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Dated: January 26, 2016.

Lynn B. Mahaffie,

Deputy Assistant Secretary for Policy, Planning, and Innovation Delegated the Duties of the Assistant Secretary for Postsecondary Education.

[FR Doc. 2016–01746 Filed 1–29–16; 8:45 am]

BILLING CODE 4000–01–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[3046–0007]

Agency Information Collection Activities: Revision of the Employer Information Report (EEO–1) and Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed revision of the employer information report (EEO–1) and comment request.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA), the Equal Employment Opportunity Commission (EEOC or Commission) announces that it intends to submit to the Office of Management and Budget (OMB) a request for a three-year PRA approval of a revised Employer Information Report (EEO–1) data collection. This revised data collection has two components. Component 1 collects the same data that is gathered by the currently approved EEO–1: Specifically, data about employees' ethnicity, race, and sex, by job category. Component 2 collects data on employees' W–2 earnings and hours worked, which EEO–1 filers already maintain in the ordinary course of business. For the 2016 reporting cycle, all EEO–1 filers would submit the data under Component 1. Starting in 2017, filers with 100 or more employees (both private industry and Federal contractor) would submit data in response to both Components 1 and 2. Contractors with 50 to 99 employees would only submit data for Component 1. In this notice, the EEOC solicits public comment on the utility and burden of collecting pay and hours-worked data through the EEO–1 data collection process.

DATES: Written comments on this notice must be submitted on or before April 1, 2016.

Pursuant to 42 U.S.C. 2000e–8(c), a public hearing concerning the proposed changes to the EEO–1 will be held at a place and time to be announced. To request an opportunity to present your views orally at the hearing, please submit a written request to the EEOC's Executive Secretariat (street address below) no later than February 22, 2016 to be assured of consideration. Please include your contact information.

ADDRESSES: Comments on this notice may be submitted to the EEOC in three ways; please use only one.

Comments and attachments may be submitted online at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions on the Web site for submitting comments. Comments received here will be posted publicly on the same portal without change, including any personal information you provide. However, the EEOC reserves the right to refrain from posting comments, including those that contain obscene, indecent, or profane language; that contain threats or defamatory statements; that contain hate speech directed at race, color, sex, sexual orientation, national origin, ethnicity, age, religion, or disability; or that promote or endorse services or products.

Hard copy comments and all requests to participate in the hearing may be submitted to Bernadette Wilson, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507.

The Executive Secretariat also will accept documents totaling six or fewer pages by facsimile (''fax'') machine. This limitation is necessary to assure access to the equipment. The telephone number of the fax receiver is (202) 663–4114. (This is not a toll-free number.) Receipt of fax transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TTY). (These are not toll-free telephone numbers.)

Subject to the conditions noted above, the EEOC will post online at *http://www.regulations.gov* all comments submitted in hard copy or by fax with the Executive Secretariat. The EEOC Headquarters' library also will make available hard copies of all comments, by advance appointment only, between the hours of 9 a.m. and 5 p.m. Eastern Time. To schedule an appointment to inspect the comments at the EEOC's library, contact the library staff at (202) 663–4630 (voice) or (202) 663–4641 (TTY). (These are not toll-free numbers.)

For reference when commenting on this notice, the current EEO–1 (and proposed Component 1) can be found at *http://www.eeoc.gov/employers/eeo1survey/upload/eeo1-2.pdf.* An illustration of the data to be collected by both Components 1 and 2 can be found at *http://www.eeoc.gov/employers/eeo1survey/2016_new_survey.cfm.*

FOR FURTHER INFORMATION CONTACT: Ronald Edwards, Director, Program Research and Surveys Division, Equal Employment Opportunity Commission, 131 M Street NE., Room 4SW30F, Washington, DC 20507; (202) 663–4949 (voice) or (202) 663–7063 (TTY). Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663–4191 (voice) or (202) 663–4494 (TTY).

SUPPLEMENTARY INFORMATION:

The EEO–1 Survey and Its Legal Authority

Section 709(c) of Title VII of the Civil Rights Act of 1964 (Title VII) requires employers to make and keep records relevant to the determination of whether unlawful employment practices have been or are being committed, to preserve such records, and to produce reports as the Commission prescribes by regulation or order.[1] Pursuant to this statutory authority, the EEOC in 1966 issued a regulation requiring certain employers to file executed copies of the EEO–1 survey in conformity with the directions and instructions on the form, which called for reporting employee data by job category, ethnicity, race, and sex.[2] Pursuant to Executive Order 11246,[3] the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor (DOL), in 1978 issued its regulation describing the EEO–1 as a report ''promulgated jointly with the Equal Employment Opportunity Commission'' and requiring certain contractors to submit ''complete and accurate reports'' annually.[4] Through the EEO–1 Joint Reporting Committee housed at the

[1] 42 U.S.C. 2000e–8(c).

[2] The EEOC's EEO–1 regulation is at 29 part 1602 Subpart B. The EEOC is responsible for obtaining OMB's PRA approval for the EEO–1 report.

[3] Exec. Order No. 11,246, 30 FR 12,319 (Sept. 24, 1965).

[4] 41 CFR 60–1.7(a).

EEOC, the EEO–1 is administered as a single data collection to meet the statistical needs of both agencies.[5] Currently, the EEO–1 directs certain covered employers with more than 50 employees (contractors) or 100 employees (private industry) [6] to report annually the number of individuals they employ by job category and by race, ethnicity, and sex.[7] The data include seven race and ethnicity categories [8] and ten job categories,[9] by sex. A sample copy of the currently approved EEO–1 can be found at *http://www.eeoc.gov/employers/eeo1survey/upload/eeo1-2.pdf.*

[5] The EEOC shares EEO–1 data with state and local Fair Employment Practices Agencies under the authority of section 709(d) of Title VII. Subject to their agreement to comply with the confidentiality provisions of 42 U.S.C. 2000e–8(e), the EEOC shares EEO–1 reports with the Department of Justice (DOJ), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA). The FDIC and the NCUA use EEO–1 data pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 to help analyze diversity in management, employment, and business activities. DOJ uses the EEO–1 data when it defends OFCCP in litigation, in the event a federal contractor sues OFCCP to prevent debarment.

[6] Unless otherwise noted, the term ''contractor'' refers to federal contractors and first-tier subcontractors that satisfy the employee and contract size coverage criteria that subject them to the EEO–1 reporting obligations. The term ''private industry'' refers to all other entities required to file the EEO–1 that are not included in the ''contractor'' designation. The term ''employer'' or ''filer'' refers collectively to all entities that file EEO–1 data.

[7] The EEO–1 uses federal race and ethnic categories, which were adopted by the Commission in 2005 and implemented in 2007, pursuant to the PRA.

[8] *Hispanic or Latino*—A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.

White (Not Hispanic or Latino)—A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Black or African American (Not Hispanic or Latino)—A person having origins in any of the black racial groups of Africa.

Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino)—A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Asian (Not Hispanic or Latino)—A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

American Indian or Alaska Native (Not Hispanic or Latino)—A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.

Two or More Races (Not Hispanic or Latino)—All persons who identify with more than one of the above five races.

[9] The ten job groups are: Executive/Senior Level Officials and Managers; First/Mid Level Officials and Managers; Professionals; Technicians; Sales Workers; Administrative Support Workers; Craft Workers; Operatives; Laborers and Helpers; Service Workers.

Adding Pay Data to the EEO–1

In 1964, Congress enacted Title VII of the Civil Rights Act, as amended, 42 U.S.C. 2000e, *et seq.,* (Title VII), which makes unlawful a wide range of discriminatory employment practices, including pay discrimination, because of race, color, religion, national origin, or sex. The EEOC is responsible for enforcing Title VII and other federal laws prohibiting employment discrimination, including the Equal Pay Act of 1963.[10] The Equal Pay Act prohibits sex-based wage discrimination between men and women if they work in the same establishment and perform jobs that require substantially equal skill, effort, and responsibility under similar working conditions.[11] OFCCP enforces Executive Order 11246, as amended, which prohibits discrimination, including compensation discrimination, based on race, color, religion, sex, sexual orientation, gender identity, or religion.[12]

In 2010, the EEOC joined other federal agencies, including the DOL, as members of the President's National Equal Pay Task Force to identify ways to improve enforcement of federal laws prohibiting pay discrimination. The Task Force recommended, among other things, that the EEOC engage the National Academy of Sciences (NAS) to conduct a study assessing how to most effectively collect pay data to support its wage discrimination law enforcement efforts. The EEOC accordingly commissioned a study, and the NAS convened a Panel on *Measuring and Collecting Pay Information from U.S. Employers by Gender, Race, and National Origin.* This Panel's August 15, 2012, report (NAS Report) [13] recognized the potential value for enforcement of collecting pay data from employers by sex, race, and national origin through a survey such as the EEO–1, and emphasized the importance of a definitive plan for how the data would be used in coordination with other equal employment opportunity (EEO) enforcement agencies. The NAS Report also recommended that the EEOC conduct a pilot to inform the parameters for any pay data collection.[14]

[10] 29 U.S.C. 206(d).

[11] *Id.* Enforcement of the Equal Pay Act was transferred from the DOL to the EEOC in 1978. 5 USCA APP. 1 REORG. PLAN 1 1978.

[12] *See* Department of Labor, Office of Federal Contractor Compliance Programs, Exec. Order 11246 as amended, *http://www.dol.gov/ofccp/regs/statutes/eo11246.htm.*

[13] National Research Council. 2012. *Collecting Compensation Data From Employers.* Washington, DC: National Academies Press, 8. Available at *http://www.nap.edu/openbook.php?record_id=13496.*

[14] *Id.* at 87–88.

Following the NAS Report recommendation, the EEOC commissioned an independent Pilot Study to identify the most efficient means to collect pay data. The Pilot Study, completed in September 2015, assisted the EEOC in formulating this proposal and will guide the development of analytic techniques to make full use of the data to be collected.[15] The Pilot Study considered a variety of statistical approaches that could be used to detect pay differences between groups and then tested these approaches by applying them to synthetic pay data [16] in order to identify their strengths and weaknesses.[17] Ultimately, the Pilot Study made technical recommendations about several central components of a data collection, including: The unit of pay to be collected; the best summary measures of central tendency and dispersion for rates of pay; appropriate statistical test(s) for analyzing pay data; and the most efficient and least costly methods for transmitting pay data from employers. The Pilot Study also estimated employer burden-hour costs and the processing costs associated with the recommended method of collection.

Separately, the EEOC sought input about updating all the EEO surveys, including adding pay data, when its staff held a two-day meeting in March 2012 with employer representatives, statisticians, human resources information systems (HRIS) experts, and information technology specialists

[15] ''EEOC Pay Pilot Study,'' September, 2015, Sage Computing. Available at: *http://www.eeoc.gov/employers/eeo1survey/pay-pilot-study.pdf.*

[16] Two ''synthetic'' data bases were used. The first synthetic data base used data from the auto parts manufacturing industry and the Occupation Employment Statistics (OES) as well as EEO–1 data to construct a hypothetical firm in the auto parts manufacturing industry. To do so, the number of employees by EEO–1 job groups in an average sized firm was estimated. EEO–1 job groups were then mapped to the Standard Occupational Classification (SOC) categories in the OES data. Using OES statistics on the distribution of annual wages within SOC categories, the likely wages for EEO–1 job groups in an average firm were generated. These samples represent typical or representative wages, not actual wages, for auto parts employees. See Pilot Study, page 79. The second data base used data extracts from Current Population Survey (CPS) data (downloaded from *http://cps.ipums.org.* March CPS Annual Social and Economic Supplement). The data were downloaded from the International Public Use Microdata Series Web site for the 2010 to 2014 period. (King, M., S. Ruggles, J.T. Alexander, S. Flood, K. Genadek, M.B. Schroeder, B. Trampe, and R. Vick. 2010. Integrated Public Use Microdata Series, Current Population Survey: Version 3.0. [Machine-readable database]. Minneapolis: University of Minnesota.) See Pilot Study, page 56.

[17] Synthetic pay data was used because conducting a test survey of nine or more companies would require PRA approval. 44 U.S.C. 3502(3)(A)(i).

(work group). The work group reviewed the current data collection procedures, provided feedback on future modernization of the EEO surveys, and engaged in brainstorming that led to ideas submitted individually by group participants on a number of topics, including collecting pay data as well as multiple-race category data on the EEO–1. Employer stakeholders expressed concern about the importance of maintaining the confidentiality of any individual filer's pay data even if pay data were only published in aggregated form.[18] The work group report [19] reflects feedback from participants that the burden of reporting pay data would be minimal for EEO–1 filers.

On April 8, 2014, the Presidential Memorandum, ''Advancing Pay Equality Through Compensation Data Collection'' was issued. It directed the Secretary of Labor to develop a compensation data collection proposal.[20] OFCCP issued a Notice of Proposed Rulemaking (NPRM) on August 8, 2014, proposing to amend one of its implementing regulations for Executive Order 11246 to add a requirement that certain federal contractors submit compensation data reports to OFCCP.[21] Under the NPRM, OFCCP also proposed a sample of an Equal Pay Report for collecting this data.[22]

Public comments submitted to OFCCP about the proposed Equal Pay Report and rule argued for, among other things, the need to improve interagency coordination and decrease employer burden for reporting compensation data by using the EEO–1, rather than a new OFCCP data collection, as well as the need to protect privacy and data confidentiality. The instant proposal responds to these concerns.[23] Similarly, the NAS Report recommended that the federal EEO enforcement agencies develop a coordinated plan for using compensation data. In the course of developing this EEO–1 proposal, the EEOC and OFCCP together consulted with the Department of Justice, focusing on how EEO–1 pay data would be used to assess complaints of discrimination, focus investigations, and identify employers with existing pay disparities that might warrant further examination. The EEOC and OFCCP plan to develop statistical tools that would be available to staff on their computers, to utilize the EEO–1 pay data for these purposes. They also anticipate developing software tools and guidance for stakeholders to support analysis of aggregated EEO–1 data. Finally, the EEOC and OFCCP anticipate that the process of reporting pay data may encourage employers to self-monitor and comply voluntarily if they uncover pay inequities.

The following discussion explains the justification for each component of the proposed EEO–1 pay data collection. As stated above, this proposal does not compel employers to collect new data but rather requires the reporting of pay data that employers maintain in the normal course of business. This notice proposes a collection that will maximize the utility of the pay data while balancing respondent concerns about confidentiality and the burden of the collection.

Proposal To Add Pay Data to the EEO–1

Who Will Report Pay Data and When This Reporting Requirement Will Start

For the 2016 EEO–1 reporting cycle, to ease the transition, all employers will submit information that is identical to the information collected by the currently approved EEO–1 (Component 1). Starting in 2017, employers that are subject to the EEO–1 reporting requirement *and that have 100 or more employees* will submit the EEO–1 with pay and related information (Components 1 and 2). By contrast, contractors that are subject to the EEO–1 reporting requirement *and that have between 50 and 99 employees* will continue to submit the same information that is collected by the current EEO–1 report (Component 1). They will not be required to submit pay and hours-worked data. A sample copy of the currently approved EEO–1 report provides an illustration of the data to be collected by Component 1. It can be found at *http://www.eeoc.gov/employers/eeo1survey/upload/eeo1-2.pdf.* An illustration of the data to be collected by both Components 1 and 2 can be found at *http://www.eeoc.gov/employers/eeo1survey/2016_new_survey.cfm.*

When Annual EEO–1 Reports Will Be Due and How Employers Will Submit Data

Currently, employers must collect EEO–1 data from any pay period occurring in the months of July through September of the current survey year. The EEO–1 must be filed by September 30th of the same year. These deadlines would continue after the addition of pay data, to minimize employers' burden by folding the new collection into long-established deadlines. As explained below regarding the utility and burden of using W–2 data to describe pay, requiring filers to report W–2 data as of a pay period occurring in the months of July through September should not be burdensome given the capabilities of HRIS software.

Beginning in 2017, all filers will be required to submit the proposed EEO–1 report electronically. Automated electronic data collection promotes the utility of the EEO–1 survey by reducing the number of inadvertent human errors in the data. Electronic data collection also is less burdensome for employers than assigning staff to complete the survey. As of 2014, all but three of the 67,146 EEO–1 filers already used electronic data submission.[24] Any EEO–1 filer seeking an exemption from this electronic requirement may use the existing EEO–1 process for seeking special reporting procedures.[25]

[18] For example, reporting the average pay for Hispanic or Latino women who are Executive/Senior Level Officials and Managers, if there are few Hispanic or Latino women in that job group, may effectively reveal the pay of individual employees. To allay these concerns, the EEOC intends to re-examine the rules for testing statistical confidentiality for publishing aggregate data to make certain that tables with small cell-counts are not made public.

[19] ''EEOC Survey System Modernization Work Group Meeting, Draft Report,'' March 19, 2012, Sage Computing. Available at: *http://www.eeoc.gov/employers/eeo1survey/survey-modernization.pdf.*

[20] Presidential Documents, Memorandum of April 8, 2014, ''Advancing Pay Equality Through Compensation Data Collection,'' Memorandum for the Secretary of Labor, April 11, 2014 (79 FR 20751).

[21] Government Contractors, Requirement to Report Summary Data on Employee Compensation, 79 FR 46563 (August 8, 2014). This NPRM provided detailed explanations for the design of the Equal Pay Survey, which utilized W–2 information as a measure of wages and reported cumulative wages. It did not use pay bands like Component 2 of the currently proposed EEO–1. In 2011, OFCCP had issued an Advance Notice of Proposed Rulemaking (ANPRM). Nondiscrimination in Compensation: Compensation Data Collection Tool, 79 FR 49398 (August 10, 2011), in response to which stakeholders provided extensive input and information.

[22] Office of Information and Regulatory Affairs and Office of Management and Budget, Equal Pay Report, *http://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=201407-1250-001&icID=212555.*

[23] OFCCP plans to utilize EEO–1 pay data for federal contractors with 100 or more employees instead of implementing a separate compensation data survey as outlined in its August 8, 2014, NPRM.

[24] The remaining three filers submitted hard copy reports.

[25] The EEO–1 instructions provide that ''[a]n employer who claims that preparation or the filing of Standard Form 100 would create undue hardship may apply to the Commission for a special reporting procedure. In such cases, the employer must submit in writing a detailed alternative proposal for compiling and reporting information to: The EEO–1 Coordinator, EEOC-Survey Division, 131 M Street NE., Washington, DC 20507. Only those special procedures approved in writing by the Commission are authorized. Such authorizations remain in effect until notification of cancellation is given. All requests for information should be sent

Continued

Component 2 of the revised EEO–1 includes a request for data on the amount of employer staff time used to collect and report pay data on the EEO–1. This will better enable the EEOC to quantify the burden of this aspect of the survey.

What Pay Data Will Be Collected

Measure: Total W–2 Earnings

In selecting total W–2 earnings as the measure of pay, the focus was on maximizing utility of the EEO–1 pay data while minimizing the burden on employers to collect and report it. With respect to maximizing utility, the goal was to identify a measure of compensation that encompasses as much employer-paid income earned by individuals as possible. With respect to minimizing burden, the focus was on finding a measure that is well-defined and compatible with the data elements in employers' existing human resources and pay systems. Consideration also was given to the sample Equal Pay Report proposed in OFCCP's 2014 Notice of Proposed Rulemaking, which used W–2 earnings.[26]

Five different measures of earnings now used by federal data collection systems were considered. The first three were from the U.S. Bureau of Labor Statistics (BLS): The Occupation Employment Statistics (OES); [27] the National Compensation Survey (NCS); [28] and the Current Employment Statistics (CES) survey program.[29] The remaining options were from the Social Security Administration (SSA) [30] and the Internal Revenue Service (IRS).[31]

Of these five options, the focus was on the relative strengths and weaknesses of the OES and the W–2 definitions because they are best known to employers. The NAS Study recommended the use of OES' wage definition because it is based on widespread surveys,[32] but the EEOC ultimately decided not to use the OES definition because it excludes widely-used elements of compensation such as overtime pay, severance pay, shift differentials, nonproduction bonuses, year-end bonuses, holiday bonuses, and tuition reimbursement.[33] These elements of pay, however, are increasingly important. According to a 2014 survey of 1,064 U.S. companies, ''91 percent of organizations offer a variable pay program and expect to spend 12.7 percent of payroll on variable pay for salaried exempt employees in 2015.'' [34] Another recent survey of companies' bonus practices found that 74 percent of respondents used a sign-on bonus program and 61 percent used a retention bonus program in 2014.[35]

By contrast, the W–2 definition provides a more comprehensive report of earnings at the employee level than the OES definition. W–2 gross income includes wages, salaries, fees, commissions, tips, taxable fringe benefits, and elective deferrals. Amounts withheld for taxes, including but not limited to income tax, Social Security, and Medicare taxes, are considered ''received'' and are included as gross income of the given year they are withheld.[36] The W–2 encompasses all earned income, including supplemental pay components such as overtime pay, shift differentials, and nonproduction bonuses (*e.g.,* year-end bonuses, hiring and referral bonuses, and profit-sharing cash bonuses).[37] Nonproduction bonuses account for over 11 percent of cash compensation for management, business, and financial operations occupations, while shift differentials are a significant component of compensation for healthcare workers.[38] A panel of HRIS experts convened for the Pilot Study agreed that the trend is toward paying higher-level executives in bonuses, which are

to the address above.'' *See http://www.eeoc.gov/employers/eeo1survey/2007instructions.cfm.* Any requests would be considered by the EEO–1 Coordinator, who is also responsible for issuing any written approvals.

[26] In the NPRM, OFCCP stated that it chose the W–2 definition of compensation because it accounts for a broad range of pay elements and because collection of W–2 data would result in minimal burden on contractors. 79 FR 46562 at 46576 (August 8, 2014). Public comments on the NPRM were split on using the W–2, but EEOC and OFCCP conclude that it remains the best option for the reasons stated in this section.

[27] The *Occupation Employment Statistics* (OES) survey defines earnings to include base rate pay, cost-of-living allowances, guaranteed pay, hazardous-duty pay, incentive pay such as commissions and production bonuses, tips, and on-call pay. The OES measure *excludes* back pay, jury duty pay, overtime pay, severance pay, shift differentials, nonproduction bonuses, employer costs for supplementary benefits, and tuition reimbursements. *See U.S. Bureau of Labor Statistics, Occupation Employment Statistics. http://www.bls.gov/oes/current/oes_tec.htm. See* page 4 of *http://www.bls.gov/oes/current/methods_statement.pdf* for the 12 wage intervals.

[28] The *National Compensation Survey* (NCS) is a BLS establishment survey of employee salaries, wages, and benefits. In this survey, ''[e]arnings are defined as regular payments from employers to their employees as compensation for straight-time (not overtime) hourly wages or for any salaried work performed.'' The NCS does not include premium pay for overtime, holidays, and weekends; shift differentials such as night work; nonproduction bonuses; tips; and uniform and tool allowances. *See U.S. Bureau of Labor Statistics, Overview on BLS Statistics on Pay and Benefits, http://www.bls.gov/bls/wages.htm http://www.bls.gov/ncs/ncswage2010.pdf,* at pp 8–9. However, this definition does include incentive pay such as commissions, piece-rate payments, production bonuses, cost-of- living adjustments, hazard pay, payments for income deferred due to participation in a salary reduction plan, and deadhead pay (which is paid to a driver who is driving an empty vehicle, typically when the driver is traveling to pick up a delivery or after completion of a delivery).

[29] The *Current Employment Statistics* (CES) survey program is a BLS and state cooperative program that produces data on earnings but not wages. Average hourly earnings exclude items such as employee benefits, irregular bonuses and commissions, retroactive payments, and the employers' share of payroll taxes and therefore, do not represent employers' total compensation costs (as calculated by the National Compensation Survey). *See National Research Council. Collecting Compensation Data from Employers. National Academic Press 2013. http://www.nap.edu/openbook.php?record_id=13496,* at p. 8.

[30] The *Social Security Administration* defines income as any payment received during a calendar month that can be used to meet needs for food or shelter. It may be in cash or in kind (*i.e.,* payment in the form of the use of a good or service, such as free rent). It includes earned income and unearned income. Examples of unearned income include social security, interest and dividends, retirement income, unemployment benefits, alimony, child support, and pay received for work while an inmate in a penal institution. *See http://www.ssa.gov/OP_Home/ssact/title16b/1612.htm.*

[31] The *Internal Revenue Service's* W–2 definition of gross income includes wages, salaries, fees, commissions, tips, taxable fringe benefits, and elective deferrals. Amounts withheld for taxes, including but not limited to income tax, Social Security, and Medicare taxes, are considered ''received'' and must be included in gross income of the given year they are withheld. *See http://www.irs.gov/publications/p17/ch05.html;* see also *http://www.irs.gov/Individuals/What-is-Earned-Income%3F.*

[32] National Research Council, 2012, *Collecting Compensation Data From Employers.* Washington, DC: National Academies Press, 8. Available at *http://www.nap.edu/openbook.php?record_id=13496,* at p.58.

[33] United States Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics-Frequently Asked Questions, *http://www.bls.gov/oes/oes_ques.htm*

[34] *See* Press Release, Aon Hewitt, 2014 U.S. Salary Increase Survey, (Aug. 27, 2014), *http://aon.mediaroom.com/New-Aon-Hewitt-Survey-Shows-2014-Variable-Pay-Spending-Spikes-to-Record-High-Level.*

[35] WorldatWork. ''Bonus Programs and Practices.'' Available at *http://www.worldatwork.org/adimLink?id=75444,* at p.10.

[36] Internal Revenue Service. 2014. ''Wages, Salaries, and Other Earnings.'' In: Internal Revenue Service. Your Federal Income Tax (Individuals). Available at *http://www.irs.gov/publications/p17/ch05.html;* and Internal Revenue Service. 2015. ''What Is Earned Income?'' Available at *http://www.irs.gov/Individuals/What-is-Earned-Income%3F.*

[37] U.S. Dept. of Labor, Bureau of Labor Statistics. ''Fact Sheet for the June 2000 Employment Cost Index Release.'' Available at *http://www.bls.gov/ncs/ect/sp/ecrp0003.pdf.*

[38] John L. Bishow, U.S. Dept. of Labor, Bureau of Labor Statistics. ''A Look at Supplemental Pay: Overtime Pay, Bonsues, and Shift Differentials.'' Available at *http://www.bls.gov/opub/mlr/cwc/a-look-at-supplemental-pay-overtime-pay-bonuses-and-shift-differentials.pdf* at pp 5–7. ''Analysis is limited to jobs that receive positive payments—that is, those jobs that actually receive supplemental pay, as opposed to the average for all jobs—the percentage for each type of supplemental pay is higher.''

counted as W–2 income but are not included in the OES definition.[39]

Using the W–2 definition is less likely to be burdensome for most respondents than using the OES wage definition. Federal law requires all employers to generate W–2s for each of their employees. Although W–2 data may not be routinely compiled until the end of the calendar year, and EEO–1 reports are due on September 30th, several approaches are possible. First, because payroll records are cumulative, generating reports at any given point in time should not be complicated for employers with automated payroll systems. The W–2 data can be imported into a HRIS, and a data field can be established to accumulate W–2 data for the EEO–1. Alternatively, employers could obtain this pay information by utilizing quarterly payroll reports for the previous four quarters. Employers that do their payroll in-house will be able to report this data utilizing most major payroll software systems or by using off-the-shelf payroll software that is preprogrammed to compile data for generating W–2s. For employers that outsource their payroll, there would be a one-time burden of writing custom programs to import the data from their payroll companies into their HRIS systems.

Organizing and Reporting W–2 Data

In determining how employers would be required to organize and report their employees' W–2 data, the focus was on collectability, burden, confidentiality, and data utility.[40] The NAS Report and the Pilot Study reviewed various alternative approaches for reporting compensation, which ranged from highly detailed to general. Of these alternatives, the most comprehensive collection proposals required collecting data at the individual employee level and would have included human capital qualifications data as well as pay data. Although these options would reduce ambiguity and help assess the existence of potential discrimination, they also raise significant confidentiality and burden concerns.[41]

Options for collecting aggregate pay data include using pay rates (calculated by employer), range of pay with a maximum and minimum provided by employer, total pay, and average or median pay. There are disadvantages to each of these approaches. Total pay could be impractical and would be dependent on the number of employees. Average pay by occupation would provide limited information about variation. Collecting the range of pay or average pay could produce biased estimates as pay is often distributed in a manner where a few individuals are paid much more than others. This might create misleading data when ranges or means are used as a measure. Simply gathering rates of pay, without standard deviation measures, would not assist in parity/disparity analysis, and asking employers to calculate standard deviations would not only be burdensome but also would risk a higher rate of inaccuracy.

Using pay bands appears to be more likely to generate reliable data while being less burdensome for employers than other reporting alternatives. Therefore, Component 2 of the revised EEO–1 will collect aggregate W–2 data in 12 pay bands for the 10 EEO–1 job categories. Employers will simply count and report the number of employees in each pay band. For example, a filer will report on the EEO–1 that it employs 3 African American women as professionals in the highest pay band. As to data utility, pay bands will allow the EEOC to compute within-job-category variation, across-job-category variation, and overall variation, which would support the EEOC's ability to discern potential discrimination while preserving confidentiality.[42] At the same time, pay bands would not require the computation of mean earnings or a measure of variance as alternative approaches might, thus avoiding a source of employer burden. Finally, as distinguished from mean earnings, pay bands can effectively use statistical tests that do not rely on an assumption that pay is normally distributed.

By choosing to use pay bands, the EEOC also is adopting a methodology that will limit employer burden. HRIS software developers already are familiar with using pay bands on the EEO–4 survey, which collects pay data from state and local government employers.[43] By choosing to use pay bands for the EEO–1, the EEOC and OFCCP will allow HRIS software developers to build on their existing experience with the EEO–4. Consistent with the recommendations of the Pilot Study, however, the EEO–1 pay bands (Table 2) will track the 12 ''wage intervals'' used by the Bureau of Labor Statistics in the OES survey.[44]

TABLE 1—EEO–4 PAY BANDS

Pay bands	Pay bands label
1	$100–$15,999.
2	$16,000–$19,999.
3	$20,000–$24,999.
4	$25,000–$32,999.
5	$33,000–$42,999.
6	$43,000–$54,999.
7	$55,000–$69,999.
8	$70,000 and over.

TABLE 2—PROPOSED EEO—1 PAY BANDS

Pay bands	Pay bands label
1	$19,239 and under.
2	$19,240–$24,439.
3	$24,440–$30,679.
4	$30,680–$38,999.
5	$39,000–$49,919.
6	$49,920–$62,919.
7	$62,920–$80,079.
8	$80,080–$101,919.
9	$101,920–$128,959.
10	$128,960–$163,799.
11	$163,800–$207,999.
12	$208,000 and over.

Hours Worked

Consistent with the recommendations of the Pilot Study, Component 2 of the revised EEO–1 will collect the total number of hours worked by the employees included in each EEO–1 pay band cell. This data will allow analysis of pay differences while considering aggregate variations in hours. The total hours worked also will permit an analysis that accounts for periods when the employees were not employed, thus reflecting part-time work.[45]

The EEOC seeks employer input with respect to how to report hours worked for salaried employees. One approach would be for employers to use an estimate of 40 hours per week for full-time salaried workers. The EEOC is not proposing to require an employer to begin collecting additional data on actual hours worked for salaried workers, to the extent that the employer does not currently maintain such

[39] The panel included individuals with expertise in HRIS and SAP, and in compensation, payroll, and benefits.

[40] Collecting Compensation Data from Employers, National Academies of Science *http://de.nlx.org/pdfs/20140825_nrc-report-august2012.pdf.*

[41] *See supra* note 19, at 2.

[42] *See also* Micklewright, John and Schnepf, Sylke V., How Reliable are Income Data Collected with a Single Question? (November 2007). *See also* IZA Discussion Paper No. 3177, *http://ftp.iza.org/dp3177.pdf.*

[43] *See* U.S. Equal Employment Opportunity Commission, EEO–4 Survey, *https://egov.eeoc.gov/eeo4/.*

[44] *See* Survey Methods and Reliability Statement for the May 2014 Occupational Employment Statistics Survey. *http://www.bls.gov/oes/current/methods_statement.pdf.*

[45] Collection of the hours-worked data will account for the fact that some individuals are employed for less than the entire reporting year, and therefore, may work fewer hours. For example, if a large number of women are hired part way into a reporting year, their W–2 compensation will be lower than the compensation of men who worked for the entire reporting year.

information. Employers are encouraged to comment on this issue.[46]

Generally, however, the initial conclusion is that requiring employers to provide the total number of hours worked would impose a minimal burden. Employers will report only data that they already maintain. The panel of HRIS experts convened for the Pilot Study reported that ''total hours worked'' data is maintained by almost all payroll systems. The information is available for the previous quarter, the previous four quarters, and the calendar year. For employers that outsource payroll, this variable could be added to the one-time reporting query that is written to download income data.

Analysis of W–2 Pay Data

Statistical tests will be used as an initial check of the W–2 data to be collected on the EEO–1, specifically, statistical significance tests that do not rely on an assumption of a normal distribution. The Pilot Study recommended several statistical techniques to test within-job categories and then suggested further examining companies and establishments with low probabilities that the differences between examined groups, such as men and women, occurred by chance.[47] The Pilot Study also noted that the issue of calibrating error rates (power vs. significance level) needed to be addressed to detect discrimination without suffering too many false positives. This process would include recognition of how sample sizes may influence results and also of judicial precedents regarding definitions of statistical probabilities.[48]

The EEOC and OFCCP plan to develop a software tool that will allow their investigators to conduct an initial analysis by looking at W–2 pay distribution within a single firm or establishment, and by comparing the firm's or establishment's data to aggregate industry or metropolitan-area data.[49] This application would highlight statistics of interest.

Confidentiality

The EEOC and OFCCP jointly collect the data on the EEO–1 report through their Joint Reporting Committee, which has represented the two agencies for the purpose of administering the EEO–1 since the reporting requirement began. All data is initially submitted to the Joint Reporting Committee housed at the EEOC and then provided to OFCCP. EEOC is required to hold its EEO–1 data confidential under Section 709(e) of Title VII, which forbids ''any [EEOC] officer or employee'' from making ''public in any manner whatever any information obtained by the Commission . . . prior to the institution of any [Title VII] proceeding . . . involving such information.'' 42 U.S.C. 2000e–8(e). Any EEOC officer or employee who violates this prohibition is guilty of a misdemeanor. *Id.*

The EEOC publishes aggregate EEO–1 data in a manner that does not reveal any particular employer's data, consistent with Section 709(e). For example, the EEOC has published aggregate EEO–1 data at the national, regional, and industry levels.[50] The EEOC also publishes reports analyzing aggregate EEO–1 data based on industry (*e.g.,* finance, media, and law firms) or particular groups of people (*e.g.,* women of color).[51]

After collecting and reconciling EEO–1 data, the Joint Reporting Committee at the EEOC provides a database to OFCCP. OFCCP holds confidential the data for contractor filers to the maximum extent permitted by law, in accordance with Exemption 4 of the Freedom of Information Act and the Trade Secrets Act.[52] With respect to EEO–1 data for companies that are not under OFCCP's jurisdiction, the confidentiality provisions of Section 709(e) apply.[53] Accordingly, OFCCP refers all requests for such data to the EEOC for a response.

Paperwork Reduction Act Statement

The EEOC intends to submit to OMB a request for a three-year PRA approval of a revised EEO–1. The revised EEO–1 data collection has two components. The first component (Component 1) will collect information identical to that collected by the currently approved EEO–1. The second component (Component 2) will collect data on employees' W–2 pay and hours worked. Component 1 can be found at *http://www.eeoc.gov/employers/eeo1survey/upload/eeo1-2.pdf.* An illustration of the data to be collected by both Components 1 and 2 can be found at *http://www.eeoc.gov/employers/eeo1survey/2016_new_survey.cfm.*

For the 2016 reporting cycle, EEO–1 filers would only submit the Component 1 data. Beginning with the 2017 reporting cycle, the EEOC proposes to

[46] Some commentators on OFCCP's proposed data collection suggested that hours-worked data should not be collected based, in part, on their concerns that the collection would be burdensome and that some employers do not collect this data for exempt employees. For this reason, the EEOC encourages employers to provide specific, detailed input on this aspect of its proposed data collection.

[47] For example, the Pilot Study recommends using the Mann-Whitney test for grouped data and comparison of two groups (for example, gender (men versus women) or race (African Americans versus Whites)), and the Kruskal-Wallis test for comparison of more than two groups (*e.g.,* race). These tests are the most appropriate for an initial review of establishments as a whole. Analyses can be conducted by computing the statistical tests within job categories and then proceeding to more closely investigate companies and establishments with low *p*-values. Interval regressions can be used to examine the impact of hours worked, race and gender on distributions within pay bands. It may also be appropriate to compare a particular firm's regression coefficients for the hours worked, race and gender variables to those derived from an analysis of the relevant labor market as a whole.

[48] The EEOC's statistical analysis techniques are consistent with judicially recognized statistical standards for identifying meaningful discrepancies. *Hazelwood Sch. Dist.* v. *United States,* 433 U.S. 299, 311 n.17 (1977) (''a fluctuation of more than two or three standard deviations would undercut the hypothesis that decisions were being made randomly with respect to [a protected trait]);'' *see also, Wright* v. *Stern,* 450 F.Supp.2d 335, 363 (S.D.N.Y. 2006) (court denied employer's motion for summary judgment, concluding that the plaintiffs presented sufficient statistical and other evidence for a jury to conclude that the employer engaged in widespread discrimination against African-American and Hispanic employees, in terms of promotions and compensation. The court noted that, ''[t]hough not dispositive, statistics demonstrating a disparity of two standard deviations outside of the norm are generally considered statistically significant.'')

[49] Operationally, this application, or dashboard, could relate the nominal results of statistical tests (that is, test statistics or their *p*-values) to those encountered in the location and the labor market based on the relevant industry and geography. On such a dashboard, the EEOC investigator would see technical information such as the values of the main statistics used to describe the establishment, and its relation to the same statistic encountered in other comparable establishments.

[50] *See* U.S. Equal Employment Opportunity Commission, ''Job Patterns for Minorities and Women in Private Industry (EEO–1), *http://www.eeoc.gov/eeoc/statistics/employment/jobpat-eeo1/index.cfm.*

[51] *See* U.S. Equal Employment Opportunity Commission, Special Reports, *http://www.eeoc.gov/eeoc/statistics/reports/index.cfm.*

[52] *See* 5 U.S.C. 552 (b)(4). FOIA does not apply to ''trade secrets and commercial or financial information obtained from a person and privileged or confidential''; 18 U.S.C. 1905. Under the Trade Secrets Act, criminal penalties may apply to an officer or employee of the United States who ''publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law . . . confidential statistical data. . . .'' See also 79 FR 46562 at 46583 (August 8, 2014).

[53] *See* relevant Paperwork Reduction Act provision, 44 U.S.C. 3510. ''(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law. (b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties) that relate to the unlawful disclosure of information apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information. (2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.''

require EEO–1 filers with 100 or more employees to submit Component 2 data in addition to Component 1 data. However, contractor filers with 50 to 99 employees will only submit Component 1 data.

2016 Overview of Information Collection—Component 1

Collection Title: Employer Information Report (EEO–1).

OMB Control Number: 3046–0007.

Frequency of Report: Annual.

Description of Affected Public: Private industry filers with 100 or more employees and federal government contractor filers with 50 or more employees.

Number of Respondents: 67,146.

Reporting Hours: 228,296.4.

Respondent Burden Hour Cost: $5,531,621.77.

Federal Cost: $1,330,821.

Number of Forms: 1.

Form Number: EEOC Form 100.

2017 and 2018 Overview of Information Collection—Components 1 and 2

Collection Title: Employer Information Report (EEO–1).

OMB Control Number: 3046–0007.

Frequency of Report: Annual.

Number of Forms: 1.

Form Number: EEOC Form 100.

Federal Cost: $318,000 for one-time costs and $1,621,300 [54] for recurring staffing costs.

Component 1 (Demographic and Job Category Data)

Description of Affected Public: In 2017 and 2018, contractor filers with 50 to 99 employees will submit only the demographic and job category data collected by Component 1.

Number of Respondents: 6,260.

Reporting Hours: 21,284.

Respondent Burden Hour Cost: $515,711.32.

Components 1 and 2 (Demographic and Job Category Data Plus Pay and Hours-Worked Data)

Description of Affected Public: In 2017 and 2018, EEO–1 filers with 100 or more employees will submit pay and hours-worked data under Component 2 in addition to the demographic and job category data under Component 1.

Number of Respondents: 60,886.

Reporting Hours: 401,847.6.

Respondent Burden Hour Cost: $9,736,767.35.

PRA Burden Statement

2016: Component 1

Burden Statement: In 2016, all EEO–1 filers will submit only Component 1, which includes the data collected by the currently approved EEO–1. The estimated number of respondents required to submit the annual EEO–1 survey is 67,146.[55] This data collection is estimated to impose 228,296.4 burden hours in 2016 or 3.4 hours per filer.[56] See Table 3. The estimated burden is based on electronic, rather than paper filing, which significantly reduces the survey burden.

TABLE 3—ANNUAL BURDEN—2016 (COMPONENT 1)

[All EEO–1 filers: Private industry employers with 100 or more employees and Federal Government contractors and first-tier subcontractors with 50 or more employees]

	Annual burden hours	Filers	Total annual burden hours	Wage rate	Total burden hour cost
Reading instructions	0.5	67,146	33,573	$24.23	$813,473.79
Collecting, verifying, validating and reporting data	2.9	67,146	194,723.4	24.23	4,718,147.98
Total	3.4	67,146	228,296.4		5,531,621.77

2017 and 2018: Components 1 and 2

Burden Statement—Component 1 Only: Starting in 2017, the estimated number of annual respondents who are contractor filers with 50 to 99 employees is 6,260.[57]

The burden on these contractor filers is estimated as follows:

• *Annual Burden Calculation:* The estimated total annual burden hours required to complete Component 1 of the EEO–1 data collection in 2017 and 2018 is 21,284, with an associated total annual burden hour cost of $515,711.32.[58] See Table 4.

Burden Statement—Components 1 and 2: Starting in 2017, the estimated number of annual respondents that will submit Components 1 and 2 is 60,886 private industry and contractor filers. Filers required to complete both Components 1 and 2 are estimated to incur 401,847.6 burden hours annually or 6.6 hours per filer. The estimated burden is based on electronic, rather than paper, filing, which significantly reduces the survey burden.

The burden imposed on all private industry employer filers and contractor filers with 100 or more employees as a result of the proposed collection of W–2 pay data is estimated as follows:

• *Annual Burden Calculation:* The estimated total annual burden hours needed for filers to report demographic and W–2 pay data via Components 1 and 2 of the revised EEO–1 Report is 401,847.6, with an associated total annual burden hour cost of $9,736,767.35. This burden estimate includes reading instructions and collecting, merging, validating, and reporting the data electronically.[59] See Table 4.

[54] The addition of W–2 pay data to the EEO–1 is expected to increase EEOC's internal staffing costs by approximately $290,478. The annual federal cost figure of $1,621,300 includes both the increase in contract costs resulting from the addition of the pay data collection and the estimated internal staffing costs. It reflects an increase of more than $290,478 compared to the estimated federal costs provided in previously published **Federal Register** notices seeking PRA approval of this information collection because past estimates reflected the cost of the contract with the vendor whose services the EEOC procures to assist with administration and processing of the EEO–1 but did not include EEOC's internal staffing costs associated with processing the EEO–1.

[55] In 2014, 67,146 firms filed EEO–1 reports.

[56] In 2014, all but three reporting firms submitted electronic, rather than paper survey responses. These burden estimates assume that virtually all respondents will continue to file electronically.

[57] Of the 67,146 firms that filed EEO–1 reports in 2014, 6,260 were federal contractor filers with fewer than 100 employees.

[58] This estimate is calculated as follows: 3.4 hours per respondent × 6,260 respondents = 21,284 hours × $24.23 per hour = $515,711.32. See Bureau of Labor Statistics in the publication ''Employer Costs for Employee Compensation'' (December 2013), which lists total compensation for administrative support as $24.23 per hour, *http://www.bls.gov/news.release/archives/ecec_03122014.htm* (last accessed September 23, 2014).

[59] This estimate is calculated as follows: 6.6 hours per respondent × 60,886 respondents = 401,847.6 hours × $24.23 per hour = $9,736,767.35. See

Continued

• *One-Time Implementation Burden:* The estimated one-time implementation burden hour cost for submitting the information required by Component 2 of the revised EEO–1 Report is $23,000,295.[60] This calculation is based on the one-time cost for developing queries related to Component 2 in an existing human resources information system, which is estimated to take 8 hours per filer at a wage rate of $47.22 per hour.

Further, the EEOC estimates that the addition of W–2 pay data to the EEO–1 will raise its internal staffing cost by $290,478 due to the increased staff time needed to process the additional data.

TABLE 4—ANNUAL BURDENS—2017 AND 2018

[Revised EEO–1 Data Collection—Components 1 and 2]

Annual burden	Annual burden hours	Filers	Total annual burden hours	Wage rate	Total annual burden hour cost
Component 1 Only Contractor filers with 50 to 99 employees					
Reading instructions	0.5	6,260	3130	$24.23	$75,839.90
Collecting, verifying, validating and reporting data	2.9	6,260	18,154	24.23	439,871.42
Total Annual Burden for Filers Submitting Component 1	3.4	6,260	21,284		515,711.32
Components 1 and 2 All private industry employer filers, as well as contractor filers with 100 or more employees					
Reading instructions	1	60,886	60,886	24.23	1,475,268
Collecting, verifying, validating and reporting data	5.6	60,886	340,961.6	24.23	8,261,499.35
Total Annual Burden for Filers Submitting Components 1 and 2	6.6	60,886	401,847.6		9,736,767.35
Total Annual Burden—All Filers					
Total for Revised EEO–1		67,146	423,131.6		10,252,478.67

The reporting hour burden calculations in this notice reflect a departure from the manner in which the EEOC traditionally has estimated reporting burden. In the past, the EEOC estimated the reporting hour burden based on the number of total cells in the report(s) that a firm had to complete. This approach viewed each report filed by a firm as a separate reporting requirement, analogous to a paper report. In reporting year 2014, however, the number of paper reports declined to just three. In addition, employers now rely extensively on automated HRIS to generate the information they submit on the EEO–1 report.[61] As a result, each additional report filed has just a marginal additional cost.[62] To accurately reflect the manner in which employers now collect and submit the data for filing, the estimated reporting burden set forth in this notice is calculated per firm, rather than per report. This burden calculation is based on the time spent on the tasks involved in filing the survey, rather than on ''key strokes'' or data entry. As such, it more accurately reflects how virtually all employers actually complete the EEO–1 and the EEOC's practice of providing filers alternative methods for filing their reports such as data uploads using various formats and online filing.

The EEOC seeks employer input on this burden calculation. The EEOC reviewed OFCCP's ANPRM and NPRM and the public comments relating to the burden calculation for OFCCP's proposal to collect pay data and consulted with OFCCP about burden estimates.[63] The Pilot Study approached some private employers to seek data about the possible cost of collecting pay information but few employers responded, and the employers that did respond did not provide quantitative feedback. The EEOC encourages employers, in their comments responding to paragraph 2 in the ''Solicitation of Public Comment'' section below, to provide: (1) Quantitative information about the burden associated with completing the currently approved EEO–1, as well as the anticipated estimated burden to also submit pay and hours-worked data, and (2) data regarding the estimated time that staff will spend to report the employer's pay and hours-worked data and the corresponding wage rates for that staff.

Solicitation of Public Comment: Pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and OMB regulation 5 CFR 1320.8(d)(1), the Commission solicits public comment to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the Commission's functions, including

Bureau of Labor Statistics in the publication ''Employer Costs for Employee Compensation'' (December 2013), which lists total compensation for administrative support as $24.23 per hour, *http://www.bls.gov/news.release/archives/ecec_03122014.htm* (last accessed September 23, 2014).

[60] This is estimate is calculated as follows: 8 hours per respondent × 60,886 employers = 487,088 × $47.22 per hour = $23,000,295. See Bureau of Labor Statistics in the publication ''Employer Costs for Employee Compensation'' (December 2013), which lists total compensation for a professional as $47.22 per hour, *http://www.bls.gov/news.release/archives/ecec_03122014.htm* (last accessed September 23, 2014).

[61] Surveys have shown that more than 90 percent of human resource departments operate with some form of computerized HRIS. *See Public Personnel Management,* Volume 39, No. 3, Fall 2010.

[62] In fact, a number of firms file by uploading a data file so that the information goes nearly directly from an electronic file generated by the HRIS to the survey data base. In 2014, 1,449 firms filed EEO–1 reports by uploading a data file, accounting for 704,654 of the EEO–1 reports filed in that year.

[63] OFCCP plans to utilize EEO–1 pay data for federal contractors with 100 or more employees instead of implementing a separate compensation data survey as outlined in its August 8, 2014, NPRM.

whether the information will have practical utility;

2. Improve the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are required to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Conclusion

This notice summarizes the EEOC's proposal to submit a revised EEO–1 to OMB for 3-year PRA approval to require private employer filers, as well as most federal government contractor filers, to submit data on employee pay starting with the 2017 reporting cycle. This data collection would meet the statistical needs of both the EEOC and OFCCP. It would also enable employers to self-assess their pay practices and policies and thereby support voluntary compliance. In developing this PRA proposal, the EEOC has balanced enforcement objectives with the burden and confidentiality concerns of respondents.

Dated: January 21, 2016.

For the Commission.

Jenny R. Yang,

Chair.

[FR Doc. 2016–01544 Filed 1–29–16; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

January 21, 2016.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, January 28, 2016, which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW., Washington, DC.

Item No.	Bureau	Subject
1	MEDIA	TITLE: Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees (MB Docket No. 14–127). SUMMARY: The Commission will consider a Report and Order which modernizes the public inspection file rules by requiring cable and satellite TV operators and broadcast and satellite radio companies to post public inspection files on the FCC's online database.
2	PUBLIC SAFETY & HOMELAND SECURITY.	TITLE: Amendment of Commission's Rules Regarding the Emergency Alert System (PS Docket No. 15–94) and Wireless Emergency Alerts (PS Docket No. 15–91). SUMMARY: The Commission plans to discuss strengthening the Emergency Alert System (EAS) by promoting participation on the state and local levels, supporting greater testing and awareness of EAS, leveraging technological advances, and bolstering EAS security.
3	WIRELINE COMPETITION AND WIRELESS TELE-COMMUNICATIONS.	TITLE: Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act (GN Docket No. 15–191). SUMMARY: The Commission will consider the 2016 Broadband Progress Report examining whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion, pursuant to Section 706 of the Telecommunications Act of 1996.

* * * * *

Consent Agenda

The Commission will consider the following subjects listed below as a consent agenda and these items will not be presented individually:

1	GENERAL COUNSEL	TITLE: Mitchell F. Brecher Request for Inspection of Records (FOIA Control No. 2014–338). SUMMARY: The Commission will consider a Memorandum Opinion and Order concerning the Application for Review filed by Mitchell F. Brecher regarding the denial of his request for inspection of records under the Freedom of Information Act.
2	GENERAL COUNSEL	TITLE: SMS/800 Inc. Request for Inspection of Records (FOIA Control No. 2015–044). SUMMARY: The Commission will consider a Memorandum Opinion and Order concerning the Application for Review filed by SMS/800 Inc. regarding the release of records pertaining to SMS/800 Inc. in response to a request for inspection of records under the Freedom of Information Act filed by Mark Lewyn.
3	GENERAL COUNSEL	TITLE: Rachel A. Avan Request for Inspection of Records (FOIA Control No. 2014–572). SUMMARY: The Commission will consider a Memorandum Opinion and Order concerning the Application for Review filed by Rachel A. Avan regarding the denial of her request for inspection of records under the Freedom of Information Act.
4	GENERAL COUNSEL	TITLE: Russell Carollo Request for Inspection of Records (FOIA Control No. 2015–553). SUMMARY: The Commission will consider a Memorandum Opinion and Order concerning the Application for Review filed by Russell Carollo regarding the partial denial of his request for inspection of records under the Freedom of Information Act.