

Supporting Statement A
Recordkeeping and Reporting Requirements for
Local Union Report (EEO-3)
(OMB Control No. 3046-0006)

A. Introduction

The Equal Employment Opportunity Commission (EEOC or Commission) is submitting to the Office of Management and Budget (OMB) a request for a three-year extension without change of a currently approved collection, the Local Union Report (EEO-3.)

The EEO-3 data collection is conducted to fulfill the reporting responsibility of all local referral unions subject to Title VII of the Civil Rights Act of 1964, as amended, which have had 100 or more members at any time since December 31 of the preceding year. As part of this requirement, the reporting unions provide data on their members, applicants for membership, referrals, and applicants for referral by sex and by race/ethnic groups to the EEOC.

The EEOC uses EEO-3 data for research and to investigate charges of discrimination. The data are made available to the public, in aggregate format, at the national and state level on www.eeoc.gov.

1. Legal and Regulatory Requirements

The legal basis for the Local Union Report (EEO-3) and recordkeeping requirements is Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-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 therefrom as the Commission shall prescribe by regulation or order. . .” Accordingly, the EEOC has issued regulations, 29 C.F.R. §§ 1602.22 and .27-.28, which set forth the reporting requirements and related record retention policies for various kinds of labor organizations. 29 C.F.R. § 1602.22 requires every local union to retain the most recent data report filed, and 29 C.F.R. §§ 1602.27-.28 require filers to make records necessary for completion of the EEO-3 and preserve them for a year (or if a charge of discrimination is filed, relevant records must be retained until final disposition of the matter). 29 C.F.R. §§ 1602.22 and 1602.27-.28 are related to recordkeeping which is part of standard administrative practices, and as a result, the EEOC believes that any impact on burden would be negligible and nearly impossible to quantify. Local referral unions with 100 or more members have been required to submit EEO-3 reports since 1967 (biennially since 1986). The individual reports are confidential and may not be made public by the Commission prior to the institution of a lawsuit(s) under Title VII in which the individual report(s) is involved.

2. Use of Collected Information

The data from EEO-3 reports are used by the EEOC to investigate charges of employment discrimination against local referral unions and to provide information about the employment status of minorities and women. The data are used to support EEOC decisions and conciliations, and in systemic program activities. For example, data are used to evaluate and categorize charges and to determine the appropriate investigative approaches. Further in the process, the data can also be analyzed to provide additional proof as the investigation proceeds. The EEO-3 collection provides the only data collection which covers the membership and referral practices of unions by race/ethnic groups and sex. Aggregated data are provided to the public.

3. Use of Information Technology

The EEO-3 is collected primarily through an online web-based application system. 975 respondents reported EEO-3 data for the 2018 collection. Of these, 944 respondents, or approximately 97 percent filed electronically through the online filing system. Of the 975 respondents, 31 or 3.2 percent of the respondents filed EEO-3 data through paper submission. Online electronic filing remains the most popular, efficient, accurate, and secure means of reporting for respondents required to submit EEO-3 data. The EEOC has also made online electronic filing much easier for respondents. The EEOC will provide technical assistance to any filers who have difficulty responding online electronically. Accordingly, the EEOC will continue to encourage EEO-3 filers to submit data through online electronic filing and will only accept paper records from filers who have secured permission to submit data via paper submission.

4. Efforts to Identify Duplication

The EEOC is not aware of any duplicative or related collection efforts.

5. Impact on Small Business

The EEO-3 collection does not have an impact on small businesses, as it is collected from local referral unions.

6. Consequences of Collecting Information Less Frequently

Because the EEO-3 collection is an integral part of the Title VII enforcement process, failure to collect EEO-3 data reduces the EEOC's ability to enforce Title VII. EEO-3 data have been integrated into the EEOC's enforcement process. Collecting the EEO-3 less often would impair enforcement decisions by reducing the reliability of the data collected by creating a lag between the membership and referral statistics provided by local referral unions at the time of reporting and when the EEO-3 data are used. This problem is likely to be most pronounced among local unions with fluctuations in membership and referral practices. It is important to make certain that employment decisions are consistent with law when increases or decreases in such numbers occur. A

gap of more than two years between EEO-3 collections would also impose some processing costs on the EEOC because more work would be needed to update mailing lists. The EEO-3 data are only collected biennially. Since membership and referral characteristics are dynamic, collecting EEO-3 data less often would significantly reduce data utility. If the EEO-3 collection is discontinued, the EEOC would have no data depicting the membership and referral practices of local referral unions by race/ethnic groups and sex in order to fulfill its mission to enforce Title VII. Further, cancellation of this data collection would preclude the EEOC from providing timely data to stakeholders and the public. Consequently, persons and entities interested in the data would likely need to request union membership and referral data on an individual basis from the relevant respondents. The affected respondents would suffer unnecessarily from those duplicated efforts.

7. Special Circumstances

No special circumstances will be used to collect EEO-3 data.

8. Consultation Outside Agency

The 60-day Federal Register notice was published November 19, 2020 (85 FR 73703) in order for the public to comment on this proposed collection. No comments were received from the public in response to this notice. Also, the EEOC regularly consults with a wide variety of data users interested in EEOC data.

For example, in the past, the EEOC consulted with the Department of Labor's Office of Labor Management Standards (OLMS) to access lists of active unions to build the EEO-3 list of filers.

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. However, aggregate data are made available at the national and state level, but in a manner so as not to reveal any particular local union data. Due to small cell sizes, some values have been suppressed to prevent the release of identifiable confidential information.

11. Questions of a Sensitive Nature

The EEO-3 data collection does not solicit any information of a sensitive nature.

12. Information Collection Burden Hours and Costs

Collection Title: Local Union Report (EEO-3).

OMB Number: 3046-0006.

Frequency of Report: Biennial.

Type of Respondent: Local referral unions with 100 or more members.

Description of Affected Public: Local referral unions and independent or unaffiliated referral unions and similar labor organizations.

Responses: 1,100¹ per biennial collection.

Reporting Hours: 2,252 per biennial collection.

Burden Hour Cost: \$70,415.95 per biennial collection.

Federal Cost: \$390,120.85 per biennial collection.

Number of Forms: 1.

Form Number: EEOC Form 274.

TABLE 1—ESTIMATE OF BIENNIAL BURDEN FOR EEO-3 REPORT

Local Referral Union Staff	Hourly Wage Rate^a	Hours Per Local	Cost Per Local	Total Burden Hours	Total Burden Hour Cost
Secretaries and Administrative Assistants	\$18.84	1	\$18.84	1,100	\$20,724.00
Business Agent	\$45.00	1	\$45.00	1,100	\$49,500.00
Corporate Legal Counsel	\$69.86	0.05	\$3.49	55	\$191.95
Total		2.05	\$67.33	2,251.80	\$70,415.95

Note: A limited study was conducted by the EEOC of local referral union EEO-3 respondents. The methodology included surveying nine referral union respondents by asking a series of survey questions approved by the EEOC's Office of Legal Counsel regarding the type of local union staff involved in submitting EEO-3 data. The EEOC asked responding study participants to estimate how long on average it took identified local union staff members to complete the EEO-3 submission and what proportion of that time was allocated to each staff member job title. The burden hours per local union by job title, 2.05, is estimated based on filer responses. The results of the study were published in the Final Notice of Submission for OMB Review – Extension Without Change: Local Union Report (EEO-3) on January 24, 2017:

<https://www.federalregister.gov/documents/2017/01/24/2017-01558/agency-information-collection-activities-proposed-collection-submission-for-omb-review>.

^a Hourly wage rates for administrative staff and legal counsel were obtained from the Bureau of Labor Statistics, May 2019 (see U.S. Dept. of Labor, Bureau of Labor Statistics, Occupational Outlook Handbook, https://www.bls.gov/oes/current/oes_stru.htm) and the average hourly wage rate for a labor union business agent was obtained from salaryexpert.com (see <https://www.salaryexpert.com/salary/job/labor-union-business-agent/united-states>).

These estimates are based upon filers' use of the EEO-3 online application system to submit reports. During the 2018 EEO-3 data collection cycle, approximately 1,100 local referral unions were identified as being eligible to report EEO-3 data, and all but 31 of the 975 responsive EEO-3 filers submitted their data electronically. Online electronic filing remains the most popular, efficient, accurate, and secure means of reporting for

¹ This figure is based on the total number of respondents who were eligible to submit EEO-3 data in 2018, which is the most recently completed EEO-3 data year.

respondents required to submit the EEO-3 report. The EEOC has made online electronic filing much easier for respondents required to file the EEO-3 report and as a result, more respondents are using this method. Accordingly, the EEOC will continue to encourage EEO-3 filers to submit data through online electronic filing and will only accept paper records from filers who have secured permission to submit data via paper submission. The EEOC will provide filers with the option of uploading a data file in future years and will provide specifications for future filers who wish to upload an electronic CSV data file through the online application system.

13. Other Cost Burden to Respondents and Recordkeepers

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

14. Cost to Federal Government

The estimated biennial cost to the federal government will be: \$390,120.85 biennially, based on competitive bid process from prior years. The estimate is based on 1% of a GS15/4 salary; 5% of a GS15/3 salary; 20% of GS14/5 salary; and 20% of a GS15/4 salary and associated contract costs.

15. Program Changes or Burden Adjustments

The total burden hour and burden hour cost estimates have been adjusted from the previous clearance. The total biennial burden hour estimate increased from 2,203.75 to 2,251.80. This is due to a slight increase in the number of estimated respondents per biennial collection, which increased from 1,075 in the previous clearance to 1,100. The increased estimate is based on the number of responses received for the 2018 EEO-3 collection. This results in a 48 hour increase in estimated total biennial burden hours.

16. Publication of Data for Statistical Use²

Time Schedule for Information Collection and Publication:³

Reporting Period for Data	Any two-month period selected by the local union between August 1 and November 30
Filing Deadline	December 31

² The 2020 EEO-3 collection has been delayed until calendar year 2021 due to the COVID-19 pandemic. The 2020 EEO-3 data collection is scheduled to open in August 2021. The filing deadline is scheduled for mid-October. Follow-up letters will be sent from October through November. The data will be cleaned December through February and the data are tentatively scheduled to be published in March 2022.

³ This Time Schedule for Information Collection and Publication will be implemented beginning with the 2022 EEO-3 data collection, which will open in calendar year 2022.

First non-response prompt	Early January
Second non-response prompt	Mid-January
Final non-response prompt	Late January/Early February
Preliminary Data Delivery	March
Final Data Delivery	April
Table Preparation	May

17. Approval Not to Display Expiration Date

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

18. Exceptions to Certification Statement

No exceptions to the Certification Statement are requested.