August 12, 2016

Joseph B. Nye, Policy Analyst
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th St., N.W.
Washington, D.C. 20503

Re: Agency Information Collection Activities; Notice of Submission for OMB Review, Final Comment Request: Revision of the Employer Information Report (EEO-1), OMB Control Number 3046-0007, Docket ID EEOC-2016-0002-0340

Dear Mr. Nye:

On behalf of the more than 170,000 members and supporters of the American Association of University Women (AAUW), I am pleased to share AAUW’s comments on the Equal Employment Opportunity Commission’s (EEOC) proposed revision of the Employer Information Report (EEO-1) to collect pay data from private employers and federal contractors. The addition of compensation data to the EEO-1 is both welcome and timely. By collecting higher quality data, the Commission and the federal government as a whole can better do their part to ensure that all Americans enjoy the fair and level playing field that is the basis for economic security for all. AAUW is pleased with the efforts that the EEOC made to comprehensively address employer concerns and avoid unnecessary burdens. AAUW strongly supports the proposed revision and urges swift approval and implementation.

AAUW believes the proposed collection of pay data is an innovative improvement over the April 2014 presidential memorandum regarding data collection for the Department of Labor’s Office of Federal Contracts Compliance Programs (OFCCP). The EEO-1 has long been a useful tool to gather data that helps protect the civil rights of all employees. The proposed change outlines a more efficient process that is dramatically less costly for business, largely because it utilizes existing mechanisms to collect and report the data through the annual EEO-1 filing process. The data collected will provide critical insights into the pay gap based on gender, race and ethnicity. AAUW has long asserted that this kind of transparency is associated with a smaller pay gap, and that implementing this kind of nationwide data collection is an important and proactive step in our collective efforts to ensure fair pay for all.

**The Persistent Gender Pay Gap, by the Numbers**

AAUW’s strong support for the proposed change for improved EEO-1 data collection is buttressed by the clear and convincing data that the gender pay gap is not a myth, but rather a pernicious problem that undermines the economic security of American families. The findings from AAUW’s research reports, *The Simple Truth about the Gender Pay Gap* and *Graduating to a Pay Gap: The Earnings of Women and Men One Year after College Graduation*, provide
reliable evidence that sex discrimination in the workplace continues to be a problem for women, who, on average, when working full-time earn just 79 cents for every dollar a full-time male worker earns.\(^1\) Over a lifetime of work (47 years), the total estimated loss of earnings of women compared to men is $700,000 for a high school graduate, $1.2 million for a college graduate and $2 million for a professional school graduate.\(^2\) Our reports demonstrate just how much this pay gap impacts women, families, businesses and the economy.

Critics charge that pay differences between men and women are simply a matter of personal choices. However, our analysis found that just one year after college graduation, women were paid 82 percent of what their similarly educated and experienced male counterparts were paid.\(^3\) Ten years after graduation, the pay gap widened, and women were paid only 69 percent of what men were paid – despite the fact that women were more likely to obtain an advanced degree.\(^4\) In part, these pay gaps do reflect men’s and women’s choices, especially the choice of college major and the type of job pursued after graduation. Yet not all of the gap can be “explained away.” After accounting for a litany of factors—college major, occupation, economic sector, hours worked, months unemployed since graduation, GPA, type of undergraduate institution, institution selectivity, age, geographical region, and marital status—there is still a seven percent, unexplained difference in the earnings of male and female college graduates one year after graduation.\(^5\)

It is important to remember that the pervasive pay gap does not affect all women equally. Most women of color, older women, moms, and women who have achieved higher levels of education experience an even larger pay gap. Compared with salary information for white male workers, Asian American women’s salaries show the smallest gender pay gap, at 90 percent of white men’s earnings. Meanwhile, compared to white men’s wages, African American women are paid 64 percent, Native Hawaiian and Other Pacific Islander women are paid 62 percent, and American Indian and Alaska Native women are paid 59 percent. Hispanic and Latina women experience the largest pay gap, taking home just 54 percent of what white men were paid in 2014. In the same year, for full-time workers ages 20–24, women were paid 92 percent of what men were paid on a weekly basis. But among workers 55–64 years old, women were paid only 76 percent of what their male peers were paid. As a rule, earnings grow as years of education increase for both men and women. However, at every level of academic achievement, women’s median earnings are less than men’s median earnings, and in some cases, the gender pay gap is larger at higher levels of education.\(^6\) While a college degree greatly improves a woman’s earning capacity, it does not improve her earnings on the same scale as her male counterparts.

It is increasingly clear that the gender pay gap follows women throughout their lives, and in insidious ways—women who complete college degrees are less able to pay off their student loans promptly, leaving them paying more and for a longer time than men. In 2012, among students who graduated in 2007–08, women working full time had paid off 33 percent of their student loan debt on average, while men working full time had paid off 44 percent of their debt. African American and Hispanic women working full time earn considerably less than their white male counterparts, and they struggle to pay off student loans promptly; four years after graduation, they had paid off less than 10 percent of their debt—much less than other women and men.\(^7\)
Paying women equally would not just unburden them from debt more quickly, it could significantly impact the state of poverty in the U.S. A recent analysis found that the poverty rate for working women would be cut by more than half, from 8.2 percent to 4 percent, if women received equal pay to men of the same age, with the same level of education, who work the same number of hours, and have the same urban/rural status.  

Equal pay is not simply a women’s issue—it is a family issue. Between 1967 and 2012, the percentage of mothers who brought home at least a quarter of the family’s earnings rose from less than a third (28 percent) to nearly two-thirds (63 percent). Families increasingly rely on women’s wages to make ends meet. A majority of mothers are in the paid labor force, and a growing number of them are responsible for supporting their families. For the 40 percent of mothers with children under the age of 18 who are their families’ sole or primary breadwinner, the gender pay gap can contribute to poor living conditions, poor nutrition, and fewer opportunities for their children. Despite the discriminatory wages women take home, there’s no women’s discount on rent, electricity or any of life’s other necessities.

Women who take time away from the workforce to care for children—23 percent of mothers, as compared to only 1 percent of fathers, measured 10 years after graduation—often encounter a “motherhood penalty” that extends beyond the actual time out of the workforce. Experimental research has documented that employers are less likely to hire mothers compared with childless women, and when employers do make an offer to a mother, they offer her a lower salary than they do other women. Fathers, in contrast, do not suffer a penalty compared with other men. Many fathers actually receive a wage premium after having a child.

All of these statistics have real world consequences for women, families, businesses and the economy. Unequal pay early in women’s careers compounds throughout a lifetime, hindering women as they try to pay off their student loans, contribute to and raise their families, and thrive in retirement. Unequal pay also leads to workplace dissatisfaction, low morale, and higher turnover. But compensating women equally can remedy many of these problems. Paying women the salary they have rightfully earned is not only the fair thing to do, it puts more money into workers’ pockets. That additional income can then be infused into the economy, while also alleviating some of the burden on government programs to support those who are struggling to make ends meet. Equal pay is good for women, good for families, and good for the nation.

Robust Data is Essential to Closing the Gender Pay Gap, Which Also Benefits Businesses
Research and statistics clearly show the existence of the gender pay gap. Over 50 years ago, Congress passed the Equal Pay Act to remedy the issue. Yet the gap remains. If progress continues at the current rate, we will not achieve pay parity for men and women until 2059. But access to robust data can help address the problem now.

Discussing wages continues to be a taboo in the modern American workplace. This is a major contributing factor to the pay gap. Shining a light on existing pay practices, gathering data about pay discrepancies, and giving experts and employers the information they need to correct the problem will help create parity between men’s and women’s wages.
Aggregated data exposes trends in hiring, paying, and promoting employees, which can inform interventions within and across businesses. Data can reveal sex segregated jobs, a lack of women in positions of power, and unequal salaries, benefits, or bonuses. Data may show that employees of the opposite sex are paid disproportionately for the same job, or for different jobs that require similar skills, education and experience. Once these issues are apparent, businesses can receive technical assistance to remedy the gaps, or agencies can create interventions that seek to eliminate the problem before it even starts. Equally important, the data will bolster the EEOC’s ability to provide robust technical assistance as well as enforce existing law. The EEOC will be better equipped to investigate allegations of pay discrimination at companies that are suspect, while reducing the likelihood of reviewing employers that are expected to be in compliance.

In addition to direct government interventions, data will empower businesses to take preemptive action. In a perfect world, all companies would take such action voluntarily. Many employers are interested in doing the right thing and eliminating the gender pay gap, they simply do not realize that there is an issue. The EEOC’s proposal would hold up a much needed mirror to those businesses filing their EEO-1 forms by exposing the data and allowing employers to make appropriate, pro-active corrections before costly interventions are required. It will also set benchmarks so future salaries are appropriately calibrated and prior salary history or negotiations will not drive compensation decisions.

For example, Mark Benioff, CEO of Salesforce, voluntarily worked to correct the gender pay gap at his company once he knew it existed. Similarly, PricewaterhouseCoopers publicized their gender pay gap number. The transparency pushed the company toward remedying their wage discrepancy and promoting more women to partner. Data also allow businesses to maintain parity. The clothing retailer Gap, announced that it had eliminated its gender pay gap, but would continue to use data analysis to ensure that the pay gap never widens. While all of these businesses are able to tout their gender pay equality, they are also avoiding potential costly litigation that comes with being unwillingly forced into compliance.

**Changing the EEO-1 is an Appropriate Response**

The proposed changes to the EEO-1 constitute a necessary and appropriate step in closing the gender pay gap through data collection. AAUW strongly supported President Obama’s 2014 executive order directing the U.S. Department of Labor to collect wage data for federal contractors, and supports this innovative modification to streamline the data collection process and cover more employers.

The EEOC’s most recent proposal takes into account concerns raised by the business community about reporting burdens. Employers are already required to provide data relating to race, ethnicity, sex, and job category via the EEO-1. By gathering that information through the EEO-1, specifically Box 1 of the W-2 form, the proposed rule is utilizing existing data collection mechanisms that are familiar to most businesses and provide a comprehensive picture of compensation. This proposal adds the requirement to collect data on employee pay ranges and hours. Employers are already required to record hours worked for nonexempt employees, and the proposal offers two easy options for reporting the hours of exempt workers. Additionally, this proposal suggests revised filing deadlines that are employer-friendly. As such, the proposed revisions have the potential to both lower the compliance burden on businesses and the
implementation costs to government. This is a fair and reasonable response to the concerns voiced by some employers.

AAUW is sensitive to the concerns of business, but believes these new, modest requirements can be well reconciled with the broader benefit of working to eliminate pay discrimination. The burdens are not so strong as to justify forgoing these innovative solutions. Indeed, the EEOC proposal reflects a thoughtful and appropriate compromise.

AAUW strongly believes that the Commission’s proposal takes aim at reducing the gender and racial pay gap in three important ways:

1) Increasing public transparency on compensation, which is known to help shrink the gender pay gap.
2) Supporting employer efforts to self-monitor compensation practices, and proactively make appropriate changes to ensure compliance with relevant laws.
3) Strengthening the EEOC’s existing technical assistance programs and enforcement efforts.

The compensation data collected by the revised EEO-1 will give the public valuable insight into the dimensions of the pay gap by both geography and industry. For the first time, employers will also be able to benchmark their performance against their competition, and track changes over time. Businesses will also be able to empower their human resource departments to make proactive, data-driven changes to address any pay gaps that may exist. Equally important, the new compensation data will strengthen the EEOC’s ability to investigate allegations of pay discrimination and better enforce existing law. This proposal highlights the path forward for the private and public sectors to collectively better address the critical issue of equal pay.

Lastly, the landscape of equal pay laws varies widely across the country. With the federal Equal Pay Act of 1963 past due for an update, state legislatures have taken it upon themselves to amend laws protecting employees from pay discrimination. Therefore, employers with businesses in multiple states are subject to different pay discrimination laws. The reporting required by the EEO-1 will help businesses to monitor their own pay practices and ensure that they are in compliance with all relevant state and federal laws.

We do urge one change to the proposal: require smaller federal contractors to submit all of the proposed new data on the EEO-1. Federal contractors that have between 50 to 99 employees should also submit the information, along with their larger counterparts. Recipients of public funds, regardless of the number of workers employed, should be prohibited from discriminating in their pay practices. Many of these smaller contractors are already required to collect the information on the EEO-1, ensuring that this will not be a large burden.

**Conclusion**
With a record number of women in the workforce and nearly two-thirds of women functioning as primary or co-bread winners for their families, equal pay for women is critical to families’ economic security. Despite critics’ insistence that the pay gap is a myth, we know the truth: it’s math. It’s time to pay women equally. America is a nation founded on the ideal that all of us are
created equal—that ought to hold true at home and at work. Paying people fairly for the work they do should not depend on their gender, race or ethnicity.

To eliminate the gender pay gap, we need good information. Access to appropriate data is necessary to shine a light on disparate pay practices, reveal trends, and support employers in proactively improving systems and correcting errors. The proposed revisions to the EEO-1 are a fair and reasonable way to gather that data. This proposal relies on existing data collection mechanisms that are familiar to businesses, thus minimizing the burden on employers and streamlining the process for government agencies.

AAUW appreciates this opportunity to submit comments on a matter so critical to our membership and working families across the country. We strongly support the thoughtful development of the changes to the EEO-1 and believe that this action will significantly advance the EEOC’s efforts to combat pay discrimination. We urge the swift approval and implementation of these proposed revisions. If you have any questions or I can provide further information, please feel free to contact me at 202-785-7720.

Sincerely,

Lisa M. Maatz
Vice President of Government Relations

5 AAUW, *Behind the Pay Gap*.
6 AAUW, *The Simple Truth*.
7 Ibid.

