On September 29, 2016, the U.S. Equal Employment Opportunity Commission (EEOC) officially announced that starting in March of 2018, it will collect summary employee pay data and total hours worked information from employers with 100 or more employees. The new data will be collected on the annual Employer Information Report (EEO-3) that is jointly coordinated by the EEOC and the U.S. Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP).

New Elements

The revised EEO-1 report has two new elements:

1. Summary pay data: Employers will be required to report the total number of full- and part-time employees in 12 pay bands for each of the 10 EEO-3 job categories and 16 gender, race, and ethnicity categories on the current EEO-3 form. In selecting the appropriate pay band for employees in each job category, employers will report the income provided in Box 1 of the employee’s W-2 form.

2. Aggregate hours worked data: Employers will be required to tally and report the total hours worked by all the employees accounted for in each pay band. For exempt employees, employers may report a proxy of 40 hours per week for a full-time employee (or 20 hours for a part-time employee) or the actual number of hours worked by the exempt employee.

New Filing Deadline for 2017 Report Is March 31, 2018

The new EEO-1 filing deadline will be March 31 of the year that follows the reporting year. The “workforce snapshot” period for preparing the report can be any pay period between October 1 and December 31 of the reporting year, starting with the EEO-1 report for 2017. EEO-1 reports for 2017 data would be due on March 31, 2018. Although the filing deadline for 2017 EEO-1 reports is 18 months away, employers may want to have systems in place to capture the required data by December 31, 2016.

Significant Development

This is a significant development and marks the first time pay information will be reported on the EEO-1 filing. There is no doubt that this controversial new data collection tool reinforces the agency’s focus on combating pay disparities based on gender, race, and ethnicity. In announcing the new report, the EEOC said that “the new data will improve investigations of possible pay discrimination.” Employer advocates are concerned that the new data collection obligations are burdensome but provide little useful data in analyzing pay disparities because the EEO-1 job categories and the new salary bands are too broad; W-2 income may be misleading; and hours worked data for exempt employees, which
presumes they work 40-hour workweeks, may be simply incorrect. Nonetheless, the EEOC is moving forward with collecting this new data and is sending a strong signal that it will increase its enforcement efforts.

**Prepare Now**

Employers may want to take the following steps now to get ready for filing the new report and to prepare for defending their pay decisions:

1. Assess existing human resources information systems and payroll systems to ensure that they can generate the necessary data to prepare the reports.
2. Meet with outside vendors to make sure they understand the new requirements.
3. Identify or develop policies that explain how employees earn overtime, bonuses, commissions, and other components of W-2 Box 1 wages.
4. Put systems in place to readily retrieve data regarding benefits choices employees make since these choices can significantly affect W-2 income.
5. Identify job titles in each of the 30 EEO-1 job categories and analyze job descriptions to ensure they are accurate and will support pay decisions that reflect different job responsibilities.
6. Identify any existing pay bands that your company uses and map them to the new pay bands on the EEO-1 form.
7. Determine how to report hours worked for exempt employees.

The [EEOC website](https://www.eeoc.gov) provides additional information, including answers to frequently asked questions, a fact sheet, and a copy of the new form.