

Supporting Statement B
Recordkeeping and Reporting Requirements for
Employer Information Report (EEO-1 Component 1)
OMB Number 3046-0049

B. Collections of Information Employing Statistical Methods

1. Respondent Universe

Since 1966, the EEOC has required eligible employers to submit workforce demographic data (EEO-1 Component 1) on an annual basis. All private employers that are covered by Title VII of the Civil Rights Act of 1964, as amended (Title VII),¹ and that have 100 or more employees are required to file the workforce demographic data. In addition, Office of Federal Contract Compliance Programs (OFCCP) regulations require certain federal contractors to file the EEO-1 Component 1 if they have 50 or more employees and are not exempt as provided for by 41 CFR 60-1.5.

The EEOC does not collect workforce demographic data from state and local governments, public elementary and secondary school systems and districts, and local referral unions through the EEO-1 Component 1 data collection. Demographic data for these entities are collected through other EEO data collections administered by the EEOC. These biennial data collections include the EEO-3 Local Union Report, the EEO-4 State and Local Government Report, and the EEO-5 Elementary-Secondary Staff Information Report.²

There is no single source for the universe of all employers meeting the EEO-1 Component 1 eligibility requirements. The EEOC, through its Office of Enterprise Data and Analytics (OEDA), maintains an EEO-1 Component 1 frame (i.e., filer roster/list or employer roster/list) of employers that are required to file the EEO-1 Component 1 report(s). Each year the employers in this frame are notified of their obligation to file their EEO-1 Component 1 report(s). The frame is also compared against each year's current data collection respondents to determine which employers have not submitted and certified their required EEO-1 Component 1 report(s).

Historically, changes and/or updates to the EEO-1 Component 1 frame have been primarily initiated by employers and implemented on an ongoing basis. For example, employers that do not have accounts can self-register through the *EEO-1 Component 1 Online Filing System* (OFS), which is administered by the EEOC's data collection contractor.³ Filers may create a user account

¹ 42 U.S.C. 2000e, *et seq.*

² Please note that the National Center for Education Statistics (NCES), located within the U.S. Department of Education's Institute for Education Sciences, collects data on post-secondary education through the annual Integrated Postsecondary Education Data System (IPEDS) Survey. See <https://nces.ed.gov/ipeds/>.

³ New filers may not always reach out to the EEOC but rather may simply go directly to the OFS and register as a new filer. Once the filers are registered in the OFS, they will be added to the EEOC's frame. If a filer reaches out to the EEOC during the data collection's off-cycle (i.e., the time period between when the data file has closed and before the next year's collection has opened),

to link to an associated employer already deemed eligible from prior data collection cycles or answer a series of questions to determine if the associated employer is required to file. After determining eligibility, the filer can add the employer and link it to their account. They can also associate other users with the employer's account. While a user must create a new password each year, they only need to register once. After being added for the first time, an employer's headquarters and associated establishments are registered and saved. If employers have opened or closed any establishments since the prior year's filing, they may add and/or delete establishments individually through the OFS. If employers go out of business or undergo organizational changes such as mergers, acquisitions, or spinoffs, they must formally report these changes to the EEOC for the frame to remain accurate and up to date.

One of the ways the EEOC may learn of non-respondents (i.e., non-filers) is through the agency's legal and enforcement staff. For example, an EEOC investigator may be investigating a charge of discrimination against an employer but is unable to locate EEO-1 Component 1 reports filed by the employer. In such cases, OEDA would search the frame and the EEO-1 Component 1 database for any information on the employer. For example, the employer may not be required to file an EEO-1 Component 1 report because it does not meet the employee threshold. However, if it appears the employer may be eligible, OEDA adds the employer to the frame. Once the employer is added to the frame, it will receive future notifications regarding its legal obligation to file the EEO-1 Component 1 report(s) if it meets the eligibility requirements.

As part of the EEOC's ongoing modernization efforts, OEDA has begun a multi-prong, multi-year frame enhancement project to ensure the EEO-1 Component 1 frame includes all eligible employers. At the end of the 2021 EEO-1 Component 1 data collection cycle, a total of approximately 98,000 employers were identified as being potentially eligible. The EEOC does not believe this number accurately reflects the total number of eligible employers that should be filing the EEO-1 Component 1 report(s). For example, in 2020 alone, the U.S. Census Bureau's Statistics of U.S. Businesses (SUSB) estimated there were 115,955 firms (i.e., employers) with 100 or more employees.⁴ Although the SUSB methodology differs from that of the EEO-1 Component 1, the differences in how employees are counted to determine eligibility does not wholly account for the discrepancies. Based on these numbers, the EEOC believes its current EEO-1 Component 1 frame undercounts the number of eligible employers. However, based on data trends over the last three EEO-1 Component 1 data collection reporting years (i.e., 2019, 2020, and 2021) as well as the ongoing enhancements, the EEOC believes the total number of filers submitting at least one report may increase to 110,000 for reporting years 2022 through 2024. Accordingly, the EEOC is calculating the burden estimates for this Information Collection Review (ICR) package based on this revised estimate of the number of filers.

OEDA provides the employer's information to the EEO-1 Component 1 contractor so the employer can be added to the frame. For purposes of additions to the frame, there is no distinction between an employer who is "newly eligible" (e.g., an employer that has added employees and now meets the EEO-1 Component 1 reporting threshold) and an eligible non-filer employer who is not in the EEOC's frame but should have been filing reports. Once OEDA receives notification of either type, it directs the contractor to add both types of employers to the frame. Additionally, the employers are directed to register in the OFS.

⁴ See https://www2.census.gov/programs-surveys/susb/tables/2020/us_state_naics_detailedsizes_2020.xlsx. Please note that the 2020 data are the most recent data available at the time of publication of the EEOC's 30-day Notice on May 2, 2023.

Response Rate during the Last Collection

At the start of the 2021 EEO-1 Component 1 data collection, the data collection frame included 87,021 potentially eligible filers. By the end of the collection, this increased to 108,100 potentially eligible filers of whom 92,025 ended in final status. Thus, the response rate for the 2021 EEO-1 Component 1 collection was 85.1%.

2. Procedures for Collection of Information

The EEO-1 Component 1 data collection is not a sample, and as a result does not employ sampling methods, such as weighting or stratification. All employers who meet the eligibility criteria, as discussed above in section 1, have a mandatory legal obligation to submit EEO-1 Component 1 report(s).

Approximately 30 days prior to the opening of the EEO-1 Component 1 data collection, existing users of the *EEO-1 Component 1 Online Filing System* (OFS) receive an advance notification via email reminding them of the opening. When this notice is sent out, employers also can create new accounts in the OFS, add or change associated contacts, and invite other users to create OFS user accounts associated with their employer. A similar notice is emailed to existing users approximately 14 days prior to the data collection opening date, but at this time they are also notified that they can access the EEO-1 Component 1 *Message Center* to contact the Filer Support Team and track the status of requests. Approximately one week prior to the opening date of the EEO-1 Component 1 data collection, an advance notification letter is sent via U.S. Postal Service to the employer's primary point of contact at the employer's listed mailing address. This letter describes how to log in to the OFS (returning users versus new users), the two ways to submit data, "What's New" with the current data collection, important filing details, and a description of who is required to file.

The EEOC also uses the dedicated EEO-1 Component 1 website and the accompanying OFS as a centralized support system (i.e., "one-stop-shop") for filers. In addition to communications with individual filers, the EEOC also posts instructions as well as current updates and announcements involving the EEO-1 Component 1 data collection on the dedicated website. The EEOC also uses the dedicated website and accompanying filer-accessed OFS to post supplementary resource materials, if needed by filers.

As described above, EEO-1 Component 1 filers must submit their filing electronically to the EEOC through a web-based data collection application (i.e., portal) referred to as the *EEO-1 Component 1 Online Filing System* (OFS).⁵ All filers must have at least one OFS account associated with the employer, though it is possible that one employer may have more than one associated user account (e.g., HR Director, IT Analyst). Upon logging in to the OFS, returning users are directed to their "Employer List," which displays the list of employers for which they are permitted to file, while new users must associate their OFS account with an employer. Once an "Employer's List" is

⁵ EEO-1 Component 1 filers may access the *EEO-1 Component 1 Online Filing System* (OFS) through the EEOC's dedicated EEO-1 Component 1 website at www.eeocdata.org/eeo1. The OFS is designed to reduce the burden on employers by pre-populating fields, when feasible. For example, Google geocoding is used to pre-populate addresses in the OFS. Additionally, the OFS is embedded with soft data checks (i.e., prompts) which encourage filers to confirm or correct data that falls outside of expected boundaries (e.g., more than 30% of establishments are deleted).

accessed in the OFS, filers follow a series of steps to complete the employer's EEO-1 Component 1 report(s):

1) Confirm Employer Details

Filers confirm employer details, including employer contact information (e.g., primary point contact and certifying official details), employer details (e.g., EIN, NAICS code, employer name, and headquarters address), and eligibility determination. If the employer is eligible, the employer then moves on to step 2. If the employer is ineligible, the employer then moves on to step 4.

2) Submit EEO-1 Component 1 Report(s)

Eligible employers will be required to confirm, update, and/or enter the employer's establishment information (if applicable), workforce snapshot period, and workforce demographic data by job category and sex and race or ethnicity. The filer may enter the workforce demographic data either via manual data entry into the OFS or via data file upload. While most filers still opt to submit their data by manual entry into the OFS, filers are increasingly using the data file upload function.

3) Review EEO-1 Component 1 Reports

After submitting EEO-1 Component 1 reports, filers may preview a PDF of the employer's uncertified EEO-1 Component 1 report(s) prior to certifying their submission.

4) Certify EEO-1 Component 1 Reports

In the final step of the EEO-1 Component 1 data collection process, employers must certify their report(s) in order to complete their filing.

As outlined in Supporting Statement A of this package, EEO-1 Component 1 filers are categorized as either a single-establishment employer (i.e., single-establishment filer) or a multi-establishment employer (i.e., multi-establishment filer). For purposes of the EEO-1 Component 1, the EEOC defines a single-establishment employer as an employer with a single establishment at which business is conducted or services or industrial operations are performed. The EEOC defines a multi-establishment employer as an employer with more than one establishment at which business is conducted or services or industrial operations are performed.⁶ Based on the last three EEO-1 Component 1 data collection cycles, approximately 40% of all filers report data for a single establishment, while approximately 60% report data for multiple establishments. Historically, multi-establishment employers submit more than 98% of all reports.

Beginning with the 2022 EEO-1 Component 1 data collection, multi-establishment employers will no longer be required to file a separate "type" of establishment report based on the size of an individual non-headquarters establishment (i.e., establishments with 50 or more employees or establishments with fewer than 50 employees). Rather, in place of the former "Type 4" and "Type

⁶ An establishment is generally a single physical location where business is conducted or where services or industrial operations are performed (e.g., factory, mill, store, hotel, movie theater, mine, farm, airline terminal, sales office, warehouse, or central administrative office). See U.S. Census Bureau's North American Classification System (NAICS) definitions at <https://www.census.gov/naics/#q2>.

8” establishment reports and the former “Type 6” establishment list report, there will be a newly named “Establishment-Level Report.”⁷ All multi-establishment employers will use the “Establishment-Level Report” to submit establishment-level employee demographic data for each of their non-headquarters establishment(s) regardless of size. With this change, a multi-establishment employer will no longer have to take the additional step of counting employees in each establishment to determine whether to file a “Type 4” or “Type 8” establishment report. Multi-establishment employers will still be required to submit a “Headquarters Report” (formerly referred to as a “Type 3” report) and a “Consolidated Report” (formerly referred to as a “Type 2” report). However, each “Consolidated Report” for every multi-establishment employer will be auto-populated and auto-generated with data from their “Headquarters Report” and “Establishment-Level Report(s)” within the EEOC’s electronic, web-based *EEO-1 Component 1 Online Filing System* (OFS).⁸ A single-establishment employer is still required to submit only one report, a “Single-Establishment Employer Report”⁹ (formerly referred to as a “Type 1” single establishment report).

While most employers still opt to submit their data by manual entry in the OFS, employers are increasingly using the data file upload function. For example, just 5% of filers used the data file upload option during the 2018 EEO-1 Component 1 data collection cycle while 17% used it during the 2021 cycle. Further, although a relatively small percentage of employers use the data file upload function, the uploaded data represent two-thirds or 66% of all data on establishments reported by filers. This is because multi-establishment filers, particularly those with a large number of establishments, are more likely to be using human resource information systems (HRIS) that produce upload files in much less time than manual entry would require.

3. Methods to Maximize Response Rates

In recent years, the EEOC has adopted an enhanced notification process for EEO-1 Component 1 filers as well as a more vigorous follow-up schedule for non-respondents (i.e., filers in the EEOC’s frame that have not submitted and certified their filings). In addition to communication with filers through postings and routine updates on the dedicated EEO-1 Component 1 website, as well as the EEOC’s public website and social media, the EEOC uses a series of directed prompts to notify filers of the upcoming data collection cycle. As described in section 2 above, the first prompt begins approximately one month prior to the opening of the data collection in the form of an email to all contacts associated with employers identified as potentially eligible to file. This first email to all contacts announces the planned opening date of the data collection. The second prompt to all contacts is an email from the EEOC sent 14 days prior to the opening of the data collection.

⁷ The “Type 4” report contained establishment-level employee demographic data at a non-headquarters establishment with 50 or more employees. The “Type 8” report contained establishment-level employee demographic data at a non-headquarters establishment with fewer than 50 employees. The “Type 6” establishment list report contained the name and address of *each* non-headquarters establishment with fewer than 50 employees, as well as the total number of employees at each establishment. A multi-establishment employer choosing the option to submit a “Type 6” establishment list report, instead of a “Type 8” report, was required to *manually* enter employee demographic data by job category and sex and race or ethnicity into the accompanying “Type 2” consolidated report for every employee of every establishment included on the “Type 6” establishment list report.

⁸ With the discontinuation of the option to use a “Type 6” establishment list report, a “Consolidated Report” can be auto-populated and auto-generated with data from a multi-establishment employer’s “Headquarters Report” and “Establishment-Level Report(s)” within the EEOC’s electronic, web-based *EEO-1 Component 1 Online Filing System* (OFS).

⁹ This was referred to as a “Single-Establishment Filer Report” in the 60-day Notice published on November 10, 2022 in the Federal Register.

This prompt reminds filers of the opening and provides additional information on what to expect during the upcoming EEO-1 Component 1 data collection cycle. The third prompt is a letter sent via U.S. Postal Service to all primary points of contact from the EEOC approximately one week prior to the opening of the data collection. The final prompt is an email sent to all contacts from the EEOC notifying filers that the data collection is now open.

During active data collection, non-respondents are prompted on an ongoing basis to submit and certify their EEO-1 Component 1 filing before the published deadline. For example, during the 2021 EEO-1 Component 1 data collection cycle, non-respondents received four separate emails on a weekly basis (i.e., one email a week for four weeks) reminding them to submit and certify their filing by the published deadline. In addition to these emails during active data collection, the EEOC sends a series of three “Failure to File” notices to non-respondents who did not file by the published deadline. These notices, consisting of two emails and one mailed letter, remind non-respondents of their mandatory legal obligation to file the EEO-1 Component 1 under Title VII and the accompanying regulations. The letter is mailed to the primary point of contact and provides detailed instructions on accessing the *EEO-1 Component 1 Online Filing System (OFS)* to submit and certify their filing. The emails provide general information and direct filers to submit and certify their filings in the OFS “as soon as possible” and no later than the specific date provided in the notice (i.e., the “Failure to File” deadline). All three notices inform the filer that after the “Failure to File” deadline, no additional reports will be accepted and that they will be out of compliance with their legal filing obligation.

4. Procedures or Methods Undertaken

As part of its modernization efforts, the EEOC’s Office of Enterprise Data and Analytics (OEDA) has been evaluating the processes and design of the EEO-1 Component 1 data collection and is conducting internal qualitative and quantitative research to assess the impact on burden of any revisions. In addition, OEDA will continue its efforts to modernize the *EEO-1 Component 1 Online Filing System (OFS)* and identify improved methods for reporting that will further reduce burden on filers in the future.

Since sampling methods are not used in the EEO-1 Component 1 data collection, a non-response bias analysis has not been performed. However, as part of its ongoing modernization efforts, OEDA is undertaking a gap analysis to better understand the coverage of the existing frame in terms of the potential eligible universe.

5. Contact Information

The following individuals were consulted on the statistical aspects of the EEO-1 Component 1 data collection:

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