

## JOINT REPORTING COMMITTEE

! Equal Employment Opportunity Commission  
! Office of Federal Contract Compliance Programs

O.M.B. No. 3046-0007  
Approval Expires 11/30/02



## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

WASHINGTON, D.C. 20507

### EQUAL EMPLOYMENT OPPORTUNITY

STANDARD FORM 100, REV. 3 - 97, EMPLOYER INFORMATION REPORT EEO-1

100 -118

## INSTRUCTION BOOKLET

The Employer Information EEO-1 survey is conducted annually under the authority of Public Law 88-352, Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972. All employers with 15 or more employees are covered by Public Law 88-352 and are required to keep employment records as specified by Commission regulations. Based on the number of employees and federal contract activities, certain large employers are required to file an EEO-1 report on an annual basis.

See the Appendix for the applicable provisions of the law, Section 709(c) of Title VII, and the applicable regulations, Sections 1602.7-1602.14, Subpart B, Chapter XIV, Title 29 of the Code of Federal Regulations. State and local governments, school systems and educational institutions are covered by other employment surveys and are excluded from Standard Form 100, Employer Information Report EEO-1.

In the interests of consistency, uniformity and economy, Standard Form 100 has been jointly developed by the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs of the U. S. Department of Labor, as a single form which meets the statistical needs of both programs. In addition, this form should be a valuable tool for companies to use in evaluating their own internal programs for insuring equal employment opportunity.

As stated above, the filing of Standard Form 100 is required by law; *it is not voluntary*. Under section 709(c) of Title VII, the Equal Employment Opportunity Commission may compel an employer to file this form by obtaining an order from the United States District Court.

Under Section 209(a) of Executive Order 11246 the penalties for failure by a Federal contractor or subcontractor to comply may include termination of the Federal government contract and debarment from future Federal contracts.

### 1. WHO MUST FILE

Standard Form 100 must be filed by —

(A) All private employers who are: (1) subject to Title VII of the Civil Rights Act of 1964 (as amended by the Equal

Employment Opportunity Act of 1972) with 100 or more employees EXCLUDING State and local governments, primary and secondary school systems, institutions of higher education, Indian tribes and tax-exempt private membership clubs other than labor organizations; OR (2) subject to Title VII who have fewer than 100 employees if the company is owned or affiliated with another company, or there is centralized ownership, control or management (such as central control of personnel policies and labor relations) so that the group legally constitutes a single enterprise, and the entire enterprise employs a total of 100 or more employees.

(B) All federal contractors (private employers), who: (1) are not exempt as provided for by 41 CFR 60-1.5, (2) have 50 or more employees, **and** (a) are prime contractors or first-tier subcontractors, and have a contract, subcontract, or purchase order amounting to \$50,000 or more; or (b) serve as a depository of Government funds in any amount, or (c) is a financial institution which is an issuing and paying agent for U.S. Savings Bonds and Notes.

Only those establishments located in the District of Columbia and the 50 states are required to submit Standard Form 100. No reports should be filed for establishments in Puerto Rico, the Virgin Islands or other American Protectorates.

### 2. HOW TO FILE

The Standard Form 100 is a four-part snapout form. File the original and first copy with the Joint Reporting Committee. The remaining two copies may be retained for employer records.

All **single-establishment employers**, i.e., employers doing business at only one establishment in one location, must complete a single Standard Form 100.

All **multi-establishment employers**, i.e. employers doing business at more than one establishment, must file: (1) a report covering the principal or headquarters office; (2) a separate report for each establishment employing 50 or more persons; (3) a consolidated report that **MUST** include **ALL** employees by race, sex and job category in establishments with 50 or more

employees as well as establishments with fewer than 50 employees; and (4) a **list**, showing the name, address, total employment and major activity for each establishment employing fewer than 50 persons, must accompany the consolidated report.

The total number of employees indicated on the headquarters report, **PLUS** the establishment reports, **PLUS** the list of establishments with fewer than 50 employees, **MUST** equal the total number of employees shown on the consolidated report.

All forms for a multi-establishment company must be collected by the headquarters office for its establishments or by the parent corporation for its subsidiary holdings and submitted in one package.

For the purposes of this report, the term **parent corporation** refers to any corporation which owns all or the majority stock of another corporation so that the latter stands in the relation to it of a subsidiary.

### 3. WHEN TO FILE

This annual report must be filed with the Joint Reporting Committee not later than September 30.

Employment figures from any pay period in July through September may be used. Those employers with previous written approval to report year-end figures may continue to do so.

### 4. WHERE TO FILE

The completed report should be forwarded in one package to the address indicated in the survey mailout memorandum.

### 5. REQUESTS FOR INFORMATION AND SPECIAL PROCEDURES

An employer who claims that preparation or the filing of Standard Form 100 would create undue hardship may apply to the Commission for a special reporting procedure. In such cases, the employer must submit **in writing** an alternative proposal for compiling and reporting information to: **The EEO-1 Coordinator, EEOC-Survey Division, 1801 L Street, N.W., Washington, D.C. 20507.**

Only those special procedures approved **in writing** by the Commission are authorized. Such authorizations remain in effect until notification of cancellation is given. All requests for information should be sent to the address above.

Computer printouts or tapes may be substituted for all types of EEO-1 reports (headquarters, individual establishments, special reports) **EXCEPT** the Consolidated Report. The Consolidated Report **MUST** be prepared on the actual EEO-1 form. EEOC has designed formats which employers **MUST** use for computerized reports. A copy of the formats may be obtained by calling the telephone number or writing to the address in the survey mailout memorandum.

### 6. CONFIDENTIALITY

All reports and information from individual reports will be kept confidential, as required by Section 709(e) of Title VII. Only data aggregating information by industry or area, in such

a way as not to reveal any particular employer's statistics, will be made public. The prohibition against disclosure mandated by Section 709(e) does not apply to the Office of Federal Contract Compliance Programs and contracting agencies of the Federal Government which require submission of SF 100 pursuant to Executive Order 11246. Reports from prime contractors and subcontractors doing business with the Federal Government may not be confidential under Executive Order 11246.

## 7. ESTIMATE OF BURDEN

Public reporting burden for this collection of information is estimated to average three and seven tenths (3.7) hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. A response is defined as one survey form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to:

The EEOC Clearance Officer  
Office of Financial and Resource Management—  
Room 2928  
1801 L Street, N.W.  
Washington, D.C. 20507

AND

Paperwork Reduction Project (3046-0007)  
Office of Management and Budget  
Washington, D.C. 20503

The full text of the new OMB regulations may be found at 5 CFR Part 1320, or Federal Register, Vol. 60, No. 167; Tuesday, August 29, 1995, page 44978.

**PLEASE DO NOT SEND YOUR COMPLETED REPORT TO EITHER OF THESE ADDRESSES.**

HOW TO PREPARE STANDARD FORM 100

***Definitions of Terms and Categories are Located in the Appendix***

#### SECTION A—TYPE OF REPORT

Item 1—Check one box indicating type of report.

Item 2—If you are a multi-establishment employer, enter the total number of EEO-1 reports being submitted on your Consolidated Report.

#### SECTION B—COMPANY IDENTIFICATION

Item 1—Parent Company. Please provide company name and address of the headquarters office of the multi-establishment company which owns the establishment in Item 2.

Item 2—Establishment For which This report Is Filed.

Please provide the name, address and employer identification number of each company establishment where 50 or more persons are employed, if different from the label.

### SECTION C—EMPLOYERS WHO ARE REQUIRED TO FILE

Questions 1 thru 3 **MUST** be answered by all employers. If the answer to Question C-3 is “Yes”, please enter the company’s Dun and Bradstreet identification number if the company has one. If the answer is “Yes” to question 1, 2, or 3, complete the entire form. Otherwise skip to Section G.

### SECTION D—EMPLOYMENT DATA

Employment data must include **ALL** full-time and part-time employees who were employed during the selected payroll period, except those employees specifically excluded as indicated in the Appendix. Employees must be counted by sex and race/ethnic category for each of the nine occupational categories.

Establishments located in Hawaii will report only total employment in columns A, B, and G. All male employees should be reported in column B regardless of race/ethnic designation; and all female employees should be reported in column G regardless of race/ethnic designation.

1. Race/Sex Data—See Appendix for detailed explanation of job categories and race/ethnic identification.

Every employee must be accounted for in one and **ONLY** one of the categories in Columns B thru K.

2. Occupational Data—Employment data must be reported by job category. Report each employee in only one job category. In order to simplify and standardize the method of reporting, all jobs are considered as belonging in one of the broad occupations shown in the table. To assist you in determining where to place your jobs within the occupational categories, a description of job categories is in the Appendix. For further clarification, you may wish to consult the Alphabetical and Classified Indices of Industries and Occupations (1980 Census) published by the U.S. Department of Commerce, Census Bureau.

### SECTION E—ESTABLISHMENT INFORMATION

The major activity should be sufficiently descriptive to identify the industry and product produced or service provided. If an establishment is engaged in more than one activity, describe the activity at which the **greatest** number of employees work.

**The description of the major activity indicated on the Headquarters’ Report (Type 3) must reflect the dominant economic activity of the company in which the greatest number of employees are engaged.**

### SECTION F—REMARKS

Include in this section any remarks, explanations, or other pertinent information regarding this report.

### SECTION G—CERTIFICATION

If all reports have been completed at headquarters, the authorized official should check Item 1 and sign the consolidated report only.

If the reports have been completed by the individual establishments, the authorized official should check Item 2 and sign the establishment report.

## APPENDIX

### 1. DEFINITIONS APPLICABLE TO ALL EMPLOYERS

a. “Commission” refers to the Equal Employment Opportunity Commission.

b. “OFCCP” refers to the Office of Federal Contract Compliance Programs, U.S. Department of Labor, established to implement Executive Order 11246, as amended.

c. “Joint Reporting Committee” is the committee representing the Commission and OFCCP for the purpose of administering this report system.

d. “Employer” under Section 701(b), Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of Title 5 of the United States Code), or a bona fide private membership club (other than a labor organization) which is exempt from taxation under Section 501(c) of the Internal Revenue Code of 1954; OR any person or entity subject to Executive Order 11246 who is a Federal Government prime contractor or subcontractor at any tier (including a bank or other establishment serving as a depository of Federal Government funds, or an issuing and paying agent of U.S. Savings Bonds and Notes, or a holder of a Federal Government bill of lading) or a federally-assisted construction prime contractor or subcontractor at any tier.

e. “Employee” means any individual on the payroll of an employer who is an employee for purposes of the employer’s withholding of Social Security taxes except insurance salesmen who are considered to be employees for such purposes solely because of the provisions of Section 3121 (d) (3) (B) of the Internal Revenue Code. Leased employees are included in this definition. Leased Employee means a permanent employee provided by an employment agency for a fee to an outside company for which the employment agency handles all personnel tasks including payroll, staffing, benefit payments and compliance reporting. The employment agency shall, therefore, include leased employees in its EEO-1 report. The term “employee” **SHALL NOT** include persons who are hired on a casual basis for a specified time, or for the duration

of a specified job, and work on remote or scattered sites or locations where it is not practical or feasible for the employer to make a visual survey of the work force within the report period (for example, persons at a construction site whose employment relationship is expected to terminate with the end of the employee's work at the site); persons temporarily employed in any industry other than construction, such as office workers, mariners, stevedores, lumber yard workers, etc., who are obtained through a hiring hall or other referral arrangement, through an employee contractor or agent, or by some individual hiring arrangement, or persons (EXCEPT leased employees) on the payroll of an employment agency who are referred by such agency for work to be performed on the premises of another employer under that employer's direction and control.

It is the opinion of the General Counsel of the Commission that Section 702, Title VII of the Civil Rights Act of 1964, as amended, does not authorize a complete exemption of religious organizations from the coverage of the Act or of the reporting requirements of the Commission. The exemption for religious organizations applies to discrimination on the basis of religion. Therefore, since Standard Form 100 does not provide for information as to the religion of employees, religious organizations must report all information required by this form.

*f.* "Commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

*g.* "Industry Affecting Commerce" means any activity, business or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor Management Reporting and Disclosure Act of 1959. Any employer of 15 or more persons is presumed to be in an "industry affecting commerce."

*h.* "Employer Identification Number" is the 9-digit number which each legal entity (corporation, partnership, or sole proprietorship) has been assigned on the basis of its application (Form SS-4) to Internal Revenue Service for an identification number, and is used to identify the company on all company reports to the Social Security Administration and to the Internal Revenue Service. This number should also be used on all employer information reports and communications concerning these reports.

*i.* "Establishment" is an economic unit which produces goods or services, such as factory, office, store, or mine. In most instances, the establishment is at a single physical location and is engaged in one, or predominantly one, type of economic activity (definition adapted from the 1972 Standard Industrial Classification Manual).

Units at different physical locations, even though engaged in the same kind of business operation, must be reported as separate establishments. For locations involving construction, transportation, communications, electric, gas, and sanitary services, oil and gas fields, and similar types of physically dispersed industrial activities, however, it is not necessary to list separately each individual site, project, field, line, etc., unless it is treated by you as a separate legal entity with a separate EI number. For these types of activities, list as establishments only

those relatively permanent main or branch offices, terminals, stations etc., which are either: (a) directly responsible for supervising such dispersed activities, or (b) the base from which personnel and equipment operate to carry out these activities. (Where these dispersed activities cross State lines, at least one such "establishment" should be listed for each State involved.)

*j.* "Major Activity" means the major product or group of products produced or handled, or services rendered by the reporting unit (e.g., manufacturing airplane parts, retail sales of office furniture) in terms of the activity at which the greatest number of all employees work. The description includes the type of product manufactured or sold or the type of service provided.

## **2. DEFINITIONS APPLICABLE ONLY TO GOVERNMENT CONTRACTORS SUBJECT TO EXECUTIVE ORDER 11246**

*a.* "Order" means Executive Order 11246, as amended.

*b.* "Contract" means any Government contract or any federally assisted construction contract.

*c.* "Prime Contractor" means any employer having a Government contract or any federally assisted construction contract, or any employer serving as a depository of Federal Government funds.

*d.* "Subcontractor" means any employer having a contract with a prime contractor or another subcontractor calling for supplies or services required for the performance of a Government contract or federally assisted construction contract.

*e.* "Contracting Agency" means any department, agency and establishment in the executive branch of the Government, including any wholly owned Government corporation, which enters into contracts.

*f.* "Administering Agency" means any department, agency and establishment in the executive branch of the Government, including any wholly owned Government corporation, which administers a program involving federally assisted construction contracts.

## **3. RESPONSIBILITIES OF PRIME CONTRACTORS**

*a.* At the time of an award of a subcontract subject to these reporting requirements, the prime contractor shall inform the subcontractor of its responsibility to submit annual information reports in accordance with these instructions and, where necessary, provide the subcontractor with copies of Standard Form 100 which it shall obtain from its Contracting Officer.

*b.* If prime contractors are required by their Contracting Officer or subcontractors by their prime contractors, to submit notification of filing, they shall do so by ordinary correspondence. However, such notification is not required by and should not be sent to the Joint Reporting Committee.

## **4. RACE/ETHNIC IDENTIFICATION**

You may acquire the race/ethnic information necessary for this report either by visual surveys of the work force, or from post-employment records as to the identity of

employees. Eliciting information on the race/ethnic identity of an employee by direct inquiry is not encouraged.

Where records are maintained, it is recommended that they be kept separately from the employee's basic personnel file or other records available to those responsible for personnel decisions.

Since visual surveys are permitted, the fact that race/ethnic identifications are not present on employment records is not an excuse for failure to provide the data called for.

Moreover, the fact that employees may be located at different addresses does not provide an acceptable reason for failure to comply with the reporting requirements. In such cases, it is recommended that visual surveys be conducted for the employer by persons such as supervisors who are responsible for the work of the employees or to whom the employees report for instructions or otherwise.

Please note that conducting a visual survey and keeping post-employment records of the race/ethnic identity of employees is legal in all jurisdictions and under all Federal and State laws.

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

**White** (Not of Hispanic origin)—All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

**Black** (Not of Hispanic origin)—All persons having origins in any of the Black racial groups of Africa.

**Hispanic**—All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

**Asian or Pacific Islander**—All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.

**American Indian or Alaskan Native**—All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

## 5. DESCRIPTION OF JOB CATEGORIES

*Officials and managers.*—Occupations requiring administrative and managerial personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a firm's operations. Includes: officials, executives, middle management, plant managers, department managers, and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, railroad conductors and yard masters, ship captains, mates and other officers, farm operators and managers, and kindred workers.

*Professionals.*—Occupations requiring either college gradua-

tion or experience of such kind and amount as to provide a comparable background. Includes: accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, personnel and labor relations specialists, physical scientists, physicians, social scientists, teachers, surveyors and kindred workers.

*Technicians.*—Occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through 2 years of post high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: computer programmers, drafters, engineering aides, junior engineers, mathematical aides, licensed, practical or vocational nurses, photographers, radio operators, scientific assistants, technical illustrators, technicians (medical, dental, electronic, physical science), and kindred workers.

*Sales.*—Occupations engaging wholly or primarily in direct selling. Includes: advertising agents and sales workers, insurance agents and brokers, real estate agents and brokers, stock and bond sales workers, demonstrators, sales workers and sales clerks, grocery clerks, and cashiers/checkers, and kindred workers.

*Office and clerical.*—Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly nonmanual though some manual work not directly involved with altering or transporting the products is included. Includes: bookkeepers, collectors (bills and accounts), messengers and office helpers, office machine operators (including computer), shipping and receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators, legal assistants, and kindred workers.

*Craft Workers (skilled).*—Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. Includes: the building trades, hourly paid supervisors and lead operators who are not members of management, mechanics and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, painters (construction and maintenance), motion picture projectionists, pattern and model makers, stationary engineers, tailors and tailoresses, arts occupations, handpainters, coaters, bakers, decorating occupations, and kindred workers.

*Operatives (semiskilled)*—Workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: apprentices (auto mechanics, plumbers, bricklayers, carpenters, electricians, machinists, mechanics, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, sewers and stitchers, dryers, furnace workers, heaters, laundry and dry cleaning operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (manufactured articles), photographic process workers, truck and tractor drivers, knitting, looping, taping and weaving

machine operators, welders and flamecutters, electrical and electronic equipment assemblers, butchers and meatcutters, inspectors, testers and graders, handpackers and packagers, and kindred workers.

*Laborers (unskilled).*—Workers in manual occupations which generally require no special training who perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, groundskeepers and gardeners, farmworkers, stevedores, wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations, and kindred workers.

*Service workers.*—Workers in both protective and non-protective service occupations. Includes: attendants (hospital and other institutions, professional and personal service, including nurses aides, and orderlies), barbers, charworkers and cleaners, cooks, counter and fountain workers, elevator operators, firefighters and fire protection, guards, doorkeepers, stewards, janitors, police officers and detectives, porters, waiters and waitresses, amusement and recreation facilities attendants, guides, ushers, public transportation attendants, and kindred workers.

## 6. LEGAL BASIS FOR REQUIREMENTS

### SECTION 709(c), TITLE VII, CIVIL RIGHTS ACT OF 1964

(As Amended by the Equal Employment  
Opportunity Act of 1972)

#### *Recordkeeping; reports*

Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States District Court for the district where such

records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States District Court for the district in which such person is found, resides, or transact business, shall, upon application of the Commission, or the Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.

### TITLE 29, CHAPTER XIV CODE OF FEDERAL REGULATIONS

#### *Subpart B—Employer Information Report*

#### §1602.7 Requirement for filing of report.

On or before September 30 of each year, every employer that is subject to Title VII of the Civil Rights Act of 1964, as amended, and that has 100 or more employees, shall file with the Commission or its delegate executed copies of Standard Form 100, as revised (otherwise known as "Employer Information Report EEO-1"), in conformity with the directions set forth in the form and accompanying instructions. Notwithstanding the provisions of §1602.14, every such employer shall retain at all times at each reporting unit, or at company or divisional headquarters, a copy of the most recent report filed for each such unit and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 710(a) of Title VII. Appropriate copies of Standard Form 100 in blank will be supplied to every employer known to the Commission to be subject to the reporting requirements, but it is the responsibility of all such employers to obtain necessary supplies of the form from the Commission or its delegate prior to the filing date.

#### §1602.8 Penalty for making of willfully false statements on report.

The making of willfully false statements on Report EEO-1 is a violation of the United States Code, Title 18, section 1001, and is punishable by fine or imprisonment as set forth therein.

#### § 1602.9 Commission's remedy for employer's failure to file report.

Any employer failing or refusing to file Report EEO-1 when required to do so may be compelled to file by order of a U.S. District Court, upon application of the Commission.

#### § 1602.10 Employer's exemption from reporting requirements.

If an employer claims that the preparation or filing of the report would create undue hardship, the employer may apply to the Commission for an exemption from the requirements set forth in this part, according to instruction 5. If an employer is engaged in activities for which the reporting unit criteria

described in section 5 of the instructions are not readily adaptable, special reporting procedures may be required. If an employer seeks to change the date for filing its Standard Form 100 or seeks to change the period for which data are reported, an alternative reporting date or period may be permitted. In such instances, the employer should so advise the Commission by submitting to the Commission or its delegate a specific written proposal for an alternative reporting system prior to the date on which the report is due.

#### § 1602.11 Additional reporting requirements.

The Commission reserves the right to require reports, other than that designated as the Employer Information Report EEO-1, about the employment practices of individual employers or groups of employers whenever, in its judgment, special or supplemental reports are necessary to accomplish the purposes of Title VII or the ADA. Any system for the requirement of such reports will be established in accordance with the procedures referred to in section 709(c) of Title VII or section 107 of the ADA and as otherwise prescribed by law.

#### Subpart C—Recordkeeping by Employers

#### § 1602.12 Records to be made or kept.

The Commission has not adopted any requirement, generally applicable to employers, that records be made or kept. It reserves the right to impose recordkeeping requirements upon individual employers or groups of employers subject to its jurisdiction whenever, in its judgment, such records (a) are necessary for the effective operation of the EEO-1 reporting system or of any special or supplemental reporting system as described above; or (b) are further required to accomplish the purposes of Title VII or the ADA. Such recordkeeping requirements will be adopted in accordance with the procedures referred to in section 709(c) of Title VII, or section 107 of the ADA, and otherwise prescribed by law.

#### § 1602.13 Records as to racial or ethnic identity of employees.

Employers may acquire the information necessary for completion of items 5 and 6 of Report EEO-1 either by visual surveys of the work force, or at their option, by the maintenance

of post-employment records as to the identity of employees where the same is permitted by State law. In the latter case, however, the Commission recommends the maintenance of a permanent record as to the racial or ethnic identity of an individual for purpose of completing the report form only where the employer keeps such records separately from the employee's basic personnel form or other records available to those responsible for personnel decisions, e.g., as part of an automatic data processing system in the payroll department.

#### § 1602.14 Preservation of records made or kept.

Any personnel or employment record made or kept by an employer (including but not necessarily limited to requests for reasonable accommodation, application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be preserved by the employer for a period of one year from the date of the making of the record or the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of one year from the date of termination. Where a charge of discrimination has been filed, or an action brought by the Commission or the Attorney General, against an employer under Title VII or the ADA, the respondent employer shall preserve all personnel records relevant to the charge or the action until final disposition of the charge or the action. The term "personnel records relevant to the charge," for example, would include personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the aggrieved person applied and was rejected. The date of *final disposition of the charge or the action* means the date of expiration of the statutory period within which the aggrieved person may bring an action in a U. S. District Court or, where an action is brought against an employer either by the aggrieved person, the Commission, or by the Attorney General, the date on which such litigation is terminated.