EEO-1 Update: More on Component 2 and EEOC Policy Change

May 30, 2019

The deadline for employers to file EEO-1 reports for Component 1 data is fast approaching. Unless employers request an extension, which will be automatically granted until June 31, 2019, Component 1 EEO-1 reports are due on May 30, 2019.

With regard to Component 2 (pay and hours worked data), on May 28, 2019, the Equal Employment Opportunity Commission (EEOC) notified the federal district court monitoring the agency’s implementation of this component that it is on track to:

1. Update its website for employer filers to include contact information for helpdesk services on June 3, 2019;
2. Roll out a “fully staffed helpdesk” on June 17, 2019, to answer questions that filers submitted via email and telephone; and

Also of note for EEO-1 filers is a change in how employers may designate federal contractor status for its entities/establishments. In years past, multi-establishment employers could manually differentiate federal contractor status for their subsidiaries or affiliates that do not have federal contracts and are not “integrated enterprises.” With the 2018 filing, any establishment’s “yes” answer to question C-3—“Does the company or any of its establishments . . . a prime government contractor or first-tier subcontractor”—will automatically default to “yes” for all establishments under the same parent company, even if one or more is not a federal contractor or subcontractor.

While this change may appear to be technical in nature, note that the Office of Federal Contract Compliance Programs (OFCCP) has long used EEO-1 reports to select contractors for compliance reviews (audits). This change in EEOC’s filing procedures may result in noncontractors’ selection for compliance reviews and potentially creates a new burden for these employers, which will need to disprove OFCCP’s jurisdictional assumptions if selected for a compliance evaluation. This change may create additional complications if OFCCP follows through with its plan to develop technology to collect affirmative action program data on an annual basis as identified in OFCCP’s Affirmative Action Program Verification Initiative.