

Questions and Answers: Revisions to the EEO-1 Report

Background and Basic Requirements

1. **Q: What is the EEO-1 Report?**

A: The EEO-1 Report – formally known as the "Employer Information Report" – is a government form requiring many employers to provide a count of their employees by job category and then by ethnicity, race and gender. The EEO-1 report is submitted to both the EEOC and the Department of Labor, Office of Federal Contract Compliance Programs (OFCCP).

2. **Q: Who must file the EEO-1 report?**

A: The EEO-1 report must be filed by:

- o Employers with federal government contracts of \$50,000 or more and 50 or more employees; and
- o Employers who do not have a federal government contract but have 100 or more employees

3. **Q: When must the EEO-1 report be filed?**

A: The EEO-1 report must be filed annually with the EEOC by September 30. It must use employment numbers from any pay period in July through September of that year.

4. **Q: When must employers begin using the revised EEO-1 report?**

A: The revised EEO-1 report must be used beginning with the survey due by September 30, 2007. For the surveys due by September 2006, employers should continue to use the EEO-1 report format from previous years. This report is still available on the EEOC's website at <https://apps.eeoc.gov/eeo1/eeo1.jsp>

5. **Q: How do employers file EEO-1 reports?**

A: We strongly recommend that EEO-1 reports be submitted through the EEO-1 Online Filing System or as an electronically transmitted data file. Paper EEO-1 forms will be generated on request only, and only in extreme cases where Internet access is not available to the employer. Instructions on how to file are available on the EEOC's website at <http://www.eeoc.gov/eeo1survey/howtofile.html>.

6. **Q: Is EEO-1 data confidential?**

A: Yes. The Commission is required by law to keep individual employer EEO-1 reports strictly confidential. 42 U.S.C. 2000e-8(e).

7. **Q: Where can employers find more information about the EEO-1?**

A: General information about the EEO-1 can be found at the EEOC's website at <http://www.eeoc.gov/eeo1survey/index.html>.

Description of the Changes to the New EEO-1 Report

8. **Q: What changes are being made to the ethnic and racial categories on the EEO-1 report?**

A: A number of changes are being made to the race and ethnic categories. The revised EEO-1 report:

- o adds a new category titled "Two or more races"
- o divides "Asian or Pacific Islander" into two separate categories: "Asian" and "Native Hawaiian or other Pacific Islander"
- o renames "Black" as "Black or African American"
- o renames "Hispanic" as "Hispanic or Latino"
- o strongly endorses self-identification of race and ethnic categories, as opposed to visual identification by employers

9. **Q: What changes are being made to the job categories on the EEO-1 report?**

A: First, the current category of "Officials and Managers" will be divided into two levels based on responsibility and influence within the organization.

These two levels will be:

1. Executive/Senior Level Officials and Managers (plan, direct and formulate policy, set strategy and provide overall direction; in larger organizations, within two reporting levels of CEO)
2. First/Mid-Level Officials and Managers (direct implementation or operations within specific parameters set by Executive/Senior Level Officials and Managers; oversee day-to-day operations)

The revised EEO-1 also will move business and financial occupations from the Officials and Managers category to the Professionals category (to improve data for analyzing trends in mobility of minorities and women within Officials and Managers).

10. **Q: What process did the EEOC follow in adopting these revisions to the EEO-1 report?**

A: On June 11, 2003, the EEOC published in the *Federal Register* a notice of proposed revisions to the EEO-1 and asked for comments in 60 days.

1. Thirty-two interested parties, including employers, civil rights organizations, human resources and information technology professionals, and other individuals, submitted written comments.
2. The EEOC held a public hearing at which nine witnesses testified. The record was completed by several written comments submitted subsequent to the hearing.
3. The EEOC reviewed the comments and made revisions to the EEO-1 report, in coordination with OFCCP.
4. On November 16, 2005, the Commission voted to approve the revisions to the EEO-1

Report. A final Notice of Submission for Office of Management Budget (OMB) review was published in the Federal Register on November 28, 2005. This notice is available on the Commission's website at <http://www.eeoc.gov/eeo1/index.html>.

5. After a 30-day public comment period during which OMB considered all comments submitted, the revised EEO-1 was given final approval.
6. The final revised EEO-1 report was posted on the Commission's website on January 27, 2006 at <http://www.eeoc.gov/eeo1/index.html>.

11. Q: Where is more information about the revisions to the EEO-1?

A: More information about the revised EEO-1 - including the final Notice of Submission for OMB Review which explains the revisions in detail and the Instruction Booklet - is available on the Commission's website at <http://www.eeoc.gov/eeo1/index.html> . A copy of the final notice can also be found in the November 28, 2005 issue of the Federal Register (70 FR 71294) at <http://edocket.access.gpo.gov/2005/05-23359.htm> .

Uses of EEO-1 Data

12. Q: What do the EEOC and OFCCP do with the EEO-1 survey data?

A: Both the EEOC and OFCCP have used the EEO-1 since 1966.

The EEOC uses the data to support civil rights enforcement. The EEOC also uses the data to analyze employment patterns, such as the representation of female and minority workers within companies, industries, or regions.

OFCCP uses EEO-1 data to determine which employer facilities to select for compliance evaluations. OFCCP's system uses statistical assessment of EEO-1 data to select facilities where the likelihood of systematic discrimination is the greatest.

Next Steps

13. Q: What happens now that OMB has approved the revised EEO-1 report?

A: The final EEO-1 report has been posted on the Commission's website, with the valid OMB number, at <http://www.eeoc.gov/eeo1/index.html>, along with the Instruction Booklet. Employers must begin to use the newly approved EEO-1 report beginning with the survey due September 30, 2007. (For the survey due September 30, 2006, employers should continue to use the EEO-1 report from previous years, still available on the Commission's website at <https://apps.eeoc.gov/eeo1/eeo1.jsp>.)

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Questions and Answers - Implementation of Revised Race and Ethnic Categories

Introduction

These Frequently Asked Questions (FAQs) provide answers to common questions about how to implement the revised race, ethnic and job categories in the new EEO-1 report. The new EEO-1 report and supporting documents may be found on the EEOC's website at <http://www.eeoc.gov/eo1/index.html>.

The EEO-1 report originally dates to 1966. Employers use it to report anonymous annual data about the number of women and minorities in broad occupational categories and subcategories. The EEOC uses this data to support its enforcement of Title VII of the Civil Rights Act of 1964, as amended, which prohibits employment discrimination on the bases of race, color, religion, national origin, and sex. The EEOC changed the EEO-1 due to several developments, including the revised 1997 government-wide standards about how to report data about race and ethnicity to the federal government.

Effective Date

1. Q: What is the effective date of the revised EEO-1 report?

A: Employers must use the new EEO-1 report starting with the report due on September 30, 2007.

2. Q: May employers use employment figures from any pay period in 2007 to complete the EEO-1 report due on September 30, 2007?

A: No. As has always been the case with EEO-1 reports, employers must use employment figures from any one pay period between July and September of the survey year in question. The revised EEO-1 report due on September 30, 2007, therefore, must be based on employment figures from any one pay period between July and September, 2007.

Resurveying Current Employees

3. Q: Does the EEOC encourage employers to resurvey current employees using the new race and ethnic categories as soon as possible?

A: Yes. Opportunities to resurvey should be used as soon as possible. For example, an employer that periodically asks its employees to update their personal information may use these periodic requests to ask employees to confidentially self-identify using the new EEO-1 race and ethnic categories. Alternatively, an employer could provide a page on its internal (private) website, where employees could voluntarily and confidentially self-identify. Other methods that achieve the same result would be acceptable.

4. Q: May an employer resurvey current employees during the period of July-September, 2007?

A: An employer may resurvey current employees from July to September, 2007. As stated above in Question 2, the new EEO-1 report continues the practice of requiring employers to use employment figures from any one pay period between July and September.

5. **Q: Will the EEOC require covered employers to resurvey current employees with the new race and ethnic categories before the September 30, 2007 deadline for submitting the first new EEO-1 report**

A: The EEOC will not require employers to resurvey current employees for the September 30, 2007 EEO-1 report.

6. **Q: May employers choose to resurvey only employees who were identified as "Asian/Native Hawaiian or Other Pacific Islander"?**

A: Yes. This would risk, however, creating a perception among employees that management is singling out one racial group. It also may create the perception that management is being unfair to other employees who want to self-identify with the new category for "Two or More Races" but would not have the opportunity to do so at that time.

7. **Q: If an employer does not resurvey for the 2007 EEO-1 report, how should it divide employees previously counted as "Asian/Native Hawaiian or Other Pacific Islander" into either "Asian" or "Native Hawaiian or Other Pacific Islander"?**

A: If an employer does not resurvey for the 2007 EEO-1 report, it should count these employees as "Asian" for the 2007 EEO-1 report.

Employee Self-Identification by Ethnicity and Race

8. **Q: When should employers start asking new hires to self-identify using the new race and ethnic categories?**

A: As stated in the Federal Register Notice of November 28, 2005, employers should seek self-identification of new employees under the new race and ethnic categories as soon as possible. See 70 Fed. Reg. 71300.

9. **Q: When collecting data for the EEO-1 report, should employers ask separate questions about ethnicity and race?**

A: Yes. Employers should first ask if an employee is Hispanic or Latino (ethnicity), and second ask what race/races the employee considers himself to be. As explained in the November 28, 2005 Federal Register Notice, this approach is called the "Two Question Format." See 70 Fed. Reg. 71297.

10. **Q: What should an employer do if employees specify several specific races even though the employer only asked if they consider themselves to be "Two or More Races"?**

A: The employer should count these employees in the "Two or More Races" category. However, the employer should preserve the detailed race information because it is an employment record. See 29 C.F.R. § 1602.14.

11. **Q: May employers ask employees to specify particular races rather than simply to check the category "Two or More Races"?**

A: Yes. Employers may ask employees to specify particular races rather than to check "Two or More Races," but they are not required to do so. If employees supply detailed race data, employers must preserve it as an employment record under 29 C.F.R. § 1602.14. For purposes of the new EEO-1 report, employers should count such employees in the "Two or More Races" category.

12. **Q: What should employers do if employees who self-identify as Hispanic or Latino also answer the question about race?**

A: Race data for employees who self identify as Hispanic or Latino will not be reported on the EEO-1. If employees supply race data, employers must preserve such data as an employment record under 29 C.F.R. § 1602.14.

13. **Q: What should an employer do if it believes that an employee is of a different race or ethnicity than the employee claims to be?**

A: The employer must accept the employee's self-identification by race and by ethnicity. Self-identification is a basic principle underlying these changes to the EEO-1 report. See 70 Fed. Reg. 71296.

14. **Q: What should an employer do if an employee refuses to self-identify using the new race and ethnic categories?**

A: An employer may obtain the necessary information from existing employment records or visual observation if an employee declines to self-identify. Employment records and visual identification may be used only if an employee refuses to self-identify.

New Job Categories

15. **Q: Has the EEOC updated its Job Classification Guide to reflect the new EEO-1 job categories and the 2000 Census?**

A: Yes. The EEOC mailed employers the updated Job Classification Guide in the summer of 2006. The updated Guide will be posted in electronic form on the EEO-1 webpage at www.eeoc.gov. Among other things, the Guide helps employers identify the business and financial jobs that must be moved from "Officials and Managers" to "Professionals" for the 2007 EEO-1 report.

Miscellaneous Questions

16. **Q: Is the EEOC considering any further revisions to the EEO-1 Report at this time?**

A: No, the EEOC is not considering any further revisions. The new version of the EEO-1 report has been authorized under the Paperwork Reduction Act (PRA) for three years, through January 2009. PRA authorization routinely extends for three years.

17. **Q: Does the EEOC plan to update the EEO-3, EEO-4 and EEO-5 reports to use the same race and ethnic categories as the new EEO-1?**

A: Yes. The Commission expects to consider proposals to update the EEO-3, EEO-4 and EEO-5 reports to use the same race and ethnic categories as the new EEO-1 report.

The EEO-2 report (apprenticeship programs) and the EEO-6 report (higher education) are no longer in use.

18. **Q: Will employers still have access to their previous EEO-1 reports on EEOC's website?**

A: EEOC plans on continuing to make this information available to employers, but has not yet determined the logistics of how this will be done. We will do so prior to the 2007 reporting cycle.

19. **Q: The sample 2007 EEO-1 report on the EEOC website asks for "Previous Year Total." In 2007, how should employers complete the cells for "Previous Year Total" for the new racial categories, which did not exist previously, specifically "Two or More Races," "Asians" and "Native Hawaiian or Other Pacific Islanders"?**

A: When employers complete their online 2007 EEO-1 reports, the line for "Previous Year Total" already will be completed. The data cells for the new racial categories will be marked "VOID." These cells must be completed beginning with the 2008 EEO-1 survey.

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