

# Don't Have Unknowns in EEO-1 Report Data

8/24/2010 By Allen Smith

As the Sept. 30, 2010, deadline for completing the EEO-1 Report form nears, employers that must file the report should make sure they have complete data on race, ethnicity and gender and that they classify employees correctly, according to Joe Lakis, senior counsel with the Equal Employment Advisory Council.

All employers subject to Title VII and with 100 or more employees, as well as all federal contractors with 50 or more employees with contracts of \$50,000 or more, must file the EEO-1 Report form, he noted in an Aug. 20, 2010, interview.

“Do not have anyone in the unknown category,” he cautioned. That includes race and gender. Employers must classify workers in one of seven race/ethnicity categories, he said, noting that those categories are:

Hispanic or Latino.

White (not Hispanic or Latino).

Black or African American (not Hispanic or Latino).

Native Hawaiian or Pacific Islander (not Hispanic or Latino).

Asian (not Hispanic or Latino).

American Indian or Alaskan Native (not Hispanic or Latino).

Two or More Races (not Hispanic or Latino).

Sometimes individuals wind up as unknown in employers' systems because the individuals did not check a gender or race/ethnic category on the self-identification form. If employers have workers whose information is unknown, the employers first should review the self-identification forms to see if no box was checked or whether the checked box wasn't entered into their systems.

If an employee did not self-identify, the employer then should ask the employee's manager to make a determination based on a visual survey, he said. Another option is to readminister the self-identification form to the employee, but an employer can't force an employee to self-

identify, he noted.

Managers often are uncomfortable when they are asked to visually identify workers' race or ethnicity, according to Valerie Hoffman, an attorney with Seyfarth Shaw in Chicago and Los Angeles. It helps to inform managers that visual identification is required by the law if employees did not self-identify, she noted. Hoffman said managers who need to visually identify also should be given a list of the race/ethnicity categories and provided with answers to common questions, such as how are employees from India classified--as Asian. And telling managers about the EEO-1 Report helps as well, she said.

### **Correct Job Categories**

In addition, employers should validate their EEO-1 assignments for job categories. Lakis said he continues to see managers classified incorrectly as professionals, professionals misclassified as managers and professionals classified incorrectly as technicians.

Information technology (IT) positions often are misclassified as technician positions, even though most IT jobs require four-year degrees. Lakis said that ordinarily most IT jobs should be classified as professionals.

Project manager is another job that often trips up employers. Some employers assume that project managers should be categorized as managers, which is correct if the project managers supervise people. But if they manage only relatively small projects, they probably should be classified as professionals, he noted.

### **EEO-1 Report's Uses**

The EEO-1 Report is useful for the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs (OFCCP), helping the OFCCP identify who to investigate and providing data for research papers. But the EEO-1 form also can be used by a company to self-identify potential disparities and as a tool for diversity initiatives to target recruitment strategies, noted Cindy Mattson, president of EEO Consultants Inc. in Miami Beach, Fla.

An employer can evaluate its workforce demographics with the EEO-1 Report and compare its demographics with those of others in the same industry because of data tables the EEOC makes available at the end of each year, Lakis added. He said an employer can use the report to make adjustments for affirmative action purposes.

Employers should make sure that the EEO-1 Report filing requirement is satisfied for each of the employer's establishments and that none of them fall through the cracks, he added. However, he said that establishments in Puerto Rico, the Virgin Islands and other protectorates are not to file EEO-1 Reports.

The definition of establishment is tricky, Hoffman noted, saying that a campus typically can report as a single establishment. But an employer has to have separate reports for sites that don't

share the same address, she said.

Some employers have avoided filing EEO-1 Reports, she added, saying that the EEOC always asks for the EEO-1 Report when there is a charge of discrimination at an entity that is required to file the report. If an employer doesn't have the report, the EEOC will enforce the requirement to have it, and it starts the investigation on the wrong note, she cautioned.

And the OFCCP expects the numbers in the EEO-1 Report to be relatively the same as the numbers in an affirmative action plan for that establishment. If they aren't consistent, she said, the audit will be off to a bad start. With EEO-1 Reports, "accuracy is the big issue," she remarked, saying that "the OFCCP and EEOC are more active than ever."

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