

## NOTE TO REVIEWER

The Office of Management and Budget (OMB) Notice of Action dated 12/13/05 for this Information Collection Request (ICR) was approved without any terms of clearance.

OFCCP is requesting OMB approval of **2,491,396** hours, in combined recordkeeping and reporting burden for this ICR. This compares with **1,710,325** hours for the last clearance request, an increase of **781,071** total burden hours. This change is due to an estimated increase of **62,047** Construction contractor respondents over the past two and one half years.

The Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246, as amended), which are published at 41 CFR 60-4.3(a)7, require federally-assisted construction contractors with a construction contract in excess of \$10,000 to take affirmative action to comply with the Sixteen (16) Step Specifications. Attachment 1, of this supporting statement is an internal study that is an analysis of the time required for a large and small construction contractor to comply with 41 CFR Part 60-4(a)7, 16 Step Specifications.

The authorization for this ICR OMB Control No. 1215-0163 expires December 31, 2008.

### Correction to Item 13 - Total Burden Cost for Capital/Startup:

The Federal Register Notice for this ICR, 73 FR 34333 dated 06/17/2008, which indicates a Capital/Startup cost of \$84,099, is an error. The Capital/Startup cost is zero (0) the same as previously approved in the 2005 ICR submission.

The \$84,099 cost was based on employee Affirmative Action Program burden hours for OFCCP's Section 503 of the Rehabilitation Act of 1973, as amended (Section 503); and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA), 38 U.S.C. 4212, provisions which are already identified in Item 12. Therefore, ROCIS and this supporting statement now reflect zero (0) for Capital/Startup cost under Item 13.

## **SUPPORTING STATEMENT**

### **DEPARTMENT OF LABOR OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS CONSTRUCTION RECORDKEEPING AND REPORTING**

**OMB No. 1215-0163**

#### **1. JUSTIFICATION - EXPLAIN THE CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY**

The Office of Federal Contractor Compliance Programs (OFCCP) is responsible for the administration of three equal opportunity mandates that prohibit employment discrimination and require affirmative action on the basis of race, sex, color, national origin, religion, or status as a qualified individual with a disability or protected veteran by Federal contractors:

- Executive Order 11246, as amended (EO 11246);
- Section 503 of the Rehabilitation Act of 1973, as amended (Section 503); and
- The affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA), 38 U.S.C. 4212.

For purposes of this clearance, OFCCP has divided its administration of these programs along two functional contracting lines of business: (1) construction and (2) non-construction (supply and service). This clearance request covers only the construction aspects of these programs. To view the current construction Information Collection, go to <http://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=1215-0163>.

A separate Information Collection Request (ICR), approved by the OMB under OMB No. 1215-0072, covers the non-construction (supply and service) aspects of these programs.

The EO 11246 prohibits Federal contractors from discriminating against applicants and employees on the basis of race, color, religion, sex, or national origin. The EO 11246 prohibitions apply to Federal contractors and subcontractors and to federally assisted construction contractors holding a government contract of \$10,000 or more, or government contracts which have, or can reasonably be expected to have, an aggregate total value exceeding \$10,000 in a 12-month

period. The EO 11246 also applies to government bills of lading, depositories of Federal funds in any amount, and to financial institutions that are issuing and paying agents for U.S. Savings Bonds.

Section 503 prohibits employment discrimination against any employee or applicant for employment because of physical or mental disability and requires affirmative action to ensure that persons are treated without regard to either of these prohibited factors. Section 503 applies to Federal contractors and subcontractors with a contract in excess of \$10,000. Because some construction contractors and subcontractors may be subject to the Affirmative Action Program (AAP) requirements of 41 CFR 60-741.40, the associated burden hours have been included in this Information Collection Request (ICR).

The affirmative action provisions of VEVRAA prohibit employment discrimination against any qualified protected veteran. For contracts of \$25,000 or more entered into or modified prior to December 1, 2003, the affirmative action provisions of VEVRAA prohibit employment discrimination against qualified special disabled veterans, Vietnam era veterans, recently separated veterans, and other protected veterans. For contracts of \$100,000 or more entered into or modified after December 1, 2003, the affirmative action provisions of VEVRAA prohibit employment discrimination against qualified disabled veterans, recently separated veterans, Armed Forces Service Medal Veterans, and other protected veterans. Construction contractors and subcontractors that employ 50 or more employees and have a contract or subcontract of \$50,000 or more are required to develop, maintain, and update an AAP in accordance with 41 CFR 60-250.40. Because some construction contractors and subcontractors may be subject to the AAP requirements of 41 CFR 60-250.40, the associated burden hours have been included in this ICR.

OFCCP has promulgated regulations implementing these programs consistent with the Administrative Procedure Act, and all of OFCCP's regulations are found at Title 41 of the Code of Federal Regulations (CFR) in Chapter 60. The 41 CFR Chapter 60 regulations can be accessed at the following website [http://www.dol.gov/dol/allcfr/ESA/Title 41/Chapter 60.htm](http://www.dol.gov/dol/allcfr/ESA/Title%2041/Chapter%2060.htm). The ICR discussed below will address the EO 11246, the construction program that is subject to the Paperwork Reduction Act of 1995 (PRA).

## **41 CFR Part 60-3 - Uniform Guidelines on Employee Selection Procedures**

The Uniform Guidelines on Employee Selection Procedures (UGESP) were adopted in 1978 by the Equal Employment Opportunity Commission (EEOC), the U.S. Equal Employment Commission, the U.S Department of Labor, and the U.S. Department of Justice. The UGESP apply to tests and other procedures used as a basis for making employment decisions. The UGESP state that selection procedures having an adverse impact constitute discrimination unless their use is justified. The UGESP require each contractor to maintain records on the impact of its tests and other selection procedures upon employment opportunities of persons by race, sex, or ethnic group. The results of the selections are to be evaluated for adverse impact.

Where a test or procedure has adverse impact, the UGESP require the contractor to justify its use (41 CFR 60-3.3). One method of justification is to perform a validity study. The UGESP outline standards for such validity studies. Where a test or selection procedure is validated, the contractor must maintain documentation of the validation study.

Section 41 CFR 60-3.15 sets out the required documentation of impact and validity evidence. It contains simplified recordkeeping for contractors with less than 100 employees.

The EEOC has cleared the UGESP with OMB (OMB No. 3046-0017). To view the Information Collection, go to [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=200807-3046-001](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=200807-3046-001).

## **Executive Order Regulations**

### **41 CFR Part 60-4.1 - Scope and application**

This regulation applies to all contractors and subcontractors which hold any Federal or federally assisted construction contract in excess of \$10,000. The regulations in this part are applicable to all of a construction contractor's or subcontractor's construction employees who are engaged in on site construction, including those construction employees who work on a non-Federal or nonfederally assisted construction site.

### **41 CFR 60-4.3 Equal Opportunity Clause**

The equal opportunity clause published at 41 CFR 60-1.4(a) is required to be included in, and is part of, all nonexempt Federal contracts and subcontracts, including construction contracts and subcontracts. In addition to the clauses described above, all Federal contracting officers, all applicants and all nonconstruction contractors, as applicable, shall include the specifications set forth in this section in all Federal and federally assisted construction contracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to Sec. 60-4.6 of this part and in construction subcontracts in excess of \$10,000 necessary in whole or in part to the performance of nonconstruction Federal contracts and subcontracts covered under the Executive Order 11246.

Further, the Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

This section specifies the nature of records that must be retained and the retention period. Records shall be preserved for a period of not less than two years. However, if the contractor has fewer than 150 employees or does not have a contract of at least \$150,000, the minimum record retention period shall be one year. The purpose of the record retention requirement is to ensure that OFCCP can obtain all relevant documents during investigations or enforcement actions. The records that must be retained are generally retained in the normal course of business due to retention requirements under Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, and Section 503. Since this section mirrors existing requirements, it imposes no significant additional burdens on contractors.

## **38 U.S.C. 4212 VEVRAA Regulations**

### **41 CFR Part 60-250 - Affirmative Action Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era**

These regulations set forth the obligations of contractors and subcontractors under the affirmative action provisions of VEVRAA.

The affirmative action provisions of VEVRAA prohibit employment discrimination against any qualified protected veteran. For contracts of \$25,000 or more entered into or modified prior to December 1, 2003, the affirmative action provisions of VEVRAA prohibit employment discrimination against qualified special disabled veterans, Vietnam era veterans, recently separated veterans, and other protected veterans. For contracts of \$100,000 or more entered into or modified after December 1, 2003, the affirmative action provisions of VEVRAA prohibit employment discrimination against qualified disabled veterans, recently separated veterans, Armed Forces Service Medal Veterans, and other protected veterans.

The contents of the AAP under 60-250.44 and the new regulations at 60-300.44 (with the exception of changes necessitated by the Jobs for Veterans Act amendments) includes a policy statement, a review of personnel processes, a schedule for the periodic review of all physical and mental job qualification standards, reasonable accommodation to known physical and mental limitations, a non-harassment policy, appropriate external dissemination of policy, outreach and positive recruitment activities, adequate internal support and dissemination of policy, an audit and reporting system, an official assigned responsibility for implementation, and training. The AAP must be reviewed and updated annually. The recordkeeping requirements are found at 60-250.80 and 60-300.80. Contractors are to collect and maintain the data prescribed by the new part 61-300 regulations this calendar year 2008, and report the data in the VETS-100A Report to be filed by September 30, 2009.

## **Section 503 Regulations**

## **41 CFR Part 60-741 - Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors regarding Individuals with Disabilities**

These regulations require the contractor to refrain from discrimination and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

The contents of the AAP under 60-741.44 includes a policy statement, a review of personnel processes, a schedule for the periodic review of all physical and mental job qualification standards, reasonable accommodation to known physical and mental limitations, a non-harassment policy, appropriate external dissemination of policy, outreach and positive recruitment activities, adequate internal support and dissemination of policy, an audit and reporting system, an official assigned responsibility for implementation, and training. The AAP must be reviewed and updated annually pursuant to 60-741.40(c). The recordkeeping requirements are found at 60-741.80.

## **2. INDICATE HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED**

**Executive Order 11246, as amended, Regulations**

### **41 CFR Part 60-4 - Construction Contractors - Affirmative Action Requirements**

Part 60-4 sets out the purpose and scope of the affirmative action requirements for construction contractors. These contractors must implement the specific affirmative action standards in accordance with 41 CFR 60-4.3(a)7, Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246, as amended). There are 16 affirmative action steps which a contractor must take relating, in part, to working environment, outreach and recruitment, training, EEO policy, selecting and testing procedures, promotion practices, nonsegregated facilities, and subcontracting.

The recordkeeping requirements for construction contractors can be found at 41 CFR 60-4.3(a)(7a-p), to view go to [http://www.dol.gov/dol/allcfr/ESA/Title 41/Part 60-4/41CFR60-4.3.htm](http://www.dol.gov/dol/allcfr/ESA/Title%2041/Part%2060-4/41CFR60-4.3.htm). These recordkeeping requirements are critical to the final evaluation and assessment of a contractor's good faith effort, which is the primary basis for a determination of compliance.

### **41 CFR 60-4.3 - Compliance Evaluations**

The construction compliance review is an evaluation of the contractor's compliance with the 16 affirmative action steps detailed in the above Standard Federal Equal Employment Opportunity Construction Contract Specifications and employee/management interviews.

### **VEVRAA Regulations**

#### **41 CFR Part 60-250 and 60-300 - Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Disabled Veterans, Veterans of the Vietnam Era, Recently Separated Veterans, Other Protected Veterans, and Armed Forces Service Medal Veterans**

This regulation states the affirmative action and nondiscrimination obligations of contractors and subcontractors under Section 4212 of VEVRAA.

Complaint procedures and reporting requirements of all complaints are found at 41 CFR 60-250/300.61. Preservation of personnel and employment records made or kept by a contractor are found in recordkeeping requirements at 41 CFR 60-250/300.80.

The local employment service offices have responsibilities to refer certain veterans to fill employment openings listed by contractors pursuant to the mandatory listing requirements of the equal opportunity clause pursuant to 60-250/300.84.

### **SECTION 503 REGULATIONS**

#### **41 CFR Part 60-741 - Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors regarding Individuals with Disabilities**

The regulation at 41 CFR 60-741-80 states the recordkeeping obligations of contractors and subcontractors under Section 503. These requirements are necessary to implement Section 503 and should also be used by the contractor in assessing the results of its employment policies and practices as they impact on qualified individuals with disabilities.

### **3. DESCRIBE WHETHER, AND TO WHAT EXTENT, THE COLLECTION OF INFORMATION INVOLVES THE USE OF AUTOMATED, ELECTRONIC, MECHANICAL, OR OTHER COLLECTION TECHNIQUES OR FORMS OF INFORMATION TECHNOLOGY**



OFCCP has not imposed a detailed master format for accomplishing the 16 affirmative action steps. Thus, each contractor designs its own format to suit its particular business circumstances, whether it involves automated, electronic, mechanical, or other technological collection methods. The structure and complexity of the affirmative action steps may vary considerably depending on the size and complexity of the contractor's organization. Contractors are thus free to utilize information technology of their choosing when designing their particular methods, as long as they can retrieve and provide OFCCP with the data required by the agency's regulations.

#### **4. DESCRIPTION OF EFFORTS TO IDENTIFY DUPLICATION**

Where possible, OFCCP participates in information sharing (e.g. Department of Transportation, Federal Highway Administration) and standardized requirements (UGESP, Part 60-3). Each construction contractor's data base is unique and the data is not available from any other source.

#### **5. COLLECTION OF INFORMATION IMPACT ON SMALL BUSINESSES OR OTHER ENTITIES**

This information collection does not have a significant economic impact on a substantial number of small entities. While required to comply with the various laws and regulations enforced by OFCCP, small contractors are normally reviewed at a lower percentage rate than their larger competitors for compliance evaluations.

#### **6. CONSEQUENCES TO FEDERAL PROGRAMS IF CONSTRUCTION CONTRACTOR INFORMATION WERE COLLECTED LESS FREQUENTLY**

No standardized information is reported to or collected by OFCCP. Construction contractor information is initially reviewed onsite during the compliance evaluation process.

#### **7. SPECIAL CIRCUMSTANCES FOR THE COLLECTION OF INFORMATION**

There are no special circumstances for the collection of this information.

#### **8. CONSULTATION OUTSIDE THE AGENCY**

All OFCCP ICRs containing recordkeeping or reporting requirements are published in the Federal Register for public comment before agency adoption. This ICR was published on June 17, 2008 for a sixty day notice and comment period,

Volume Page Number 73 FR 34333. No comments were received from the general public concerning this ICR.

## **9. GIFTGIVING**

OFCCP makes no payments nor gives gifts to respondents.

## **10. ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS**

Much of the employment data collected as a result of the requirements within this activity are viewed as sensitive by the contractors who submit them. While data may be subject to public release under the Freedom of Information Act or the Privacy Act, OFCCP follows a policy of advising contractors when there has been a request for their documents.

No decision to disclose such documents is made until the contractor has had an opportunity to submit objections to the release of the documents. The contractor's objections are fully considered before a final disclosure decision is made. The contractor may appeal the decision to the Solicitor of Labor and, as a last resort, seek judicial review of the matter. Until the evaluation has been completed, it is OFCCP policy that the data obtained during the course of a compliance evaluation is exempt from disclosure.

## **11. QUESTIONS OF SENSITIVE NATURE**

During the course of a compliance evaluation, OFCCP does not collect information of a personal nature, such as marital status, religious beliefs, or other matters commonly considered private, unless alleged employment discrimination becomes an issue. If alleged employment discrimination becomes an issue, then such information may be sought if it is relevant to a particular case.

Race, ethnicity, and sex data are required by both the contractor and the government to evaluate the results of the contractor's affirmative steps. Such data are also required to investigate for indicators of potential employment discrimination. Contractors' employees are informed that race, ethnicity, and sex data are collected and maintained strictly for evaluation of compliance with equal employment opportunity laws and that such information will not be used improperly.

## **12. ESTIMATE OF INFORMATION COLLECTION BURDEN**

The estimate of the information collection burden is divided into two categories: "recordkeeping" and "reporting." The following is a summary of the methodology for the calculation of each of these burdens.

**a. Recordkeeping Burden**

- (1) Maintaining Records** - As mentioned above, this activity represents maintenance of data which documents the contractors' efforts to take affirmative steps in accordance with standards detailed by the 16 affirmative action steps included in the *Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)(Specifications)* at 41 CFR 60-4.3). The Specifications require the contractor to maintain records and documentation relating to applicants, referrals and referral sources, personnel practices and procedures, recruitment and training, and EEO policy and its implementation. A study of the burden hours associated with the 16 affirmative action steps is attached to this supporting statement.

The attached study was developed to determine the total number of federal Construction contractors. OFCCP obtained the total number of construction firms in the United States through statistics compiled by the "U.S. Census Bureau in 2002." The census compilation indicated that there were 601,339 construction firms in the United States, excluding Residential building construction. Residential building construction contractors are not normally Federal contractors covered by OFCCP regulations, therefore they were not considered.

Further, because all 601,339 construction firms are not covered contractors within OFCCP's jurisdiction, OFCCP developed an estimate of the percentage of firms that are covered contractors by examining the percentage of supply and service firms that are covered contractors. Employer Information Report (EEO-1) forms filed annually by many employers provide information on the supply and service universe of Federal contractors. Relying on this EEO-1 data, OFCCP found that there were 25,681 supply and service consolidated EEO-1 Reports filed in FY 2002. This is a reasonable approximation of the total number of supply and service firms in the

United States. Of these firms, 10,498 (40.8%) indicated that they were Federal contractors. For these estimates, we assumed, based on the proportion of Supply and Service contractors that self-identified themselves on the EEO-1 Reports as federal contractors, that 40 percent of the construction firms would hold one or more federal or federally assisted construction contracts. Based on the above process, OFCCP estimated that 40.0% of the 601,339 construction firms, or 240,534 firms, are Federal or federally-assisted construction contractors.

**(2) Affirmative Action Programs for Section 503 and VEVRAA Programs**

- o Under VEVRAA, construction contractors and subcontractors that employ 50 or more employees and have a contract or subcontract of \$50,000 or more are required to develop, maintain, and update an AAP in accordance with 41 CFR 60-250.40.
- o Under Section 503, construction contractors and subcontractors that employ 50 or more employees and have a contract of \$50,000 or more are required to develop, maintain, and update an AAP in accordance with 41 CFR 60-741.40.
- o The affirmative action provisions of VEVRAA prohibit employment discrimination against any qualified protected veteran. For contracts of \$25,000 or more entered into or modified prior to December 1, 2003, the affirmative action provisions of VEVRAA prohibit employment discrimination against qualified special disabled veterans, Vietnam era veterans, recently separated veterans, and other protected veterans. For contracts of \$100,000 or more entered into or modified after December 1, 2003, the affirmative action provisions of VEVRAA prohibit employment discrimination against qualified disabled veterans, recently separated veterans, Armed Forces Service Medal Veterans, and other protected veterans.

From the 601,339 total OFCCP subtracted 360,805 firms (40%) leaving 240,534 firms. OFCCP estimates that

40.0% of the total firms are Federal contractors which equal 240,534 Federal contractors. OFCCP estimates that ten percent (10%) or 24,053 contractors are subject to the above Section 503 and VEVRAA AAP requirements.

OFCCP estimates that 10% of the construction contractors, subject to the above Section 503/VEVRAA AAP requirements, are first time contractors which equals 2,405.

**Initial Development:** It is estimated that it takes approximately 18 hours to initially develop a joint Section 503/VEVRAA AAP. Thus, 2,405 contractors times 18 hours equals 43,290 hours.

**Annual Update:** The AAP must be updated annually, and it is estimated that this takes 7.5 hours. Approximately 21,648 contractors (24,053 minus the 2,405 first time contractors = 21,648) times 7.5 hours equals 162,360 hours.

**AAP Burden Hours Summary for 41 CFR 60-250.40 and 60-741.40 Requirements**

First time development	43,290 hours
Annual update	<u>162,360 hours</u>
Total	205,650 hours

**Total Recordkeeping Burden**

<b>Recordkeeping Burden from Attachment 1</b>	<b>2,285,067</b>
AAP Burden	<u>205,650</u>
Total	2,490,717

Note: Average Time for Recordkeeping Burden 10.3 hours  
(2,490,717 / 240,534 = 10.3)

**b. Reporting Burden**

**(1) Compliance Reviews** - This burden arises from onsite activities in the compliance review. For purposes of this calculation, it is estimated that a contractor spends approximately three hours in furnishing requested information. Typically, construction

contractors have relatively few employees for whom records must be provided.

**1 Hour** - Analyzing requests for information.

**2 Hours** - Identifying and retrieving all the information for the Compliance Officer. During FY2007, OFCCP conducted 223 construction reviews. Using that number for an average annual number of reviews, thus, 223 projected construction contractors reviewed times 3 average hours equals 669 hours. The total reporting burden for the compliance review is 669.

**(2) Union Referral Process** - This burden arises from the requirement to provide written notification to the Director that the union referral process has impeded the contractor's efforts to meet its obligations.

To comply with this reporting requirement, a Federal contractor must immediately notify the Deputy Assistant Secretary in writing when the union or unions with which the contractor/subcontractor has a collective bargaining agreement has not referred a female or minority individual sent by the contractor/subcontractor, that the union referral process has impeded the contractor's efforts to meet its EEO and affirmative action obligations. The OFCCP will assume that this reporting takes 10 hours.

Thus, 10 hours added to 669 hours equal 679 hours.

Note: The average Time for Reporting Burden is 0 hours ( $679 / 240,534 = 0$  hours).

**The sum of the reporting burden and the recordkeeping burden is 2,491,396 (2,490,717 + 679 = 2,491,396).**

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#### **Annualized Cost of Burden Hours**

The estimated annualized cost to respondents is based on Bureau of Labor Statistics data in the publication, "Employer Costs for Employee Compensation - September 2007, which lists total compensation for management, professional, and related occupations as \$ 46.82 per hour and administrative support as \$ 22.13 per hour. OFCCP

estimates that 52 percent of the burden hours will be executive, administrative, and managerial and 48 percent will be administrative support.

Executive 2,491,396 hrs x .52 x \$46.82 = \$ 60,656,523

Admin. Supp. 2,491,396 hrs x .48 x \$22.13 = \$ 26,464,604

**Total annualized cost estimate = \$ 87,121,127**

**Estimated average cost per firm is: 321**

**\$87,121,127/240,534 = \$362**

### **13. ANNUAL OPERATION AND MAINTENANCE COST BURDEN TO RESPONDENTS**

Operation and maintenance costs: Annual reporting and recordkeeping do not add any additional cost burdens to respondents for the operation and maintenance of recordkeeping and reporting systems. Information required by OFCCP recordkeeping and reporting requirements is contained in payroll and personnel records maintained by respondents in the normal course of business.

### **14. ESTIMATE OF COST TO THE FEDERAL GOVERNMENT**

We have estimated the cost to the government as follows:

32 Hours per audit	x 223	compliance	=	7,136 Hours
		evaluations		
		<b>TOTAL HOURS</b>	=	<u>7,136</u>

We have estimated the hourly rate at \$31.30 (GS-12, step 1, annual salary of \$65,315, based on the 2008 Salary Table for the Rest of the U.S.). The total cost would be \$31.30 per hour x 7,136 hours = \$ 223,356. This dollar amount is part of the normal cost of OFCCP's enforcement work at the field level.

### **15. CHANGES IN BURDEN HOURS**

We are requesting OMB approval of **2,491,396** hours, in combined recordkeeping and reporting burden. This compares with **1,710,325** for the last clearance request, an increase of **781,071** total burden hours. This change is due to an estimated increase of **62,047** Construction contractor

respondents over the past two and one half years. Also, based on U.S. Census data OFCCP computed the final burden hours for each employee size by large and small contractors. OFCCP multiplied the burden hour estimates per firm by the estimated number of firms and totaled these across four size ranges.

**16. STATISTICAL USES AND PUBLICATION OF DATA**

The data collected as a result of the items contained in the request will not be published as statistical tables.

**17. APPROVAL TO NOT DISPLAY THE EXPIRATION DATE**

Such approval is not being sought.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

The agency is able to certify compliance with all provisions under Item 19 of OMB Form 83-1.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This information collection does not employ statistical methods.



## **Attachment 1**

### **Internal Study**

**An analysis of the time required for a large and small construction contractor to comply with 41 CFR Part 60-4(a)7, Sixteen (16) Step Specifications**

#### **Specifications**

The Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246), which are published at 41 CFR 60-4.3(a)7, require federally-involved construction contractors with a construction contract in excess of \$10,000 to take affirmative action to comply with the below 16 steps specifications. The examples of actions listed below do not create new legal requirements or change current legal requirements.

Please note, for the purpose of this analysis a "small contractor" is defined as having one job site with 8 employees and one supervisor. A "large contractor" is defined as having 67 job sites with 22 employees and 1 supervisor per job site. The time frame of this analysis is one year, calculated in minutes and hours. Some of the requirements are initial start-up one-time events while some requirements are on-going throughout the Affirmative Action Program (AAP) year. Some actions that are considered "normal course of business" or actions where other agencies are responsible for the burden hours are omitted from this analysis.

## Step by Step Analysis

1. Contractors and subcontractors must maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned. Evidence of compliance with Step 1 can be provided through documentation of the actions taken to comply with other steps. The required activities and burden times attributed to Step 1 are identified in Steps 6 and 7 of this study. See Steps 6 and 7 for these requirements.
2. Contractors and subcontractors must establish and maintain current lists of minority and female recruitment sources; provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available; and maintain a record of the organizations' responses. Actions that demonstrate compliance:

a. On-going event: The requirement is to establish and maintain a list of recruitment sources for each job site.

Assume it takes 15 minutes for the small contractor to establish and maintain a list of recruitment sources. For the large contractor, assume 15 minutes per site and allow an additional 10 minutes for HR management approval which will equal 1,015 minutes. **The total time necessary for the small construction contractor to comply is 15 minutes. The total time necessary for the large construction contractor to comply is 1,015 minutes.**

b. On-going event: Assume the small contractor sends out four vacancy announcements annually requiring 40 minutes to send the announcements. **The total time necessary for the small construction contractor to comply is 40 minutes.**

Assume the large contractor also sends out four vacancy announcements per work site annually requiring 40 minutes per site send the announcement equaling 2,680 minutes. **The total time necessary for the large construction contractor to comply is 2,680 minutes.**

c. Start-up event: The contractor can keep copies of announcements, cover letters to recruitment sources, and responses received from all sources. Assume it takes contractors 15 minutes per work site to maintain the above

documentation. **The total time necessary for the small construction contractor to comply is 15 minutes and the total time necessary for the large construction contractor to comply is 1,005 minutes.**

3. Contractors and subcontractors must maintain current files containing the names, addresses and telephone numbers of each minority or female off-the-street applicant and minority or female referral from a union, recruitment source or community organization and of what action was taken with respect to each individual. Occasionally, contractors/subcontractors will send individuals to the union hiring hall for referral back to the contractor. If the union did not refer the individual to the contractor or if the individual was referred but was not hired, the contractor/subcontractor must keep a record of all actions taken, along with the reasons why the referral or hiring did not occur. Actions that demonstrate compliance:

- a. Start-up event: Establishing files that show the names, addresses, and telephone numbers of each minority and female applicant and referral.

Establishing these files for each off the-street applicant and union referral will require 15 minutes per work site. **The total time necessary for the small contractor to comply is 15 minutes and the total time necessary for the large contractor to comply is 1,005 minutes.**

- b. On-going event: Recording and maintaining action taken for each applicant and if applicable, reason for non-hire.

On-going event: Recording action taken for each applicant should take no more than 10 minutes; assume 10 decisions annually per work site. **The total time necessary for the small construction contractor to comply is 100 minutes and the total time necessary for the large construction contractor to comply is 6700 minutes.**

4. Contractors and subcontractors must immediately notify the Deputy Assistant Secretary in writing when the union or unions with which the contractor/subcontractor has a collective bargaining agreement has not referred a woman or minority individual sent by the contractor/subcontractor. Similarly, contractors/subcontractors must notify OFCCP when the contractor/subcontractor has other information that the union referral process has impeded the contractor's efforts to meet

its EEO and affirmative action obligations. Actions that demonstrate compliance:

- a. On-going event: Retaining copies of all letters to and from the unions, minutes of meetings, etc., related to any claims that the union has impeded the company's efforts to comply with its EEO obligations.

Assume it takes a site supervisor 15 minutes annually to retain copies of all letters to and from the unions. **The total time necessary for the small construction contractor to comply is 15 minutes and the total time necessary for the large construction contractor to comply is 1,005 minutes.**

5. Contractors and subcontractors must develop on-the-job training opportunities or participate in training programs for the job area(s) which expressly include minorities and women. Contractors' actions must include upgrading programs, apprenticeships and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. Contractors and subcontractors must provide notice of these training opportunities and job programs to recruitment sources, state employment offices and other referral sources that the contractor/subcontractor has compiled under Specification number two. Actions that demonstrate compliance:
  - a. Developing a training program or enrolling women and minority employees in an existing training program. On-the-job training programs are considered a "normal course of business" requirement for the contractors. Contractors would incur these burden hours even without OFCCP requirements. No time has been allocated for this step.
  - b. Maintaining records of employees' participation in training programs, including those that are approved or funded by the Department of Labor's Office of Apprenticeship, Training, Employer and Labor Services. Maintaining records of employees' participation in training programs are considered a "normal course of business" requirement for the contractors. Contractors would incur these burden hours even without OFCCP requirements. No time has been allocated for this step.
  - c. Documenting any contributions of cash, equipment or personnel provided in support of training or apprenticeship

programs. Documenting any contributions of cash, equipment or personnel in support of training is a "normal course of business" requirement for the contractors. Contractors would incur these burden hours even without OFCCP requirements. No time has been allocated for this step.

- d. Informing minority and female recruitment sources and schools of these programs in writing and retaining copies of such letters. Contractors comply with this step in accordance with 29 CFR Part 30 which sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor and recognized State Apprenticeship Agencies. These policies and procedures apply to recruitment and selection of apprentices, and to all conditions of employment and training during apprenticeship. No time has been allocated for this step because the requirement is under DOL/ETA OMB# 1205-0224.

- 6. Contractors and subcontractors must disseminate EEO policy by: providing notice of the policy to unions and training programs and requesting their cooperation and assistance in meeting EEO obligations; including EEO policy statements in all policy manuals and collective bargaining agreements; publicizing these policies in company newsletters, the annual report, etc.; specifically reviewing the policy with all management personnel and with all minority and female employees at least once a year; posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed. The requirements and times listed below also cover the actions required in Step 1.

- a. Start-up event: Distributing policy statements to employees.

Complying with part "a" requires writing the policy statement and distributing the policy statement to employees after the statement is written. A small construction contractor has fewer layers of bureaucracy and a less formal mechanism for approval. Assume writing the policy statement for both a small and large contractor requires 30 minutes of work. For the small contractor, this duty will go to the site supervisor. Distributing the policy statement to employees will involve an explanation of purpose - say, during a morning meeting - assume it takes 10 minutes to distribute the

policy statements. **The total initial start-up burden hour time necessary for the small construction contractor to comply is 40 minutes.**

Although a large contractor has additional layers of bureaucracy and a more formal mechanism for approval, the actual writing of the policy statement will not require more time for the large contractor. The same assumption of 30 minutes applies for the large contractor. The additional burden imposed on the large contractor is due to a formal approval process and the time associated with writing the accompanying memoranda. Assume the HR manager is able to read and approve the statement in 10 minutes. HR personnel will then write a formal memorandum to send with the statement for circulation among senior managers. Assume it takes an additional 20 minutes to write the memorandum and assume it takes a senior manager 5 minutes to read and sign off on the statement. Upon senior management approval, HR personnel will write an additional memorandum to site supervisors explaining the statement and the supervisor's obligation to distribute the document. Assume it takes 20 minutes to write this memorandum. Not counting the time necessary to compile the package, assume it takes large contractor site supervisors 10 minutes times the 67 jobs sites to distribute the policy statements and explain it to employees in accordance with the written instructions from HR in a morning meeting. **The total time necessary for the large construction contractor to comply is 755 minutes.**

- b. On-going event: Posting EEO policy statements at all covered job sites.

For both a small contractor site supervisor and a large contractor site supervisor, it should take no more than 10 minutes to find a conspicuous place to post the statement. **The total time necessary for the small construction contractor to comply is 10 minutes and the total time necessary for the large construction contractor to comply is 670 minutes.**

- c. On-going event: Giving supervisory personnel and other employees memoranda and other written instructions. This requirement is included in Step 7.

- d. On-going event: Holding meetings for supervisory personnel to discuss EEO obligations and to ensure policy guidelines are understood by supervisory personnel and retaining records of such meetings. This requirement is included in Step 7.
- e. Documenting discussions with women and minority employees about EEO policies.

On-going event: Assume it takes each site supervisor 30 minutes per site annually to discuss EEO policies with women and minority employees. Further assume it takes each site supervisor 15 minutes annually to document the discussion. **The total time necessary for the small construction contractor to comply is 45 minutes and the total time necessary for the large construction contractor to comply is 3,015 minutes.**

- f. Notification and retention of letters, memoranda and notices to unions and training programs notifying them of the contractor's EEO policies and requirements and requesting their assistance in meeting those obligations.

Start-up event: One-time notification to union of EEO policy. Assume it takes 30 minutes to compose and distribute the written notifications to unions and training programs. **The time necessary for the small construction contractor to comply with this part is 30 minutes and the time necessary for the large construction contractor to comply is also 30 minutes.**

- 7. At least once a year, contractors and subcontractors must review EEO policies and affirmative action obligations with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions. These EEO policies and affirmative action obligations must be specifically reviewed with on-site supervisory personnel such as superintendents, general foremen, etc., prior to starting construction work at any job site. Contractor/subcontractor personnel must maintain records that identify the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter. Actions that demonstrate compliance:
  - a. On-going event: Writing the memoranda and minutes of meeting.

Due to informal lines of communication, assume writing memoranda is not necessary for the small contractor. Assume it takes the small construction contractor site supervisor 15 minutes annually to type the minutes of meeting. **The total time necessary for the small contractor to comply is 15 minutes.**

For the large contractor, assume it takes management 30 minutes to compose memoranda associated with the meeting and 30 minutes times the 67 sites (2010 minutes) annually to type the minutes of meeting. Please note, because of the size and structure of the large contractor meeting, additional time has been assigned to the writing of the minutes of the meeting. Assume it takes 20 minutes for approval of the memoranda. **The total time necessary for the large construction contractor to comply is 2060 minutes.**

- b. On-going event: Annual meeting with employees in charge of hiring, assignment, layoff, termination, and other employment decisions and ensuring EEO policies are compliant with legal obligations.

Assume it takes 90 minutes to discuss EEO policies and review procedures that are legally compliant. There is no reason to assume significant deviation from this amount of time for the large contractor (e.g., whether the meeting involves 2 employees or whether the meeting involves 134 employees, the same policies and procedures will be covered). **The total time necessary for the small construction contractor to comply is 90 minutes and the total time necessary for the large construction contractors to comply is 90 minutes.**

- c. On-going event: Maintaining written records (memoranda, diaries, minutes of meetings, etc.) that identify the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.

Assume it takes the small contractor 15 minutes to file minutes of meetings and attendant notes. For the large contractor assume it takes 15 minutes times 67 sites (1005 minutes) to file the minutes of meeting; assume it takes the large contractor an additional 15 minutes to organize and file the sign-in sheet and memoranda at the corporation headquarters. **The total time necessary for the small construction contractor to comply is 15 minutes**



**and the total time necessary for the large construction contractor to comply is 1020 minutes.**

8. On-going event: Contractors and subcontractors must disseminate EEO policies externally by including them in any advertising in the news media (including minority and female news media). Contractors and subcontractors must also provide written notification to and discuss EEO policies with other contractors and subcontractors with whom the contractor/subcontractor does or anticipates doing business. Actions that demonstrate compliance:

a. On-going event: Retaining copies of employment advertisements or job announcements targeted towards a minority and female demographic that states the contractor is "an equal opportunity employer", or alternately states that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, or national origin.

Assume including the small contractor's EEO statement in an advertisement in the classified section of a local newspaper requires 5 additional minutes annually. Assume it takes the large contractor 30 minutes to write memoranda to a marketing department - or any advertising with which the company out-sources work - informing them of the need to include the "equal opportunity employer" statement. **The total time necessary for the small contractor to comply is 5 minutes and the total time necessary for the large contractor to comply is 30 minutes.**

b. On-going event: Maintaining copies of correspondence with subcontractors that notify them of EEO contractual obligations and the contractor's commitment to compliance.

For both the small and large construction contractors, assume it takes 30 minutes to develop form letters which is an one time event. Both small and large contractors have to send the letters to their subcontractors informing them of their EEO obligations, which is an on-going event. It is estimated that it takes 15 minutes to send out the letters. Additional time would be required to file the form letters which is also an on-going event. Assume it takes 15 minutes annually to file copies of the letters for the small contractor and 15 minutes to file the large contractor letters at the corporate headquarters. **The**

**total time necessary for small contractors is 60 minutes and 60 minutes for large contractors to comply.**

- c. On-going event: Discuss EEO policies with other contractors and subcontractors with whom the contractor anticipates doing business. Documenting meetings with other contractors and subcontractors.

On-going event: Assume officials from both the small and large construction contractors meet to discuss EEO policies with other contractors and subcontractors with whom the contractor does or anticipates doing business. No time is allocated for this meeting because these meetings are considered a normal course of business. However, assume it takes 15 minutes for both small and large contractors to document and file the minutes of the meeting. **The total time necessary for both the large and small construction contractor to comply is 15 minutes.**

- 9. Contractors and subcontractors must direct recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Contractors/subcontractors must send notice to its recruitment sources for women and minorities announcing acceptance of applications for apprenticeship or other training. This notice must be sent no later than one month before acceptance of applications for apprenticeship and training openings. Notices must describe the openings, screening procedures and tests to be used in the selection process. Actions and the associated time for this requirement are the same as in Step 2 and 5d.
  - a. Maintaining written records of contacts (e.g., written communications, telephone calls, personal meetings, etc.) with minority and female organizations, recruitment sources, schools and training organizations. Records should specify the date of contact, individual contacted, results of the contact, and any follow-up efforts. Actions and the associated time for this requirement are the same as in Step 2 and 5d.
  - b. Documenting contacts with recruitment sources (e.g. local offices of the state employment service, Private Industry Council, vocational/technical schools or high schools with construction related training programs, Urban

League, etc.). (Actions and the associated time for this requirement are the same as in Step 2 and 5d.)

10. Contractors and subcontractors must encourage current minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both at the work site and in other areas of the contractor's work force. Actions that demonstrate compliance:

- a. On-going event: Encouraging current minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both at the work site and in other areas of the contractor's work force.

Assume 15 minutes, per site, annually for the small and large contractors to discuss recruitment options with their minority and women employees. **The total time necessary for the small construction contractor to comply is 15 minutes and the total time necessary for the large construction contractor to comply is 1,005 minutes.**

11. Contractors and subcontractors must validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3, the "Uniform Guidelines on Employee Selection Procedures." Actions for demonstrating compliance vary by the number of people employed by the contractor. The Equal Employment Opportunity Commission (EEOC) has cleared the Uniform Guidelines with the Office of Management and Budget (OMB No. 3046-0017). The EEOC accounts for burden hours of all employers with 15 or more employees. The OFCCP accounts for the burden hours of contractors with 1-14 employees.

- a. On-going event: For 14 or fewer employees, collecting and maintaining the number of persons hired, promoted and terminated in each trade, by sex, and where appropriate, by race and national origin; maintaining records of selection procedures used (e.g. standardized testing, interviews, qualification reviews, etc.). Maintaining records on number of persons hired, promoted, terminated by sex, race, and national origin accounted for under general recordkeeping regulation at 41 CFR 60-1.12.

**The EEOC accounts for burden hours of all employers with 15 or more employees; therefore, no burden hours are attributed to construction contractors for this step.**

12. On-going: At least once a year, contractors and subcontractors must inventory and evaluate all minority and female personnel for promotional opportunities. Contractors must also encourage these employees to seek or prepare for, through appropriate training, etc., promotional opportunities. Actions that demonstrate compliance:

a. On-going event: Maintaining written records showing women and minorities are evaluated annually for promotional opportunities.

Assume it takes 20 minutes per work site to evaluate women and minorities for promotional opportunities. Further assume it takes 15 minutes per work site annually to maintain written records proving this annual review occurs. **The total time necessary for the small construction contractor to comply is 35 minutes and the total time necessary for the large construction contractor to comply is 2,345 minutes.**

b. On-going event: Maintaining written records documenting encouragement for women and minorities to participate in promotional opportunities.

Not counting the time required to encourage female and minority employees to participate in promotional opportunities, assume it takes 15 minutes per work site to maintain written records documenting this annually. **The total time necessary for the small construction contractor to comply is 15 minutes and the total time necessary for the large construction contractor to comply is 1,005 minutes.**

13. Contractors and subcontractors must ensure that seniority practices, job classifications, work assignments and other personnel practices do not have a discriminatory effect, by continually monitoring all personnel and employment related activities to ensure that EEO policies and contractors' obligations under the contract specifications are being carried out. Actions that demonstrate compliance:

a. On-going: Monitor seniority practices, job classifications, work assignments or other personnel

practices to ensure existing personnel practices are nondiscriminatory.

Assume it takes 30 minutes annually for a small contractor to monitor existing personnel practices. Also assume it takes 30 minutes per job site for the large contractor to monitor existing personnel practices. **The total time necessary for the small construction contractor to comply is 30 minutes and the total time necessary for the large construction contractor to comply is 2010 minutes.**

14. Contractors and subcontractors must ensure that all facilities and company activities are non-segregated except that separate or single-user toilets and necessary changing facilities designed to assure privacy between the sexes shall be provided. Actions that demonstrate compliance:
  - a. Offering adequate toilet and changing facilities to all employees to guarantee privacy between the sexes. This step will not impose any additional burden on construction contractors.
  - b. On-going event - Compiling documents (e.g. flyers, posters, announcements) indicating that information concerning parties, picnics, and other company sponsored events has been disseminated equally to all employees.

Assume it takes contractors 15 minutes per work site annually to maintain material evidence that proves information concerning parties, picnics and other company sponsored events has been disseminated equally to all employees. **The total time necessary for the small construction contractor to comply is 15 minutes and the total time necessary for the large construction contractor to comply is 1,005 minutes.**

15. Contractors and subcontractors must document and maintain records of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and, other business associations. This step does not require contractors to solicit offers from women- and minority-owned businesses. If they do solicit offers, they must document the solicitations. Actions that demonstrate compliance:

- a. On-going: Retaining letters or other direct solicitations for subcontracts from minority or female contractors, with a record of the specific responses and any follow-up activities. Assume it takes a small contractor 15 minutes annually to maintain a file of letters and solicitations for subcontracts from minority or female contractors. Assume it takes the large contractor 120 minutes annually to maintain a file of solicitations. **The total time necessary for the small construction contractor to comply is 15 minutes and the total time necessary for the large construction contractor to comply is 120 minutes.**
16. At least once a year, contractors and subcontractors must conduct a review of all supervisors' adherence to and performance under the company's EEO policies and affirmative action obligations. Actions that demonstrate compliance:
- a. On-going event: Retaining copies of performance evaluations, memoranda, letters, reports, minutes of meetings or interviews with supervisors and management personnel about their employment practices as they relate to EEO policy and affirmative action obligations. The time required to perform this Step has been included in Step 7.
  - b. On-going: Compiling any written evidence that supervisors and managers have been notified when their employment practices adversely or positively affected the company's EEO and affirmative action posture.

Assume this requires senior management to provide feedback to site supervisors regarding the results of EEO policies and procedures with an annual letter. This process is a "normal course of business"; no time has been allotted for this step.

Step	Total Start-up time in minutes		Step	Total On-going Time in minutes	
	Small	Large		Small	Large
2c	15	1,005	2a	15	1,015
3a	15	1,005	2b	40	2,680
6a	40	755	3b	100	6,700
6f	30	30	4a	15	1,005
			6b	10	670
			6e	45	3,015
			7a	15	2,060
			7b	90	90
			7c	15	1,020
			8a	5	30
			8b	60	60
			8c	15	15
			10a	15	1,005
			12a	35	2,345
			12b	15	1,005
			13a	30	2,010
			14b	15	1,005
			15a	15	120
	<b>Total</b>	<b>Total</b>		<b>Total</b>	<b>Total</b>
	<b>100 Min</b>	<b>2,795 Min</b>		<b>550 Min</b>	<b>25,850 Min</b>
	<b>1.6 Hrs</b>	<b>46.5 Hrs</b>		<b>9.1 Hrs</b>	<b>430.8 Hrs</b>

The original internal study considered 1 to 500+ employees per firm. The range for this Information Collection Request is from 8 to 22 employees per firm in accordance with the U.S Census Bureau 2002 Industry Facts.

Therefore, this ICR will use 1.6 hours for small contractors and 9.1 hours for large contractors times the number of Federal contractor construction firms to calculate the burden hours; see the tables on page 15 and 16.

## Narrative Summary of burden hour calculations

Table A.1 Profile of Construction Firms 2002.

Size of Firm	All Construction Firms (Census 2002)	Percent	All Firm Employees	Employees Per Firm	Estimated Universe of Federal Contractor Construction Firms <sup>b</sup>	Estimated Universe of Start-up Federal Contractor Construction Firms <sup>c</sup>
8	62,687	10.4%	523,626	8	25,074	6,268
9	448,636	74.6%	4,380,432	9	179,454	44,863
19	40,190	6.6%	791,186	19	16,076	4,019
22	49,826	8.4%	1,143,246	22	19,930	4,982
Total	601,339 <sup>a</sup>	100.0%	6,838,490	58	240,534	60,132

**\*Notes:**

a - This total was calculated by adding Nonresidential building construction (NAICS 2362), Heavy and civil engineering construction (NAICS 237) Specialty trade contractors (NAIC 238), and Other specialty trade contractors (NAICS 2389).

b - Assuming 40 percent of all construction firms hold one or more federal or federally assisted construction contracts. See discussion below regarding how OFCCP arrived at this 40% estimate.

c - Assuming 10 percent of the estimated universe of federal contractor construction firms incur start-up labor to prepare for reporting and recordkeeping activities. See discussion below regarding how OFCCP arrived at this 10% estimate.

The data in Table A.1 provides the number of employees per establishment, total number of firms in each of four employee size ranges, the percent (%) of all Construction Firms (Census 2002), employees per establishment, estimated universe of Federal Contractor Construction Firms, and Estimated Universe of start-up Federal Contractor Construction Firms. To estimate the burden hours from this information, we first needed to reduce the total universe of 601,339 construction firms to those that hold a federal or federally assisted construction contract, and as such, are covered by OFCCP recordkeeping obligations. In addition, given that newly covered contractors firms have an added burden to set-up the necessary AAP systems, we required an estimate of the number of newly covered contractors. OFCCP developed these estimates using the following process: First, OFCCP obtained the total number of construction firms in the United States through statistics compiled by the U.S. Census Bureau in 2002. The census compilation indicated that there were 601,339 construction firms in the United States, excluding Residential building construction.



Because all construction firms are not covered contractors within OFCCP's jurisdiction, OFCCP developed an estimate of the percentage of firms that are covered contractors by examining the percentage of supply and service firms that are covered contractors. Employer Information Report (EEO-1) forms filed annually by many employers provide information on the supply and service universe of Federal contractors. Relying on this EEO-1 data, OFCCP found that there were 25,681 supply and service consolidated EEO-1 Reports filed in FY 2002. This is a reasonable approximation of the total number of supply and service firms in the United States. Of these firms, 10,498 (40.8%) indicated that they were Federal contractors. For these estimates, we assumed, based on the proportion of Supply and Service contractors that self-identified themselves on the EEO-1 Reports as federal contractors, that 40 percent of the construction firms would hold one or more federal or federally assisted construction contracts. Based on the above process, OFCCP estimated that 40.0% of the 601,339 construction firms, or 240,534 firms, are Federal or federally-assisted construction contractors. OFCCP was unable to locate data which would provide a meaningful estimate of the number of covered construction contractors that face initial start-up costs. The data necessary for this estimate is the size of the relevant class of firms who have start-up obligations, which are those firms that are entirely new contractors or firms that were contractors in the past, ceased being a contractor for some period, and recently resumed being a covered contractor. Based on the lack of relevant data upon which to make an estimate, OFCCP simply assumed that 10 percent of the federal or federally assisted construction contractors would also bear the start-up burden. We believe this estimate is reasonable in light of agency experience. With these estimates, we prepared the universe counts given in last two columns of Table A.1 for federal contractors and the subset with start-up activities.

For the next step in the estimation process, OFCCP developed start-up and on-going burden hour estimates per firm for each of the four employee size ranges from the internal study data. The internal study data provided us with two endpoints for the expected range of burden hours between 8 and 22 employees as presented on page 14 (start-up and on-going burden hours were estimated at 1.6 and 9.1 hours, respectively, and for the large firm those figures are 46.5 and 430.8 hours). The range for this Information Collection Request is from 8 to 22 employees per firm in accordance with the U.S Census Bureau 2002 Industry Facts. Therefore, this ICR will use 1.6 hours for small contractors and 9.1 hours for large contractors times the number of Federal contractor construction firms to calculate the burden hours; see the tables below

Given this functional relationship, we used the firm size in each of the four size categories to compute a firm-by-firm start-up and on-going burden hour estimate given in Table A.2. For example, for a firm of 8 employees, see the data in Table A.2, the start-up is 1.6 hours times 6,268 start-up contractors equal 10,028 burden hours. For the ongoing burden hours, 9.1 hours times 25,074 Federal contractor construction firms equal a total of 228,173 total ongoing burden hours.

Table A.2. Estimation of Start-up and On-going Burden Hours

	A	B	C	D	E	F= B X D	G= A X E
Size of Firm	Estimated Universe of Federal Contractor Construction Firms	Estimated Universe of Start-up Federal Contractor Construction Firms	Employees Per Firm	Est. Start-up Burden Hours Per Firm	Est. Ongoing Burden Hours Per Firm	Total Start-up Burden Hours	Total On-going Burden Hours
8	25,074	6,268	8	1.6	9.1	10,028	228,173
9	179,454	44,863	9	1.6	9.1	71,780	1,633,031
19	16,076	4,019	19	1.6	9.1	6,430	146,291
22	19,930	4,982	22	1.6	9.1	7,971	181,363
Total	240,534	60,132	58			96,209	2,188,858
						Total	2,285,067

To compute the final burden hours for each employee size range, we multiplied the burden hour estimates per firm by the estimated number of firms and totaled these across the six size ranges. The results in Table A.2 yield the following estimates:

1. Total start-up burden hours = 96,209
2. Total on-going burden hours = 2,188,858
3. Total burden hours = 2,285,067\*

\*The above 2,285,067 burden hours are included as part of the Total Recordkeeping Burden in the "Supporting Statement" on page 13.