

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NATIONAL WOMEN’S LAW CENTER, *et al.*,

Plaintiffs,

v.

OFFICE OF MANAGEMENT AND BUDGET,
et al.,

Defendants.

Civil Action No. 17-cv-2458 (TSC)

JOINT STATUS REPORT

Pursuant to the Court’s October 29, 2019 Order, ECF No. 91, at 3, Plaintiffs the National Women’s Law Center and the Labor Council for Latin American Advancement, and Defendants the Office of Management and Budget (“OMB”), John Michael Mulvaney, in his official capacity as Director of OMB, Paul Ray, in his official capacity as Administrator of the Office of Information and Regulatory Affairs, the U.S. Equal Employment Opportunity Commission (“EEOC”), and Janet Dhillon, in her official capacity as Chair of the EEOC, respectfully submit the following joint status report “regarding the completeness of the EEO-1 Component 2 data collections and a proposed schedule, if necessary, for moving forward.”

As of February 6, 2020, 89.2% of eligible filers have completed submission of Component 2 EEO-1 data. This includes 88.8% of filers submitting Component 2 data for calendar year 2017, and 89.6% of filers submitting Component 2 data for calendar year 2018.

The parties agree that the EEOC may wind down its collection of Component 2 data on the timetable of its choosing. The parties respectfully request that the Court enter an order deeming the collection complete pursuant to the Court’s April 25, 2019 Order, ECF No. 71, and

declaring that the government has no further obligation to provide status reports after the next status report, currently due on February 14, 2020.

Plaintiffs have requested information regarding the EEOC's retention of the Component 2 data. Plaintiffs made this request in part due to news reports that the Chair of the EEOC has suggested that the EEOC may not be entitled to the data.¹ Plaintiffs also requested that, should the EEOC decide not to retain the data, it provide Plaintiffs with notice of such disposal at least sixty days before the planned date of disposal. In Plaintiffs' view, such notice is not burdensome to the EEOC, is within the Court's equitable authority, and is consistent with the concerns expressed in the Court's April 25, 2019 ruling that "safeguards" were required "to ensure the completeness of the collection." ECF No. 70 at 12.

In Defendants' view, the EEOC's intentions regarding the data collected are beyond the scope of this report, as well as beyond the requirements of the Court's April 25, 2019 and March 4, 2019 Orders. Nonetheless, Defendants, through counsel, have informed Plaintiffs, through counsel, that the EEOC currently plans to retain the collected Component 2 pay data. Defendants further note that decisions by the EEOC concerning the retention of the data will be made in compliance with applicable federal law and regulations governing the retention of records.

Aside from the final status report and Plaintiffs' request for advance notice of disposal, discussed above, the parties otherwise agree that further proceedings before this Court are not necessary, and that Defendants have no remaining obligations pursuant to the Court's April 25, 2019 Order, or the Court's March 4, 2019 Order granting Plaintiffs' motion for summary

¹ <https://news.bloomberglaw.com/daily-labor-report/punching-in-gig-workers-pay-data-and-a-big-bill-for-employers-23?context=search&index=1>

judgment, ECF No. 46.

Defendants further request that the Court enter its order—or, if the Court requires additional time, that it administratively stay the requirement to continue the collection of Component 2 data pending a final decision on this issue—by February 14, 2020, so as to avoid the unnecessary diversion of the EEOC’s resources. *See* Decl. of Samuel C. Haffer, ECF No. 99-1, ¶ 3 (“[C]ontinuing data collection of Component 2 data beyond January 31, 2020 would require the EEOC to divert funds from its fiscal year 2020 operating budget currently allocated for various mission-related functions, including hiring.”).

Two proposed orders reflecting the parties’ positions are attached.

Dated: February 7, 2020

Respectfully submitted,

/s/Robin F. Thurston

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