

CLIENT ALERT

EEO-1 Pay Reporting Obligations Back On?

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A March 4, 2019 [ruling of the U.S. District Court for the District of Columbia](#) has effectively reinstated a key Obama-era pay reporting obligation, finding that the Trump Administration's Office of Management and Budget (OMB) blocked enforcement of the obligation without providing sufficient justification.

The reporting obligation at issue, which proponents claimed would increase pay transparency by requiring employers to provide data on employees' wages, hours, and demographics in their annual EEO-1 filings, was put on hold by OMB in August of 2017. In response, the National Women's Law Center and the Labor Council for Latin American Advancement filed suit, asserting that their organizational missions were hampered by the resulting lack of public EEO-1 data. The District Court's ruling, issued by District Judge Tanya Chutkan, found that OMB did not take proper steps in staying the regulation, and that its actions were arbitrary and capricious and constituted an abuse of discretion.

This ruling is bad news for employers, as the required data collection would be burdensome and expensive. Employer organizations, moreover, have argued forcefully that the pay data required for reporting would be susceptible to a high degree of "false positives" and would not be useful to the OFCCP's and EEOC's efforts to identify genuine pay disparities or otherwise assist their enforcement efforts.

The big open question is whether, in light of Judge Chutkan's ruling, employers will be required to submit the pay data by the current reporting deadline of May 31. We expect guidance from the EEOC on that issue in the near term. And it remains to be seen whether the Trump administration will appeal Judge Chutkan's ruling, or whether the current deadline will be extended.

The case is *National Women's Law Center, et al., v. Office of Management and Budget, et al.*, 1:17-cv-02458-TSC.

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