



Federal Court Ruling Means Your EEO-1 Reports Could Soon Be Made Public: What it Means and What You Should Do

Insights

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In a decision that could significantly reshape how EEO-1 Reports for federal contractors are handled by the federal government, the U.S. Court of Appeals for the 9th Circuit recently ruled that certain employer EEO-1 reports must be disclosed in response to a Freedom of Information Act (FOIA) request. The July 30 decision in *Center for Investigative Reporting v. U.S. Department of Labor* has major implications for how federal contractors treat demographic workforce data and raises new questions around confidentiality, reputational risk, and compliance. What do you need to know about this decision, and what should you do as a result?

Decision in a Nutshell

The case centers on Component 1 of the EEO-1 report – data that federal contractors with at least 50 or more employees (and private employers with 100 or more employees) must file annually with the EEOC. This component includes aggregated data about the race, ethnicity, and gender of employees across various job categories.

The Center for Investigative Reporting (CIR), a nonprofit news organization, filed a FOIA request seeking EEO-1 reports submitted by federal contractors. The DOL initially withheld the reports under FOIA Exemption 4, which protects “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.”

The agency also sought objections from federal contractors, and passed along the business community’s concerns to the court. The 9th Circuit disagreed with the DOL’s position, ruling that the EEO-1 Component 1 reports did not meet the threshold for “confidential” commercial or financial information under Exemption 4 and therefore must be disclosed.

Why This Matters to Your Business

Unless we see an appeal or a subsequent court order delaying things, you can expect to see the EEO-1 Reports that had been withheld to be publicly disclosed on the OFCCP’s FOIA Library. But this ruling could also open the door to broader public access to EEO-1 data, especially for federal contractors. What does that mean for your business?

- **Public Disclosure Risk:** Employers who previously considered EEO-1 data confidential may need to revisit that assumption, especially if operating in jurisdictions covered by the 9th Circuit (California, Washington, Arizona, Nevada, Oregon, Hawaii, Idaho, Montana, and Alaska).
- **Media and Activist Scrutiny:** With more EEO-1 data potentially available through FOIA, organizations could see interested third parties acquire information about your workforce and provide their own external analysis and criticism, particularly around DEI practices.
- **Precedent for Future Cases:** The ruling may encourage similar FOIA requests in other circuits and could lead to a broader shift in how government agencies handle employer-submitted demographic data.

What Employers Should Do Now

- **Review EEO-1 Objections:** The DOL submitted a list of objections to the court. Work with your counsel to determine if other objections besides the Exemption 4 argument were submitted that could impact your organization.
- **Coordinate with Legal Counsel:** Your legal team should assess whether any FOIA objections you previously submitted are impacted by this decision.
- **Monitor Legal Developments:** It remains to be seen whether the DOL or EEOC will appeal the decision or issue new guidance. A split among federal circuit courts could also set the stage for Supreme Court review.
- **Develop a Communications Strategy:** Be proactive in planning how to respond to public inquiries or press coverage that may stem from released EEO-1 data.

Conclusion

If you have questions about how this decision may impact your organization's reporting or disclosure obligations, contact your Fisher Phillips attorney, the author of this insight, or any attorney in our [Affirmative Action and Federal Contract Compliance Practice Group](#) with questions. We will continue to monitor developments on this topic. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information direct to your inbox.

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