

November 21, 2017

VIA ELECTRONIC MAIL

Acting Chair Victoria Lipnic
U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507

Chair Lipnic:

Thank you for your continuing service to the nation as Commissioner and now as Acting Chair of the U.S. Equal Employment Opportunity Commission (EEOC) – the nation’s chief enforcer of federal equal employment laws, including laws that protect against pay discrimination. The 49 organizational signatories of this letter write to ask you and your Commission colleagues to continue fulfilling the agency’s mission by working to ensure the Office of Management and Budget’s (OMB) stay of EEO-1 pay data collection is lifted and implementation of pay data collection on the basis of race, ethnicity and gender using the EEO-1 resumes as quickly as possible.

As civil rights, workers’ rights, and women’s rights advocates who share the EEOC’s mission to prevent, *stop and remedy unlawful pay discrimination*, our organizations are strong proponents of the EEO-1 pay data collection rule as adopted by the Commission and approved by OMB on September 29, 2016. Our April 2017 [coalition letter to OMB](#), led by the National Women’s Law Center, outlines in detail our substantive arguments in favor of the revisions. The changes to the EEO-1 were the result of a deliberative, rigorous, inclusive and transparent process that spanned years and included a pilot study, a public hearing and two public comment periods on proposed drafts, as well as previous rounds of notice and comment through a separate Department of Labor process. The agency heard from and considered the perspectives of all stakeholders, including employer and employee advocates, researchers, academics, and members of the general public. It adjusted its initial proposal in response to this feedback, including the feedback of employers. The agency ultimately determined through this rigorous and transparent analysis that the final rule’s burden to employers was manageable and the investigatory benefit to the agency substantial.

In contrast, the process that led to OMB’s stay of the pay data collection rule was opaque, completed in secret and without meeting with employee advocates, despite repeated written requests. Nothing in OMB’s [August 29, 2017 memo](#) to you ordering the stay identified a material error in the EEOC’s analysis or provided good cause for discarding years of deliberation. Indeed, OMB’s decision to summarily block implementation of an adopted and approved EEOC rule without a proper basis for doing so serves as a fundamental threat to the independence of the agency, and raises serious concerns about future political interference in agency decisions by the Administration.

It now falls to the EEOC to craft a path forward to collect pay data. The EEOC should promptly address any misunderstanding by OMB regarding the impact of the data file specifications for submitting EEO-1 data referenced in their stay; make any necessary adjustments to address any

legitimate concerns pursuant to the Paperwork Reduction Act through an open and transparent process; and seek to immediately lift the stay and move forward with the pay data collection. As always, our coalition is available to meet with you and any other parties at your convenience to assist you in developing next steps.

As you have long recognized, while the nation has made much progress, employment discrimination still harms employees in American workplaces, and, of all forms of discrimination, pay discrimination is among the most pernicious and difficult to detect and address. Employees do not often know they are being paid unequally and therefore are unlikely to file a charge. When discovered, it is typically by happenstance, because someone leaves a paystub out in the open, someone slips the employee a note, or because of an investigation of another employment discrimination issue, like sexual harassment or race-based discrimination in hiring and promotion. Moreover, pay discrimination is a cross-cutting issue, impacting women and men of color, but, most acutely, women of color, who must deal with the intersectional effects of gender, race and/or ethnicity bias.

Requiring employers to collect and submit pay data on the basis of race, ethnicity, and gender will allow the agency to more efficiently deploy its investigatory resources, encourage employers to analyze their pay practices to ensure they are lawful, and discourage pay discrimination. As is the case with the existing EEO-1, pay transparency will drive accountability in pay and pay data will drive equal pay policy, moving us ever closer to fulfilling the EEOC's mission and achieving its ultimate vision of *justice and equality in the workplace*.

We know you share our commitment to that vision, and we look forward to working with you to ensure the EEO-1 pay data collection implementation moves forward.

Please contact Joi Chaney at Equal Pay Today at jchaney@tidescenter.org and Emily Martin at National Women's Law Center at emartin@nwlc.org with questions or to schedule a meeting.

Sincerely,

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A Better Balance

American Association of University Women (AAUW)

American Civil Liberties Union

American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

American Federation of State, County and Municipal Employees (AFSCME)

American Federation of Teachers, AFL-CIO

Atlanta Women for Equality

California Employment Lawyers Association

California Women's Law Center

Catalyst

Center for American Progress

Child Care Law Center

Coalition of Labor Union Women

Economic Policy Institute

Equal Pay Today!
Equal Rights Advocates
Feminist Majority
Gender Justice
Institute for Women's Policy Research
Jewish Women International
Labor Council for Latin American Advancement (LCLAA)
Lambda Legal
Lawyers' Committee for Civil Rights Under Law
League of United Latin American Citizens
Legal Voice
Make it Work
National Asian Pacific American Women's Forum (NAPAWF)
National Association for the Advancement of Colored People (NAACP)
National Center for Law and Economic Justice
National Center for Transgender Equality
National Committee on Pay Equity
National Council of Jewish Women
National Education Association (NEA)
National Employment Law Project
National Employment Lawyers Association
National LGBTQ Task Force
National Partnership for Women & Families
National Women's Law Center
Pennsylvania NOW
People for the American Way
PowHer New York
Southwest PA National Organization For Women
Southwest Women's Law Center
The Leadership Conference on Civil and Human Rights
Women Employed
Women Lawyers of Sacramento
Women's Foundation of California
Women's Law Project

**cc: Commissioner Jenny Yang
Commissioner Chai Feldblum
Commissioner Charlotte Burrows**