

Supporting Statement  
Recordkeeping and Reporting Requirements for  
Employer Information Report (EEO-1)

**A. Justification**

1. The legal basis for the Employer Information Report (EEO-1) form and recordkeeping requirements is Section 709 (c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-8(c), which imposes the requirement that “[e]very employer, employment agency, and labor organization subject to this subchapter shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports there from as the Commission shall prescribe by regulation or order. . .” Accordingly, the EEOC issued a regulation, **29 C.F.R. §1602.7**, which sets forth the reporting and related recordkeeping requirements for private industry employers with 100 or more employees. The U.S. Department of Labor’s Office of Federal Contract Compliance Programs has imposed the same reporting requirement on certain Federal Government contractors and first-tier subcontractors with 50 or more employees. The individual reports are confidential and may not be made public by the Commission prior to the institution of lawsuit(s) under Title VII in which the individual reports are involved...
2. EEO-1 data are used by EEOC to investigate charges of employment discrimination against employers in private industry and to provide information about the employment status of minorities and women. The data are used to evaluate and prioritize charges under the Commission’s charge processing system and to determine the appropriate investigative approaches. Further in the process, the data can be analyzed to develop statistical evidence as the investigation proceeds. EEOC uses the data to develop studies of private sector work forces (see [www.eeoc.gov/statistics](http://www.eeoc.gov/statistics) for some examples), and to assist researchers requesting data for academic studies.

The data are shared with the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, and several other Federal agencies. Pursuant to §709(d) of Title VII of the Civil Rights Act of 1964, as amended, EEO-1 data are also shared with eighty-six State and local Fair Employment Practices Agencies (FEPAs) for their enforcement efforts.
3. The EEO-1 report is collected through a web based on-line filing system. There are 70,000 respondents reporting annually and 80% of these respondents file on-line. The on-line filing system has reduced the burden hours.<sup>1</sup>
4. We are not aware of any duplicative or related data collection efforts.

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<sup>1</sup> These respondents often file multiple reports.

5. The EEO-1 Report survey is collected from all private employers with 100 or more employees and certain government contractors with 50 or more employees so there is no burden on small business.
6. Because the data are an integral part of the Title VII enforcement process, failure to collect the data would reduce our ability to enforce Title VII. The data has been integrated into the enforcement process and computer applications for retrieving EEO-1 reports and conducting statistical comparisons of such reports to the external labor market are available to the enforcement staff at their desktops. Collecting the data less often would impair enforcement decisions by reducing the reliability of the data as there will be a lag between the employment statistics provided by employers when reporting and when the data is used. This problem is likely to be most pronounced among industries and employers with fluctuations in employment. It is important to make certain that employment decisions are consistent with law when increases or decreases in employment occur. A gap of more than a year between data collections would also impose some processing costs on EEOC because more work would be needed to update mailing lists. The data is only collected annually.
7. None of the above special circumstances will be used to collect the EEO-1 Report.
8. See attached Federal Register Notice dated February 4, 2011. There was one comment received from the public that supports a three year extension.
9. EEOC's employees are prohibited by law from providing any payment or gifts to respondents, other than remuneration of contractors or grantees.
10. All reports and information from individual reports are subject to the confidentiality provisions of Section 709(e) of Title VII, and may not be made public by EEOC prior to the institution of any proceeding under Title VII. However, aggregate data may be made public in a manner so as not to reveal any particular jurisdiction's statistics. All state and local FEPAs with whom we share the data must agree to maintain the confidentiality of the data.
11. The EEO-1 Report does not solicit any information of a sensitive nature from respondents.

12.

ANNUAL  
RESPONDENT 987,394  
BURDEN HOURS

ANNUAL EMPLOYER  
BURDEN COSTS \$18.76 million

REPORTS FILED 2010	ESTIMATED BURDEN PER REPORT	ESTIMATED TOTAL BURDEN HOURS	COSTS PER HOUR	ESTIMATED TOTAL BURDEN
290,410	3.40	987,394	19.00	18,760,486

Burden hours are assumed to be 3.4 hours per report at a cost of \$19.00 per hour.<sup>2</sup>

13. There are no cost changes. Private employers have been completing this form for a number of years.
14. Estimated cost to the federal government will be: \$2.1 million contract cost (based on a competitive bid process from prior years.)
15. There are no program changes. However it should be noted that the burden hours estimated in question 13 above have been revised since the approval of the report for the 2007 reporting period. The total burden hour estimate represents an update from the pre-2007 estimates when total burden hours were estimated at 599,000. This increase in burden hours is due to a significant increase in the number of firms reporting that began in 2007. In that year we nearly doubled the number of firms contacted, notified of their obligation to file a report and provided detailed information to do so. That effort was successful in that the number of firms filing increased from 49,610 to 68,999.
16. The time schedule for information collection and publication is as follows:

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<sup>2</sup> Estimated burden hours were calculated by multiplying the number of reports expected to be filed annually (290,410 in 2010) by the estimated average time to complete and submit each report (3.4 hours).  $290,410 \times 3.4 = 987,394$ . Relying on an estimate of \$19 per hour results in a total burden cost of \$18.76 million ( $987,394$  burden hours  $\times$   $19.00$  per hour). The rate of \$19 per hour is based on the hourly pay rate of human resources assistants of \$18.22 (*Occupational Employment Statistics, Occupational Employment and Wages, May 2010, 43-4161 Human Resources Assistants, Except Payroll and Timekeeping*, <http://data.bls.gov/cgi-bin/print.pl/oes/current/oes434161.htm> 6/30/2011, Last Modified Date: May 17, 2011, U.S. Bureau of Labor Statistics, Division of Occupational Employment Statistics) \$18.22 was rounded to \$19 to account for instances where higher paid staff perform this work.

Filing deadline	September 30
First Follow-up	October 15
Second Follow-up	November 15
Preliminary Data	Periodic data audits
Final Data	June 30

- . In each survey year a publication, *Job Patterns for Minorities and Women in Private Industry* is posted on our web site. This consists primarily of non confidential aggregations of the data based on various geographic and industrial criteria. So for example, a table combining all EEO-1 reports for all food and beverage stores in the New York metropolitan area is provided (<http://www.eeoc.gov/eeoc/statistics/employment/jobpat-eeo1/index.cfm>). Similar data sets are available on data.gov. Some of the primary users of this data are employers for self assessment and affirmative action purposes and by researchers.
17. EEOC is not seeking approval of this nature.
  18. No exceptions are requested.