

Common Mistakes When Filing an EEO-1 Report

Each year, private employers with 100 or more employees and federal contractors with 50 or more employees are required to submit workforce demographic data to the Equal Employment Opportunity Commission ([EEOC](#)). This information must be provided by EEO-1 category, sex, and race or ethnicity.

Common Mistakes and How Resolve Them

1. Reporting multiple establishments as a single establishment

One common mistake made by employers is reporting multiple physical establishments as a single establishment. According to EEOC:

Establishments at different physical locations must be reported as separate establishments even if conducting the same business or performing the same services or industrial operations.

Federal contractors and sub-contractors should note that the Office of Federal Contracts Compliance Programs ([OFCCP](#)) relies in part on EEO-1 reporting to select contractors for compliance evaluations. Establishment set-up found in EEO-1 reporting is a key factor in determining what establishments are selected. Contractors with establishments that have less than 50 employees are not required to prepare affirmative action plans for these small establishments and small establishments typically do not undergo compliance evaluations. Including multiple establishments in one EEO-1 establishment report can increase the employee headcount to more than 50, which is both an improper way to provide information to EEOC and a potential invitation for the OFCCP to conduct a compliance review.

2. Grouping employees into incorrect EEO-1 categories

Another common mistake includes assigning jobs to incorrect EEO-1 categories. EEOC requires employers to report their workforce by 10 EEO-1 job categories. When assigning employees to EEO-1 categories, employers should avoid relying on job titles alone. Instead, they should consider the skills, training, duties, and responsibilities required to perform the job. Additionally, employers should assign employees with more than one job to the primary job in which they spend most of their time. Employers should also assign employees to the actual job being performed if that job is different from the type of work for which an employee was trained. For example, an employee trained in human resources management working as a Human Resources Assistant should be classified as an Administrative Support Worker (EEO-1 category 5) instead of a Professional (EEO-1 category 2).

3. Not reporting employees who failed to self-identify race, ethnicity, and/or sex

The preferred method for gathering race, ethnicity, and sex information for EEO-1 reporting is voluntary self-identification. An employee may choose to decline to self-identify their race, ethnicity, and/or sex. The EEO-1 report does provide an option to report employees who declined to self-identify. While it may seem intuitive to exclude this population from reporting, employers should avoid making this mistake. In instances where an employee refuses to self-identify, EEOC recommends using employment records or

visual identification to gather race, ethnicity, and sex information.

4. Failing to report on employees who are part of mergers, acquisitions, and spin-offs

Did your company recently merge with another company? Or did your company acquire a new company? There are different filing obligations that apply for mergers, acquisitions and spin-offs that depend on when the merger, acquisition or spin-off was completed. To avoid receiving a “Failure to File” notice from EEOC, employers should carefully consider EEOC’s instructions regarding such changes. This includes considering the timing of such changes and whether the employer has the workforce data to be reported. EEOC typically publishes guidance on how to approach mergers, acquisitions, and spin-offs in its Online Filing System

5. Failing to complete the final step of the reporting process: Certification

Employers should avoid making the mistake of failing to certify their EEO-1 reports. The final step in completing the EEO-1 filing involves certifying the report in the EEO-1 Online Filing System. It is easy to miss this final step. Failure to certify results in the filing being considered incomplete. Employers could receive a “Notice of Failure to File” by EEOC for not meeting the reporting requirements if the EEO-1 report is not certified.

DCI will continue to monitor developments with the annual EEO-1 filing and will release blogs and resources as needed.



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