need to take for existing employees?**

In an effort to minimize the burden on employers, the EEOC will not require employers to resurvey current employees until 2008. However, employers must use a self-identification form to gather and update all current employees ethnic/race information for the September 2008 Report.

### **Where can I find more information on the new EEO-1 guidelines?**

The EEO has created an EEO-1 instruction booklet. It can be downloaded at:

<http://www.eeoc.gov/eeo1survey/e1instruct.pdf>.

This is not intended as a complete analysis of the subject matter, or legal advice on any specific matter. Contact us if you have specific questions or need further assistance.