

June 30, 2003

EEOC Proposes Changes to EEO-1 Form; OFCCP Schedules 2,000 Compliance Reviews

EEOC

The Equal Employment Opportunity Commission (EEOC) has proposed a revision of its key employer reporting form, the EEO-1. The June 11, 2003 edition of the *Federal Register* contains EEOC recommendations that will affect how employers collect, maintain and report on their employees' race and ethnic data, and their occupational job categories. Private employers with 100 or more employees, and federal contractors with 50 or more employees, are required to file the EEO-1 annually.

The EEOC proposes increasing the number of racial and ethnic classifications from five to seven. The commission also proposes allowing employees to self-designate as "two or more races" (no longer to include *Hispanic* or *Latino* which are not recognized as "racial" designations by the scientific community). In accord with changes made in 1997 to the *Standards for the Classification of Federal Data on Race and Ethnicity*, "Hispanic or Latino" will be separated from their former "race" categories; and sex data will be reported separately for Hispanic ethnicity. This proposal strongly encourages employers to rely on employee self-identification as the preferred method to obtain multi-racial designations. The EEOC further recommends using post-employment records or observer identification to obtain this information, when self-identification is not feasible. For employers who need to survey or query employees, the EEOC offers suggested wording to use in composing employee questionnaires.

According to the proposal, the EEOC plans to increase the number of job categories by subdividing the current, *Officials and Managers* category into three distinct hierarchical sub-categories: *Executive/Senior Level Officials and Managers*, *Mid-Level Officials and Managers*, and *Lower Level Officials and Managers*.

You can find the notice containing the proposed revisions to the EEO-1 Form and related data collection in the *Federal Register* issue of June 11, 2003; Vol. 68, No. 112; pages 34965-34969. The EEOC will accept comments on the proposed revisions for 60 days following their June 1 publication date. The commission will also hold a public hearing on the proposed revisions.

OFCCP

The Labor Department's Office of Federal Contract Compliance Programs (OFCCP), has just announced that it intends to conduct approximately 2,000 compliance reviews over the next few months to audit the controversial *Equal Opportunity Survey* it has required government contractors to complete during the past two years. The OFCCP recently sent employers 10,000 of the controversial surveys. OFCCP Director Charles James has indicated that his office wants to determine the *EO Survey*'s utility and validity — and will therefore focus on contractors' compensation programs during these reviews.

If your company has completed and returned an *EO Survey*, there is a substantial risk that your organization will be audited as a part of the agency's validation process. The OFCCP encourages employers to ensure that their Affirmative Action Programs are up-to-date — and that all required data is being maintained and analyzed (including applicant flow, hires, promotions, and compensation) in accordance with the OFCCP's regulations.

Where to Go for Help

If you have any questions or need further information about the proposed EEO-1 Form, please contact your Seyfarth Shaw attorney.

If you have questions about managing the OFCCP compliance reevaluation process, the newly enacted regulations, the *EO Survey*, the OFCCP's review-scheduling strategy, or any other OFCCP matter, please do not hesitate to call the chair and partner in charge of the Seyfarth Shaw Affirmative Action Consulting Team, Valerie Hoffman, at (312) 269-8870; or Senior Affirmative Action Advisers Rasa Adams, at (312) 739-6648; Hal Holliman, at (312) 739-6607; or, in our Atlanta office, Stephanie Johnson, at (404) 881-5431. In our New York office, Partners Bob Nobile and Bill Perkins may be reached at (212) 218-5580 and (212) 218-4642, respectively.

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