

Supporting Statement A
Recordkeeping and Reporting Requirements for the
State and Local Government Information Report (EEO-4)
(OMB Control No. 3046-0008)

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 State and Local Government Information Report (EEO-4). The EEO-4 is conducted to fulfill the reporting responsibility of State and local governments subject to Title VII of the Civil Rights Act of 1964, as amended (Title VII), with 100 or more employees. As part of this requirement, the reporting State and local governments provide data on their full-time, part-time, and new hire employees by sex, race/ethnic group, and job category to the EEOC. Annual salary is also collected in pay bands for full-time employees.

The EEOC uses EEO-4 data to investigate charges of employment discrimination against State and local governments. The data are also used for research. The data are made available to the public, in aggregate format, at the national and state level at www.eeoc.gov.

A. Justification

1. Legal and Regulatory Requirements

The legal basis for the State and Local Government Information Report (EEO-4) 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 issued regulations, 29 C.F.R. §§ 1602.30 and .32-.37, which set forth the reporting and related recordkeeping requirements for State and local governments. 29 C.F.R. § 1602.30 requires every covered State and local government to make or keep all records necessary for completion of an EEO-4 submission and retain those records for three years. 29 C.F.R. § 1602.32 requires filers to retain a copy of each filed EEO-4 report for three years. These requirements 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. State and local governments with 100 or more members have been required to submit EEO-4 reports since 1974 (biennially since 1993). 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-4 reports 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. Generally, analyses are conducted in conjunction with a charge of discrimination and comparisons are formed with comparative state and local governments. The data are used to support EEOC decisions and conciliations, and in systemic program activities. For example, EEO-4 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. EEO-4 data are made available to the public, in aggregate format, at the national and state level at www.eeoc.gov. The EEO-4 data are shared with the Department of Justice.

3. Use of Information Technology

The EEO-4 report is primarily collected electronically through one of two ways: (1) online web-based application system or (2) online web-based upload of an electronic CSV data file. For the 2019 collection, 4,988 respondents reported EEO-4 data. Of these, approximately 96 percent filed electronically online. Of the 4,988, 4,582 or 92 percent filed EEO-4 data electronically through the online application system; 190 or 4 percent of respondents filed EEO-4 data electronically by uploading a data file through the online system; and 216 or 4 percent of the respondents filed EEO-4 data through paper submission. Online electronic filing remains the most popular, efficient, accurate, and secure means of reporting for respondents required to submit the EEO-4. 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-4 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. Description of Efforts to Identify Duplication

There are other federal data collections that collect some data on State and local government employees, but no single collection is duplicative of the EEO-4 data collection effort. The Department of Justice's Bureau of Justice Statistics (BJS) collects some data on demographic information (e.g., sex and race/ethnicity¹) by select job categories on the Census of Jail Facilities and the Census of State and Federal Adult Correctional Facilities. However, those collections are administered at infrequent intervals and the information collected is aggregate counts and is not able to be cross tabbed by sex, race/ethnicity, or job category. Furthermore, as a federal statistical agency,

¹ Race/ethnicity is collected on the Census of State and Federal Adult Correctional Facilities, but not on the Census of Jail Facilities.

BJS's data cannot be used for investigatory purposes.² The Department of Justice's Community Oriented Policing Services (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 Census Bureau's Annual Survey of State and Local Government Finances and Annual Survey of Public Employment and Payroll collect data on expenditures, including salaries. While these surveys collect some data collected by the EEO-4 data collection, the coverage of the EEO-4 is broader in scope and includes data on State and local personnel that are not collected by the other data collections or surveys.

5. Impact on Small Business

The EEO-4 collection does not have an impact on small businesses, as it is collected from State and local governments.

6. Consequences of Collecting Information Less Frequently

Because the EEO-4 collection is an integral part of the Title VII enforcement process, failure to collect the EEO-4 would reduce our ability to enforce Title VII. Collecting EEO-4 data less often would impair enforcement decisions by reducing the reliability of the data due to a lag between the employment statistics provided by State and local governments at the time of reporting and when the EEO-4 data are used. This problem is likely to be most pronounced among State and local governments with fluctuations in employment. It is important to make certain that employment decisions are consistent with law when increases or decreases in employment occur. A gap of more than two years between EEO-4 collections would also impose some processing costs on the EEOC because more work would be needed to update mailing lists. The EEO-4 data are only collected biennially. Since employment characteristics are dynamic, collecting the EEO-4 data less often would significantly reduce data utility.

7. Special Circumstances

This information collection does not require any special circumstances.

8. Consultation Outside the Agency

The 60-day Federal Register notice was published January 19, 2021 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.

² For more information on BJS's status as a federal statistical agency and the federal statutes and regulations surrounding privacy and data practices, see https://www.bjs.gov/content/pub/pdf/BJS_Data_Protection_Guidelines.pdf.

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 are made available at the national and state level, but in a manner so as not to reveal any particular State or local government data or any information that identifies an individual employee. 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-4 data collection does not solicit any information of a sensitive nature from respondents.

12. Information Collection Burden Hours and Costs

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

OMB Number: 3046-0008.

Frequency of Report: Biennial, odd years.

Type of Respondent: State and local governments with 100 or more employees within the 50 U.S. states and District of Columbia.

Description of Affected Public: State and local governments with 100 or more employees within the 50 U.S. states and District of Columbia.

Reporting Hours: 95,542 per biennial collection.

Burden Hour Cost: \$4,719,509.02 per biennial collection.

Federal Cost: \$386,609.20 per biennial collection.

Number of Respondents: 5,687.

Number of Responses: 13,649.

Number of Forms: 1.

Form Number: EEOC Form 164.

TABLE 1
ESTIMATE OF BIENNIAL BURDEN FOR EEO-4 REPORT

| | Hourly wage rate³ | Burden hours per government entity | Cost per government entity | Total burden hours | Total burden hour cost⁴ |
|--|--|---|-----------------------------------|--|---|
| | Number of Reporting Units = 5,687 | | | Number of Records Submitted= 13,649 | |
| Chief Executive | \$52.90 | 0.35 | \$18.52 | 4,777.1 | \$88,447.64 |
| Legal Counsel | \$50.50 | 0.35 | \$17.68 | 4,777.1 | \$84,434.89 |
| Computer Support Specialist (IT Professional) | \$29.75 | 0.7 | \$20.83 | 9,554.2 | \$198,965.38 |
| Executive Administrative Staff | \$27.40 | 1.4 | \$38.36 | 19,108.3 | \$732,995.16 |
| Human Resource Specialist | \$32.59 | 2.45 | \$79.85 | 33,439.6 | \$2,669,998.39 |
| Payroll Clerks | \$22.60 | 1.75 | \$39.55 | 23,885.4 | \$944,667.57 |
| Total | N/A | 7 | \$214.77 | 95,542 | \$4,719,509.02 |

The EEOC has updated its methodology for calculating biennial burden to reflect the time spent by different staff that are responsible for preparing and filing the EEO-4 Report. The EEOC’s revised burden estimate reflects that the bulk of the work in the biennial preparation of an EEO-4 report is performed by senior and administrative staff as well as time spent by computer support specialists, executive administrative staff, and payroll and human resource professionals; the revised estimate also includes attorneys who may consult briefly during the reporting process. After accounting for the time spent

³ Occupational titles and wages are from the Bureau of Labor Statistics’ National Industry-Specific Occupational Employment and Wage Estimates – NAICS 999000 – Federal, State, and local Government, excluding state and local schools and hospitals and the U.S. Postal Service: https://www.bls.gov/oes/current/naics3_999000.htm#11-0000. The wages cited are median hourly wages.

⁴ Burden hour cost is estimated by multiplying the ‘Cost per government entity’ column by the ‘Total burden hours’ column.

by the various employees who have a role in preparing an EEO-4 data submission, the EEOC estimates that a government entity will spend 7 hours to prepare the reports and estimates that the aggregate biennial hour burden for all respondents is 95,542. The cost associated with the burden hours was calculated using hourly wage rates obtained from the U.S. Department of Labor⁵ for each job identified above as participating in the submission of the report; using those rates, the EEOC estimates that the burden hour cost per government will be approximately \$214.77, while the estimated total biennial burden hour cost for all 5,687 State and local governments will be \$4,719,509.02.

13. Other Cost Burden to Respondents and Recordkeepers

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

The estimated biennial cost to the federal government will be: \$386,609.20 based on the 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 85,379 in the previous clearance to 95,542 (an increase of 10,163 burden hours). This is due to an increase in the number of estimated respondents per biennial collection, which increased from 5,128 in the previous clearance to 5,687. The increased estimate is based on the average number of responding reporting units and responses between 2005 and 2019.

16. Publication of Data for Statistical Use⁶

Time Schedule for Information Collection and Publication⁷:

Reporting Period for Data

June 30

⁵ Median hourly wage rates were obtained from the Bureau of Labor Statistics (see U.S. Dept. of Labor, Bureau of Labor Statistics, Occupational Outlook Handbook, <https://www.bls.gov/ooh/>).

⁶ The opening of the 2021 EEO-4 collection has been delayed until October of 2021 due to the COVID-19 pandemic. The filing deadline is tentatively scheduled for mid-to-late December of 2021. Follow-up letters will be sent from December 2021 through late January/early February 2022. The EEOC tentatively estimates that the aggregate 2021 EEO-4 data will become available to the public nine months after the data collection closes. The data collection closes approximately six weeks after the published filer deadline. For the 2021 EEO-4, the published filer deadline will be sometime in December.

⁷ This Time Schedule for Information Collection and Publication will be implemented beginning with the 2023 EEO-4 data collection, which will open in calendar year 2023.

| | |
|-----------------------------------|---------------|
| Filing Deadline | September 30 |
| First non-response prompt | Early October |
| Second non-response prompt | Mid-October |
| Final non-response prompt | November |
| Preliminary Data Delivery | December |
| Final Data Delivery | February |
| Table Preparation | May |
| Data is published on EEOC website | July |

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 the Certification Statement

The EEOC is not seeking any exceptions to the certification statement under this information collection request.