



# Employers Have One Last Chance for Compliance: Be Sure Your EEO-1 Report is Filed by January 9

Insights

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Although EEO-1 reports were due on December 5, employers that have not submitted and certified their data to the Equal Employment Opportunity Commission (EEOC) still have a chance to comply. Covered employers must submit and certify their reports *as soon as possible*, and ***no later than January 9***, which the EEOC has stated is the “Failure to File” deadline. Employers should not expect the portal to remain open after this date, as the agency noted that no additional reports will be accepted, and employers that fail to file will be out of compliance. Here’s what you should do if you have not yet filed.

## Calling **\*\*ALL\*\*** Employers: Determine Whether Your Business is Covered

Does “ALL” really mean ALL? Almost. Any private employer subject to Title VII of the Civil Rights Act with 100 or more employees during an employer-selected pay period in the fourth quarter of 2022 has a legal obligation to submit and certify an annual EEO-1 Component 1 report containing required workforce demographics. Likewise, federal contractors with 50 or more employees must submit and certify the report to the EEOC.

There are some exceptions: Local referral unions, state and local governments, and ***public*** elementary and secondary school systems and districts are exempt from filing EEO-1 reports (though they are subject to other reports). But “private employers” can and does include non-profits, independent schools, private higher education institutions, churches and religious organizations, professional employer organizations (PEOs), and many other employers who may think of their organization as a type of employer that might not be covered.

Do you have 100 employees? To add another layer of complexity, counting to 100 comes with special rules, too. An employer must consider whether it owns, is owned by, and/or is affiliated or associated with another employer (*for example, if there is interrelation between operations*) or whether there is centralized or common ownership, control, or management so that the group of employers constitutes a single enterprise and/or integrated enterprise and the entire enterprise had 100 or more employees.

You can learn more about EEO-1 compliance and [review our five-step action plan here](#).

## Need More Answers?

The Fisher Phillips team can help if you have questions about any of the following topics (or any other EEO-1 related questions):

- Do you meet the definition of a private employer with 100 or more employees?
- What are the best strategies for selecting the 2022 payroll period for reporting?
- How can you set up your organization's reporting structure in the EEOC reporting portal?
- How can you report employees who failed to designate race/ethnicity or gender?
- How can you handle reporting issues unique to federal contractors?
- How will changes for the 2024 reporting process cover even more employers as required filers if you had 100 or more employees for any payroll period at the end of 2023?

## Conclusion

If the whole topic makes your head spin, you can delegate! The Fisher Phillips data team can do the reporting for you. If you have any questions about filing EEO-1 reports, please consult your Fisher Phillips attorney, the authors of this Insight, or a member of Fisher Phillips' Affirmative Action and Federal Contract Compliance Practice Group. We will also continue to monitor any further developments in this area as they occur, so you should ensure you are subscribed to Fisher Phillips' Insight System to gather the most up-to-date information.

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