

CLIENT UPDATE

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UPDATE ON EEO-1 REPORTING

Yesterday, on May 12, the Office of Information and Regulatory Affairs (OIRA) approved the Equal Employment Opportunity Commission's (EEOC) request to collect EEO-1 data. The EEOC's request anticipated that its data portal would open on May 20, 2025 and close on June 24, 2025. The portal is not yet open, but we anticipate that it will open soon. www.eeocdata.org

There are two areas that we think require clarification from the EEOC. We hope that the EEOC will address them by issuing FAQs: (1) How to handle reporting on employees who self-identified as non-binary; and (2) whether small government contractor employers (50-99 employees) still have EEO-1 reporting requirements despite the rescission of Executive Order 11246 and presumably with it the regulation at 41 CFR § 60-1.7(a), which is what brought the requirement for contractors with 50-99 employees.

1. The EEOC revised its instruction booklet to remove instructions for reporting employees that self-identify as non-binary gender. If employees self-identified as non-binary, what is the employer expected to do, now?

2. Employers are required to select a payroll period between October 1, 2024 and December 31, 2024, for reporting purposes. At that point in time, Executive Order 11246 was in effect, and small government contractor employers having between 50 and 99 employees and a government contract or subcontract of \$50,000 or more would have been expected to file an EEO-1. On January 21, 2025, Executive Order 14173 rescinded Executive Order 11246. In light of the rescission, we do not know whether small government contractor employers will be required to file. Regardless of any government contract, all employers with 100 or more employees are required to submit their EEO-1 data to the EEOC.

We will continue to monitor the EEOC's data website for additional information and will update you accordingly.

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