



Federal judge reinstates collection of gender and race pay data on EEO-1 forms

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Last week, a federal judge in the United States District Court for the District of Columbia reinstated the Equal Employment Opportunity Commission's (EEOC) pay data reporting provisions, which were suspended in 2017. The heavily-debated provisions require employers to report pay information by race, ethnicity and sex.

Each year, employers with 100 or more employees, and federal contractors with 50 or more employees, are required to file the EEO-1 report, which provides the EEOC with data on the number of individuals employed by job categories and location and their demographic information. In 2016, during the Obama administration, the EEOC sought to expand government records on pay gaps by requiring employers to also report pay data. In 2017, President Trump's Office of Management and Budget (OMB) stayed the requirement, citing the Paperwork Reduction Act, which seeks to minimize the paperwork burden that the federal government places on businesses. OMB argued that the EEOC failed to submit the "data file specifications" during the rulemaking process and, therefore, deprived the public of its right to comment on the rule and failed to include the data file specifications within its estimate of the burden that the rules would place on businesses.

Last week, however, the D.C. District Court found the OMB's reasons for the stay insufficient. The [court stated](#) that OMB's "position rests on hyper-technical formatting changes that have no real consequence for employers. While there may be instances when formatting changes could be burdensome, that is not the case here." The court held that the OMB could no longer hold up the EEOC's pay data rules, because its memorandum requesting a stay was without merit.

It is likely that the EEOC will issue a statement with further direction to employers in light of the court's decision. It is also likely

that the OMB will appeal the court's decision to lift the stay. In the meantime, the current EEO-1 report filing deadline is May 31, and that deadline has not changed. That filing does not contemplate pay data or hours worked.

