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# YOUR WORKFORCE DATA WILL GO PUBLIC IN THE NEXT 2 WEEKS: FEDERAL CONTRACTORS FACE FEBRUARY 25 DEADLINE FOR EEO-1 RELEASE

Insights
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## Your Workforce Data Will Go Public in the Next 2 Weeks: Federal Contractors Face February 25 Deadline for EEO-1 Release

The long-running legal battle over public access to federal contractors' EEO-1 reports is coming to a close and thousands of contractors will soon see their workforce demographic data become available to the public. Late last week, the Department of Labor and the Center for Investigative Reporting filed a joint stipulation setting firm deadlines for the release of EEO-1 reports that contractors fought for years to keep confidential. Unless you're among the handful of "bellwether" contractors whose data will be released February 11, your EEO-1 Component 1 reports from 2016 to 2020 is set to become public on February 25. Here's what federal contractors need to know and what you should do before your data goes live.

**The Timeline: What's Happening and When**

The stipulation filed in *Center for Investigative Reporting v. U.S. Department of Labor* on February 5 establishes a clear timeline for disclosure:

- **February 11**: DOL will release EEO-1 data for the five "bellwether" contractors whose cases were used to test the legal arguments
- **February 11**: DOL notifies all other contractors that their data will be released in two weeks

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- **February 25**: DOL releases EEO-1 Component 1 data for all remaining contractors who objected to disclosure

Based on past practice with non-objecting contractors, expect the data to be posted on OFCCP's FOIA Library where it will be publicly searchable and downloadable.

**Quick Background: How We Got Here**

This outcome caps a multi-year legal fight that began in 2019 when the Center for Investigative Reporting (CIR), an investigative journalism organization, filed a FOIA request seeking EEO-1 Component 1 reports (also called Type 2 Consolidated Reports) for all federal contractors for 2016. The request was amended multiple times, ultimately resulting in a request that sought to release EEO-1 reports submitted to the EEOC, by federal contractors, from 2016 to 2020.

The Department of Labor (DOL) objected to the FOIA request for federal contractor data and allowed federal contractors to file specific objections for their businesses. For the contractors that objected, this litigation has delayed the release of data. The FOIA request litigation ultimately encompassed approximately 16,755 reports from 4,141 contractors who objected to disclosure.

We covered the initial district court ruling in August 2025, when a California federal judge ordered OFCCP to release the reports over the DOL's objection. The DOL appealed to the 9th Circuit, which in July 2025 affirmed the district court's decision. The 9th Circuit's mandate (making the ruling final) issued on December 29, 2025, set the stage for this month's disclosure.

**What's in Your EEO-1 Component 1 Report**

To understand what's being disclosed, it helps to know exactly what the EEO-1 Component 1 reports contain. These are the annual reports that federal contractors with 50 or more employees and contracts of $50,000 or more must file with the EEOC (private employers with 100+ employees also file them, but they aren't subject to this FOIA disclosure). The reports break down your workforce by job categories and demographics.

Each report shows the number of employees in each job category, broken down by race/ethnicity and sex. The

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reports are filed at the establishment (or physical location) level for multi-location employers, with a consolidated headquarters report showing company-wide totals. While the reports are filed by establishment/location, for the FOIA release, only the consolidated (company-wide) data will be released.

But what's not in the reports? Individual employee names, specific job titles, salary information, performance data, or any personally identifiable information. The now-defunct EEO-1 Component 2 (which required pay data) is not part of this disclosure; only Component 1 demographic headcounts are being released.

**Why This Matters for Your Business**

Even though EEO-1 data doesn't include salaries or individual details, public disclosure creates several risks and challenges:

- **Heightened Scrutiny:** Expect journalists, advocacy groups, and researchers to analyze the data and potentially publish stories highlighting contractors whose workforce composition differs significantly from industry norms or local demographics.
- **Litigation Risk:** Plaintiffs' attorneys may use the publicly available data to identify potential targets for discrimination or pay equity litigation.
- **Recruiting and Retention Challenges:** Your EEO-1 data will now be available for prospective employees to review, potentially influencing their decisions about where to work.
- **Client and Stakeholder Pressure:** Investors, particularly those with ESG (Environmental, Social, and Governance) mandates, may also use the data to evaluate portfolio companies or make investment decisions.

**What Federal Contractors Should Do Now**

You have limited time to prepare before your data becomes public. Here are five critical steps to take before February 25:

**1. Pull and Review Your EEO-1 Reports Immediately**

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Review copies of your EEO-1 Component 1 reports from 2016 to 2020, the exact reports that will be disclosed. Carefully review the Consolidated report for each year. Check for:

- **Accuracy**: Are the headcounts correct? Were employees properly categorized by job group? Any errors you discover now may impact your communications strategy, even if you can't prevent disclosure.
- **Trends**: How has your workforce composition changed over the five-year period? Consider how a third party might interpret your trends – are you you moving in a positive direction? Stagnating? Going backward in certain categories?
- **Outliers**: Which job categories or establishments show the most significant demographic disparities? These will likely draw the most scrutiny.
- **Context**: What legitimate, nondiscriminatory factors explain your workforce composition? Geography? Industry-specific talent pools? Specialized skill requirements?

**2. Conduct a Privileged Legal Review**

Before your data goes public, work with your FP counsel to conduct a privileged assessment of potential legal vulnerabilities. This review should include:

- **Adverse impact analysis**: Do your EEO-1 numbers suggest potential adverse impact in hiring, promotion, or job assignment? If so, can you demonstrate the business necessity and job-relatedness for your selection criteria?
- **Pay equity exposure**: While EEO-1 Component 1 doesn't include pay data, if your demographic composition suggests potential pay disparities (e.g., women or minorities concentrated in job categories that may be associated with lower wages), consider whether a privileged pay equity audit is warranted.
- **OFCCP compliance**: Are you current with your affirmative action plan obligations? Historically, OFCCP has used EEO-1 data as one component for determining which contractors to audit.
- **Pattern-or-practice risk**: Could your data support a claim of systemic discrimination? What would your defenses

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be?

### 3. Develop a Communications Strategy

You need messaging prepared before reporters, employees, or stakeholders start asking questions. Work with your communications, legal, and HR teams to develop:

- **Internal Talking Points**: What will you tell employees who see your data and have concerns? How will you explain disparities without making legally damaging admissions?
- **External Statement**: If asked by media, what's your prepared response?
- **Stakeholder Messaging**: If clients, investors, or partners raise concerns, how will you respond?
- **Media Monitoring**: Set up internet search alerts or other monitoring tools for your company name plus "EEO-1" or "diversity data" (etc.) so you're immediately aware if you're mentioned in coverage.
- **Work with your FP attorney and FP's Reputation and Crisis Management Team:** Consult with our team to help you with messaging and strategy.

### 4. Proactively Address Vulnerabilities

If your legal review identifies significant concerns, consider whether you can take corrective action before potential litigation or enforcement actions:

- **Audit and update job descriptions and qualifications** to ensure they're job-related and consistent with business necessity
- **Review and validate your selection procedures** (applications, interviews, assessments) for potential adverse impact
- **Document legitimate business reasons** for workforce composition (specialized skills, geographic factors, etc.)

### Conclusion

We will continue to monitor developments related to this case and EEO-1 disclosure requirements. Make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information. If you have questions about your

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EEO-1 data, OFCCP compliance, or how to prepare for public disclosure, contact your Fisher Phillips attorney, the authors of this Insight, or any member of our Government Contracting, Compliance, and Reporting Practice Group.

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