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November 12, 2019

Bernadette B. Wilson
Executive Officer
Executive Secretariat
Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507

Submitted via regulations.gov

RE: Notice of Information Collection—Request for new Control Number for a Currently Approved Collection: Employer Information Report (EEO-1) Component 1; Revision of Existing Approval for EEO-1 Component 2, Docket No. EEOC-2019-003-0001

Dear Ms. Wilson:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 organizations to promote and protect the rights of all persons in the United States, we are writing in response to the Equal Employment Opportunity Commission (EEOC) “Notice of Information Collection—Request for new Control Number for a Currently Approved Collection: Employer Information Report (EEO-1) Component 1; Revision of Existing Approval for EEO-1 Component 2,” published in the Federal Register on September 12, 2019 (“the Notice”). The Leadership Conference strongly urges the EEOC to request renewal of Component 2 and continue the collection of pay data from covered employers.

As an organization dedicated to civil rights, The Leadership Conference is committed to advocating for fair and equitable workplaces that advance economic security for all working people, including those who have been traditionally disadvantaged in, or excluded from, the workforce. The collection of data to uncover workplace discrimination, enforce anti-discrimination laws, and evaluate progress made to eradicate unlawful discrimination is central to fulfilling the promise of equal opportunity.

In its Notice, the EEOC asserts that although it seeks to submit a request, pursuant to the Paperwork Reduction Act, for a three-year approval of Component 1 of the EEO-1, the agency does not intend to request renewal of Component 2, which requires covered employers to report their employees’ pay by sex, race, ethnicity, and job category. The EEOC offers no support in the Notice for its conclusion that the utility of the Component 2 pay data is outweighed by the burden to employers and does not

acknowledge the benefits the data will produce in detecting pay discrimination, closing gender and race pay gaps, and promoting equal pay.

The EEOC's burden analysis is incomplete and unsupported by the information in the Notice.

It is unclear from the Notice how the EEOC determined that the utility of the Component 2 pay data was outweighed by the burden of collecting it. When the EEOC published its Notice, the agency was in the process of collecting Component 2 pay data for calendar years 2017 and 2018, pursuant to a federal court order. The EEOC has still not completed the data collection, which is ongoing as of the filing of this comment. As the EEOC has not yet finished collecting Component 2, and therefore has not had the opportunity to analyze a complete data set, the agency does not have the necessary information to make a reasoned determination about the utility of the data. The Notice also does not provide any information that would suggest that the EEOC has conducted any preliminary analysis or evaluation of the data collected to date. Given the timing of the Notice and the lack of information concerning how the EEOC reached its conclusion that the Component 2 data lacked utility, The Leadership Conference is deeply concerned about the integrity of the EEOC's decision to stop future data collections, especially since the EEOC has repeatedly tried to evade or curtail its current obligation to collect this data, as detailed in our November 8, 2019 [letter of concern](#) to EEOC Chair Janet Dhillon signed by 45 organizations from the civil rights community.ⁱ

In addition to the unsupported conclusion regarding the Component 2 data, The Leadership Conference is also concerned that in its Notice, the EEOC may have overestimated the burden of the data collection on employers. In determining its new burden estimate, the EEOC fails to consider that employers are already reporting Component 2 data to the agency. The agency does not include in its Notice any evaluation of employers' actual experience collecting and reporting the Component 2 pay data for calendar years 2017 and 2018. The EEOC also fails to take into account that the cost of compliance to employers should decrease going forward, as employers already have appropriate reporting systems in place and will be familiar with the process.

The EEOC does not sufficiently consider the benefit of the Component 2 pay data.

Even as the EEOC may have overestimated the burden on employers reporting pay data, the agency does not acknowledge the benefits the data will produce in detecting pay discrimination, closing gender and race pay gaps, and promoting equal pay.

Pay inequality continues to be a pressing problem for women and people of color despite federal laws protecting against pay discrimination by race, ethnicity, and gender. Overall, a woman working full-time, year-round in the United States is paid only 82 cents for every dollar paid to a man. Looking specifically at women of color reveals even deeper disparities. Black women, for example, are paid just 62 cents for every dollar paid to a white man. Native American women are paid 57 cents, Latina women only 55 cents, and some Asian American and Pacific Islander women are paid as low as 50 cents for every dollar paid to a white man.ⁱⁱ

Closing the pay gap would have a profound impact on millions of women and their families. The pay gap adds up to average lifetime income losses of more than \$400,000—and even greater lifetime income losses for women of color. The pay gap negatively impacts women’s economic security and the long-term economic stability of their families, as it negatively impacts women’s social security and retirement.ⁱⁱⁱ Eliminating pay disparities is especially important for working people struggling to make ends meet. According to the Institute for Women’s Policy Research, equal pay would cut poverty among working women and their families by more than half while at the same time add \$513 billion to the national economy.^{iv}

The pay gap persists, in part, because pay discrimination is notoriously difficult to detect. Most working people are either prohibited or strongly discouraged from discussing pay with their colleagues.^v Requiring employers to report pay data provides critical information to uncover trends in pay disparities and will assist the EEOC in its enforcement efforts. Through analysis of the Component 2 data over time, the EEOC can more efficiently target its enforcement resources and help shape better proactive measures to prevent pay discrimination. Component 2 also encourages employers to self-assess their pay practices and can spur employers to voluntarily correct discriminatory wage disparities to the benefit of employees, employers, and the agency itself, through avoidance of the cost of litigation or other formal enforcement mechanisms.

The primary duty of the EEOC is to enforce federal laws against workplace discrimination, including discrimination in pay, and to help prevent discrimination before it occurs. Data collection and analysis are critical to evaluating progress on closing the pay gap, ensuring proper enforcement of federal civil rights laws, and creating effective prevention tools. The Leadership Conference strongly supports collection of pay data from employers and urges the EEOC to request renewal of EEO-1 Component 2. Thank you for your consideration of our views. Please contact Gaylynn Burroughs, Senior Policy Counsel, at (202) 466-3311 or burroughs@civilrights.org if you have any questions.

Sincerely,



Vanita Gupta
President & CEO

ⁱ See The Leadership Conference on Civil and Human Rights, Letter from Civil Rights Groups: Collection and Analysis of 2017 and 2018 EEO-1 Component 2 Pay Data (Nov. 8. 2019), available at <https://civilrights.org/resource/letter-from-civil-rights-groups-collection-and-analysis-of-2017-and-2018-eo-1-component-2-pay-data/>.

ⁱⁱ The National Women’s Law Center, *The Wage Gap: The Who, How, Why, and What to Do* (Sept. 2019), <https://nwlc.org/resources/the-wage-gap-the-who-how-why-and-what-to-do/>; Morgan Harwood, National Women’s Law Center, *Equal Pay for Asian American and Pacific Islander Women* (Mar. 2019), <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2019/03/Asian-Women-Equal-Pay-3.7.19-v2.pdf>

ⁱⁱⁱ National Women’s Law Center, *The Lifetime Wage Gap, State by State* (Oct. 10, 2019), <https://nwlc.org/resources/the-lifetime-wage-gap-state-by-state/>.

^{iv} Jessica Milli, et al., Institute for Women’s Policy Research, *The Impact of Equal Pay on Poverty and the Economy* (Apr. 5, 2017), <https://iwpr.org/publications/impact-equal-pay-poverty-economy/>.

^v Institute for Women’s Policy Research, *Pay Secrecy and Wage Discrimination* (Jan. 2014), <https://iwpr.org/publications/pay-secrecy-and-wage-discrimination-2/>.