

Supporting Statement
State and Local Government Information Report EEO-4
(EEOC Form 164)

A. Justification

1. Legal and administrative requirements

The legal basis for the State and Local Government Information Report (EEO-4) form and recordkeeping requirements is Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. 200e-8(c). (Title VII), which imposes the requirement that “[e]very employer, employment agency, and labor organization subject to this subchapter shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports there from as the Commission shall prescribe by regulation or order . . .” Accordingly, the EEOC issued a regulation, 29 C.F.R. § 1602.30-38, which sets forth the reporting and related recordkeeping requirements for State and Local government. State and Local governments with 100 or more full-time employees have been required to submit EEO-4 reports since 1974 (biennially in odd numbered years since 1993). The individual reports are confidential and may not be made public by the Commission prior to the institution of lawsuit(s) under Title VII in which the individual reports are involved.

2. Use of collected information

EEO-4 data are used by the EEOC to investigate charges of employment discrimination against State and Local governments and to provide information about the employment status of minorities and women. The data are used to evaluate and prioritize charges under the Commission’s charge processing system and to determine the appropriate investigative approaches. The data can be analyzed to develop statistical evidence as the investigation proceeds. The EEOC uses the data to develop ad hoc studies of the public sector work force.

The data are shared with the Department of Justice. Pursuant to §709(d) of Title VII, EEO-4 data are also shared with State and Local Fair Employment Practices Agencies (FEPAs) for their enforcement efforts. The data are also used by researchers who request it for use in academic studies.

3. Use of information technology

The EEO-4 report is collected through a web based on-line filing system. There are 12,197 respondents reporting biennially; 85% of these respondents file on-line and 5% filed using the data upload method. The remaining 10% of filers submitted reports via the paper method. The EEOC has made electronic filing much easier for employers required to file the EEO-4 Report. As a result, more jurisdictions are using this filing

method. This development, along with the greater availability of human resource information software, is expected to have significantly reduced the actual burden of reporting.

4. Description of efforts to identify duplication

The Department of Justice's COPS program collects gender, race, and ethnicity information from State and Local law enforcement agencies receiving COPS grants. However, the COPS collection is voluntary and only covers certain law enforcement agencies. The coverage of the EEO-4 report is broader than the COPS collection and includes State and Local personnel who do not work in law enforcement.

5. Impact on small business

The EEO- 4 Report is only collected from State and Local governments with 100 or more employees, so there is no burden on small entities.

6. Consequences if information were collected less frequently

EEO-4 data are an integral part of the Title VII enforcement process, so failure to collect the data reduces our ability to enforce Title VII. The data are only collected in odd numbered years. Further, the EEO-4 is required by law. Section 709(c) of Title VII requires employers to make and keep records relevant to a determination of whether unlawful employment practices have been or are being committed and to make reports there from as required by the EEOC. Accordingly, the EEOC issued a regulation, 29 C.F.R. § 1602.30-38, which sets forth the reporting requirements for State and Local governments. The EEO-4 Report provides the only data collected which covers employment in State and Local governments by major activity (function), sex, race/ethnic group, job category and annual salary (full-time employees). The data are further defined by full-time, part-time and new hire status. No comparable data are available. If the EEO-4 Report is discontinued, the EEOC would not have the data on employment in State and Local governments necessary to fulfill its mission to enforce Title VII. Further, cancellation of the EEO-4 Report would prevent the EEOC from providing the data to current users. Consequently, all the data users identified in this section may each request these same data from State and Local governments in order to carry out their individual programs. The affected governments would suffer unnecessarily from such duplicated requests.

To help reduce burden, respondents are encouraged to file the report via the on-line filing system. The data are only collected every other year. Since employment characteristics are dynamic, collecting the data less often would significantly reduce data utility.

7. Special circumstances

No special circumstances have been used for collection of the EEO-4 Report.

8. Consultation outside the agency

See attached 60 day Federal Register Notice dated February 2, 2018. The EEOC received seven (7) comments from the public during the 60-day comment period;

however, all comments were unrelated to the EEO-4, so no changes were made to the report.

9. Gifts or payments

The EEOC's employees are prohibited by law from providing any payment or gifts to respondents, other than remuneration of contractors or grantees.

10. Confidentiality of information

All reports and information from individual reports are subject to the confidentiality provisions of Section 709(e) of Title VII, and may not be made public by the EEOC prior to the institution of any proceeding under Title VII involving a particular report or reports. However, aggregate data may be made public in a manner so as not to reveal any particular jurisdiction's statistics or information that identifies any individual employee. All academic researchers and State and Local FEPAs with whom we share the data must agree to maintain the confidentiality of the data. Barring prohibitive State or Local legislation, a political jurisdiction may make its EEO-4 Report public at any time.

11. Questions of a sensitive nature

The EEO-4 Report does not solicit any questions of a sensitive nature.

12. Information collection burden

Burden:

Collection Title: State and Local Government Information Report (EEO-4)

OMB Number: 3046-0008

Frequency of Report: Biennial

Type of Respondent: State and local government jurisdictions with 100 or more employees

Description of Affected Public: State and local governments excluding public elementary and secondary public school districts

Number of Respondents: 5,128

Number of Responses: 12,197

Biennial Reporting Hours: 85,379

Biennial Burden Hour Cost to Respondents: \$1,646,107.12

Federal Cost: \$251,920

Number of Forms: 1

The EEOC has updated its methodology for calculating biennial burden to reflect the time spent by staff that are responsible for preparing and filing the EEO-4 Report. Based upon its years of experience and interactions with EEO-4 filers, the EEOC now accounts for time to be spent biennially on EEO-4 reporting by human resources assistants. The estimated number of respondents included in the biennial estimate is 5,128 state and local government respondents, as this is the number of EEO-4 filers from the 2015 reporting cycle. These 5,128 filers submit an estimated 12,197 reports biennially.¹ The estimated

¹ This number (12,197) represents the total number of reports filed during the 2015 reporting cycle; it is larger than the number of respondents due to the requirement for some state and local governments to file separate reports by function.

hour burden per report will be 7 hours; this estimate is supported by information on hour burden collected from a sample of both small and large EEO-4 filers. The estimated total biennial respondent burden hours will be 85,379 hours. Burden hour cost was calculated using median hourly wage rates for human resources assistants. The burden hour cost per report will be \$134.96, and the estimated total biennial burden hour cost will be \$1,646,107.12.

13. Information collection cost burden

There is no cost for respondents. It is believed that the costs associated with collecting, managing, and reporting data are de minimis and not quantifiable.

14. Cost to federal government

Estimated cost to the federal government will be: \$251,920 contract cost (based on a competitive bid process from prior years.)

15. Program changes or burden adjustments

There have been no program changes or adjustments to the requirements of this information collection since its last approval.

16. Publication of data for statistical use

Time Schedule for Data Collection and Publication

a. September 30 - Filing deadline

October 30 - First follow-up communication

November 30 - Second follow-up communication

March 31 - Final database creation

June 30 - preparation of data product

b. Nine months are expected to elapse between the filing deadline and data preparation.

17. Approval not to display the expiration date

The EEOC is not seeking approval to not display the expiration date for this collection of information.

18. Exceptions to the certification statement

No exceptions to the certification statement are requested.