

EEOC Seeks Elimination of Voluntary Reporting Non-Binary Data in EEO-1

Government Contractor Compliance & Regulatory Update on April 25, 2025

On April 15, 2025, the Equal Employment Opportunity Commission (“EEOC”) submitted a [“non-substantive” Information Collection Request \(“ICR”\)](#) to the Office of Management and Budget (“OMB”) for approval ahead of its 2024 data collection. Among the requested changes, the EEOC seeks OMB approval for the elimination of the option allowing employers to voluntarily report on employees who self-identify as “non-binary.” The EEOC states the request is made to comply with Executive Order 14168, “Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.”

The change would apply to the Instruction Booklet and not to the data collection template. The EEOC’s proposed revision to the [Instruction Booklet’s “Reporting by Sex” section](#) would reduce the section to one sentence, to state:

“The EEO-1 Component 1 data collection provides only binary options (i.e., male or female) for reporting employee counts by sex, job category, and race or ethnicity.”

The EEOC’s 2023 Instruction Booklet previously stated that:

“The EEO-1 Component 1 data collection currently provides only binary options (i.e., male or female) for reporting employee counts by sex, job category, and race or ethnicity. However, employers may voluntarily choose to report employee demographic data for non-binary employees - that is, employees who do not identify as exclusively male or female - by sex (i.e., non-binary), job category and race or ethnicity in the “comments” section of the report(s). Employers that voluntarily choose to report non-binary employees in the “comments” section of the report(s) should not assign such employees to the male or female categories or any other categories (i.e., job category and race or ethnicity) within the report(s).”

The ICR indicates the EEOC intends to collect 2024 EEO-1 data, which had been an open question since the change in Administration earlier this year. Data collection is scheduled to open on Tuesday, May 20, 2025, and the deadline for filing is scheduled for Tuesday, June 24, 2025. Dates are subject to change. Final dates should be published on the EEOC's website.

Proskauer will continue to monitor the ever-changing OFCCP landscape and report updates [here](#).

[View original.](#)

[Related Professionals](#)

- **Guy Brenner**
Partner
- **Mallory Knudsen Hart**
Associate