



DOL Announces New EEO-1 Reporting Requirement on Gender Pay Practices

By Darren A. Feider

As the Obama Administration winds down, the federal government continues to raise the compliance bar for companies. Last week the Equal Employment Opportunity Commission (“EEOC”) issued new regulations for companies who employ 100 or more individuals *or* who have entered into federal contracts or subcontracts in the amount of \$50,000 or more. Starting January 1, 2017, the EEOC will require such companies to track and report the hours worked and wages paid to each employee based on his or her gender. This is a significant change in the law. As you can imagine, the EEOC will employ its new compulsory reporting to determine who should be a target of its next investigation. The EEOC made this intention abundantly clear, stating that its new requirements “will improve investigations of possible pay discrimination, which remains a contributing factor to persistent wage gaps.”

These are additional requirements to the EEOC’s existing requirement that large companies and federal contractors track the race, national origin and gender for different job categories and submit an annual report called an EEO-1 with such information. Now companies must (1) report the total number of full and part-time employees they had during that year in each of 12 pay bands listed for each EEO-1 job category and (2) then report the number of hours worked that year by all the employees accounted for in each pay band. Compensation data may be collected from W-2s, and hours worked from time records or 40 hours for exempt employees. This will be a noticeable increase in burden for employers because their human resources and payroll departments will need to work jointly to ensure an accurate and timely reporting. Data collected for private employers will go to the EEOC, while data collected for federal contractors and subcontractors will go to the Office of Federal Contract Compliance Programs (“OFCCP”). If a covered company fails to file an EEO-1, the EEOC can sue and the contractor can lose its federal contract. Further, there are penalties for submitting a false information on EEO-1.

The impact of these new reporting requirements will not be felt until the next administration. The deadline to file the 2017 report is March 31, 2018. A best practice is to start compiling the data to determine if there are any pay anomalies or disparities based on gender and address them before the next EEO-1 is due to avoid an EEOC investigation.