



April 22, 2020

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

Submitted via regulations.gov

**RE: Docket ID EEOC-2020-0002-0001, Notice of Information Collection—
Request for new control number and approval of collection: Employer
Information Report (EEO-1) Component 1; Revision of existing approval for
EEO-1 Component 2**

Dear Ms. Wilson:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 220 national organizations to promote and protect the rights of all persons in the United States, I write in response to the Equal Employment Opportunity Commission (EEOC) “Notice of Information Collection—Request for new control number and approval of collection: Employer Information Report (EEO-1) Component 1; Revision of existing approval for EEO-1 Component 2,” published in the Federal Register on March 23, 2020 (“30-Day Notice”).

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, yet in its 30-Day Notice, the EEOC asserts, once again, that although it seeks to submit a request, pursuant to the Paperwork Reduction Act (PRA), 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 Leadership Conference strongly supports the collection of pay data from covered employers and continues to urge the EEOC to reconsider its position and request renewal of Component 2 of the EEO-1.

Although the 30-Day Notice provides a lengthy summary of the comments the EEOC received in response to its earlier 60-Day Notice announcing its intent not to renew Component 2, the agency continues to discount the benefits of the pay data collection. In discussing its justification for not seeking a PRA extension of Component 2, for example, the agency responds only to comments regarding the

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burden to employers of the data collection. There is absolutely no discussion, beyond a summary, of the thousands of comments submitted by civil rights and other advocacy groups, academics, and members of the public highlighting the benefits of pay data collection and its utility. The EEOC's burden analysis therefore continues to be incomplete, as it has not shown that it has thoroughly evaluated the burden of the data collection against its practical utility. Instead, the EEOC summarily concludes that the utility of the data collection – which is not analyzed – does not justify the burden.

Meanwhile, across the country, pay discrimination continues to inflict serious economic harm on women and people of color. On average, a woman working full-time, year-round in the United States is paid only 82 cents for every dollar paid to a man, and when the pay gap is examined by race and gender, the pay disparities only deepen. Black women 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.ⁱ The pay gap adds up to average lifetime income losses of more than \$400,000,ⁱⁱ harming both the immediate and the long-term economic stability of women and their families and making it more difficult for women and their families to withstand a financial crisis, including the one we are experiencing now as a result of the COVID-19 pandemic.

The Leadership Conference is also concerned that the agency continues to assert, as a basis for not seeking renewal of Component 2, that the utility of the data is unproven or otherwise uncertain without having first engaged in any analysis of the data that it has already collected. As we explained in our [November 12, 2019 letter](#) to the EEOC in response to its 60-Day Notice, the EEOC's initial determination concerning the utility of the data was premature, as the EEOC was still in the process – pursuant to a federal court order – of collecting Component 2 data for calendar years 2017 and 2018 and therefore did not have the opportunity to analyze the data in order to make any real-world determinations concerning its utility. The court only just declared the 2017 and 2018 data collection complete on February 10, 2020. Notably, however, the 30-Day Notice on the EEOC's decision not to renew Component 2 does not appear to be informed by any analysis of the actual Component 2 data that the agency has collected, once again calling into question the EEOC's determination that the burden of collecting Component 2 data outweighs its utility.ⁱⁱⁱ Given the lack of discussion of the 2017 and 2018 data, we [once again](#) call on the EEOC to engage in rigorous and objective analysis of this data, which the agency has already collected.

The EEOC is charged with helping to ensure equal opportunity in the workplace through enforcement of our federal laws against workplace discrimination and can play a key role in promoting equal pay. The pay gap persists, in part, because pay discrimination is notoriously difficult for everyday working people to discover. Most working people are either prohibited or strongly discouraged from discussing pay with their colleagues. They have neither the tools nor the resources to gather pay data on their own. The EEOC, however, does have the ability to collect and analyze this data, which can help the agency in its enforcement efforts, provide information to help shape better proactive measures to prevent pay discrimination, and help bolster the economic security of all working people.



We urge the EEOC to request renewal of Component 2 of the EEO-1. Thank you for your consideration of our views. Please contact Gaylynn Burroughs, Senior Policy Counsel, at burroughs@civilrights.org if you have any questions.

Sincerely,



Vanita Gupta
President and CEO

ⁱ 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.org/wp-content/uploads/2019/03/Asian-Women-Equal-Pay-3.7.19-v2.pdf>.

ⁱⁱ 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/>.

ⁱⁱⁱ The EEOC notes in its discussion that its decision not to seek a PRA extension of Component 2 was “based on Commission’s evaluation of the public comments received in response to the 60-Day Notice and the agency’s own burden calculations.” 85 Fed. Reg. 16340, 16346. There is no discussion of any analysis of the 2017 or 2018 data collection in Part IV of the 30-Day Notice (“Commission Decisions and Final EEOC Proposals to OMB”). *See id.* at 16345-47.