



Request for Review Letter: Equal Employment Opportunity Commission's Revision of the Employer Information Report

July 3, 2017

John M. Mulvaney
Director
Office of Management and Budget
725 17th Street NW
Washington, D.C. 20503

Dear Director Mulvaney,

On behalf of Independent Women's Forum, a 501(c)(3) organization dedicated to improving women's lives, I urge you to review the Equal Employment Opportunity Commission's (EEOC) revisions to the Employer Information Report (EEO-1), approved by the Office of Management and Budget (OMB) on September 29, 2016.

The EEOC contends that this data will be used to identify discrimination in the workplace. **Unfortunately, it is unlikely that this new information will be useful in combating pay discrimination, but it will create significant burdens for employers.**

Employers have long been required to provide certain demographic information about their workforce. In fact, the EEO-1 report has been in effect for over 50 years, but the revised form greatly increases the administrative burden on employers. The current EEO-1 Form requires large employers (those with 100 or more employees) and federal contractors or subcontractors with more than 50 employees to collect information about employees' race/ethnicity and sex in each of ten different job categories and report it to the EEOC.

If implemented, the new form would dramatically increase the year-end reporting obligations of employers. Effective March 2018, the new EEO-1 report will require large employers (those with 100 or more employees) to tally the number of employees in ten different EEO-1 occupational categories and categorize employees' pay in twelve different pay bands. Similarly, employers will submit hours worked by the employees in each job category and pay band, including salaried employees who, unlike their hourly counterparts, are not normally required to log their hours on the job. While the current EEO-1 form is comprised of 140 data points, the new form encompasses 3,360.

There are many issues with the revised report, but three concerns are particularly troubling for both employers and employees.

First, the EEOC's revisions to the EEO-1 Form do not meet the requisites of the Paperwork Reduction Act (PRA). Employers will have to spend more time maintaining a time management system, an enormous burden which will invariably lead to additional costs. In fact, the U.S. Chamber of Commerce estimates that the revised EEO-1 Form's cost to employers will amount to over \$400 million in pure labor costs alone and a total burden of \$1.3 billion per year for all large employers.

Second, similar efforts by the EEOC to identify pay discrimination have been unsuccessful in the past, so there is no evidence that the new EEO-1 Form would produce relevant data. For example, the EEOC currently collects very similar pay data from state and local governments (EEO-4 reports) yet there has been a failure to use this EEO-4 pay data to uncover discriminatory pay practices.

Moreover, the EEOC has failed to demonstrate that the revised EEO-1 Form would do anything to combat discrimination. The EEOC itself even admitted that the information sought will not “establish pay discrimination as a legal matter.”

Finally—and most importantly for working women—**the EEO-1 Form will backfire on workers and reduce flexibility in the workplace.** The EEO-1 report ignores major factors that impact men's and women's earnings, including the number of hours worked, industry, and years of experience, which means the data creates a misleading picture of our workplaces and compensation practices.

By failing to take these elements into consideration, the EEO-1 report overlooks that general job flexibility (e.g., telework, predictable scheduling) is something highly valued by women. Many women, particularly those with children, are often willing to trade additional salary for a more customized work environment that suits their individual and family needs. According to a study conducted by Evolving Strategies for the Independent Women's Forum, flexible schedules, telecommuting, and reduced hours is the equivalent of between an additional \$5,000-\$10,000 in extra salary for working women on average. In fact, while the Bureau of Labor statistics often shows a considerable “wage gap” between the average wages of full-time working women and men, in studies that control for these factors, the difference in average earnings drops dramatically.

Employers will be less likely to accommodate requests for flexible or alternative work schedules or positions if they are concerned that government officials will be examining these data points and statistics without this important context, and passing judgment on their compensation practices.

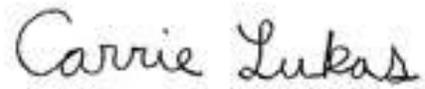
We all know that bad bosses exist, but we already have laws in place mandating equal pay for equal work. The Equal Pay Act of 1963 and the 1964 Civil Rights Act outlaw workplace discrimination, allowing workers to take their claims to court before a jury and imposing significant penalties on employers found guilty of wrongdoing. New reporting requirements are

not going to prevent or discourage discrimination, but rather will encourage employers to fixate on statistics rather than on the needs of their employees and their customers.

In sum, given the consequences the new EEO-01 Form poses to businesses and employees, and since the EEOC has failed to prove a purpose for these additional data collection requirements, we strongly encourage you to reject the revised EEO-1 Form.

Independent Women's Forum thanks you for your attention to this important issue.

Respectfully,

A handwritten signature in cursive script that reads "Carrie Lukas". The ink is dark and the signature is centered horizontally.

Carrie Lukas
President
Independent Women's Forum