FINDLEY perspective

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EEOC Changes: Employer Actions to Consider

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This is an update of a previous Findley article on the Equal Employment Opportunity Commission's (EEOC) proposal to add W-2 income data and hours worked data to the EEO-1 Employer Information Report (EEO-1).

In early March 2019, a federal judge restored the required collection of employee pay data on the EEO-1. The reinstatement comes just 12 weeks before the due date of May 31, 2019, however, it is expected to be appealed, which may result in further delay.

The EEOC is responsible for enforcing federal laws that make it illegal to discriminate against a job candidate or an employee based on race, color, religion, sex, national origin, age, disability, or genetics. Companies with 100 or more employees and federal government contractors with 50 or more employees are required to file an EEO-1 each year. Previously, the EEOC revealed proposed changes to the EEO-1 to include W-2 earnings and hours worked data.

The current EEO-1 requires employers to note and report the number of workers by job category and then by ethnicity, race, and sex. The proposal requires companies to disclose the number of employees and total hours worked by job class and annual salary bands. The data assists the EEOC in finding possible pay bias and assists employers in promoting equal pay.

Completing the new form may uncover questions about current pay practices. Employers should consider getting out ahead of issues before company leaders begin to ask questions.

A best practices approach to consider includes:

- Pay Strategy – Document how the company wants to pay employees. The strategy is the compass used to guide disciplined pay design, delivery and governance. For many companies, the goal is to deliver competitive pay that aligns with the market and rewards employees for company performance linked to employee contributions.
- Job Classes and Pay Bands – The proposed EEO-1 requires disclosing pay data by annual salary bands. Many companies establish a "market rate" (or target pay) for a position and use it to create a range. Review your current job classes and look at the pay ranges for each position. Do the differences between pay ranges make sense given the roles and duties? Understand the impact each position has on the company.
- Market Benchmarking – Consider benchmarking your positions to published surveys. Over time, the pay ranges may differ from the market. Decide if certain positions are over market, which hurts the profits of the company. Determine if some positions are paying too little, which puts the company at risk of losing talent.
- Systems – Take a look at the systems you are using to track and manage pay. If gathering the data needed to conduct a review as outlined above would be difficult, a new system may be needed. There are many pay software platforms that are affordable and should save time and help avoid reporting errors.

The EEOC proposal is one of many factors creating the need to revisit pay strategies. Companies have been challenged by competitive markets, health care costs, and increased investor and government oversight, which have led to employee pay discussions. Taking a proactive approach to assessing pay programs can help companies avoid penalties and assist in attracting and retaining talented employees.

Questions? Contact the Findley consultant you normally work with or Tom Hurley at *Tom.Hurley@findley.com* or 419.327.4143.