

NOTE TO REVIEWER

OFCCP is requesting OMB approval for 8,114,628 hours in combined recordkeeping, reporting and third party disclosure burden hours¹ for compliance with Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212) by non-construction (supply and service) Federal contractors. This compares with 10,045,984 hours for the last clearance request and reflects a decrease in the total recordkeeping, reporting and third party disclosure burden hours of 1,931,356 (8,114,627 - 10,045,984=1,931,356) hours or 17 hours (1,931,356 hours/116,079 contractor establishments) per contractor establishment.

This decrease in the overall burden hours since the 2008 renewal request is due to several cost savings. First, with changes in technologies and automation, contractors are better able to collect records and develop, update and maintain affirmative action programs (AAPs). Based on OFCCP's field experience increasing numbers of Federal contractors are using automated systems and submitting documents electronically. The use of automation is reflected in this information collection request. Additionally, OFCCP relied on EEO-1 data from 2012 for determining its universe. This data reflects those Federal contractors that are required to develop AAPs under Executive Order 11246, Section 503 of the Rehabilitation Act and VEVRAA requirements and that represent generally, OFCCP's universe for scheduling compliance evaluations. Development of AAPs accounts for the large majority of contractor burden/cost. In addition, using the actual numbers, OFCCP identified those contractors with 1-14 employees, thus reducing the previously estimated recordkeeping burden associated with compliance with the Uniform Guidelines on Employee Selection Procedures. Finally, in its proposed scheduling letter and itemized listing, OFCCP took into account public comments and revised key elements thus reducing the average response time from 28.35 hours (2008 approval) to 27.9 hours (2014 proposal). Specifically, OFCCP has modified its 2011 proposed Itemized Listing to allow contractors to submit their employment activity data by job group or job title as is required under the current authorization. This modification to the Itemized Listing removes from the 2011 proposal all one-time start-up costs included in the 2011 proposal. The authorization for this ICR OMB Control No. 1250-0003 expires May 31, 2014. OFCCP published the Information Collection Request in the Federal Register on May 12, 2011, 92 FR 27670, and DOL submitted to OMB for OFCCP a request for review and approval on September 28, 2011, 76 FR 60083. This submission is for OMB Review: Comment Request.

OFCCP summarizes the comments received during the previous comment period in numbered paragraph 8, "Consultation Outside the Agency".

¹ Generally, among the recordkeeping burdens are the development, update and maintenance of affirmative action programs, and compliance with the Uniform Guidelines on Employee Selection Procedures. Among the reporting burdens are the data requested for initiating a supply and service compliance evaluation found in OFCCP's Scheduling Letter and Itemized Listing.

SUPPORTING STATEMENT
SUPPLY AND SERVICE PROGRAM

OMB NO. 1250-0003

A. JUSTIFICATION:

The Office of Federal Contract Compliance Programs (OFCCP) is responsible for administering three equal opportunity mandates that prohibit employment discrimination based on race, sex, color, national origin, religion, disability, or status as a protected veteran by Federal contractors and require affirmative action to provide equal employment opportunities:

- Executive Order 11246, as amended (referred to as “EO 11246”),²
- Section 503 of the Rehabilitation Act of 1973, as amended (referred to as section 503),³ and
- The affirmative action provisions of the Vietnam Era Veterans’ Readjustment Assistance Act of 1974,⁴ as amended, 38 U.S.C. 4212 (referred to as “VEVRAA”).

OFCCP promulgated regulations implementing these programs consistent with the Administrative Procedure Act. These regulations are found at Title 41 of the Code of Federal Regulations (CFR) in Chapter 60 and are accessible on the Web at http://www.dol.gov/dol/cfr/Title_41/Chapter_60.htm.

EO 11246 prohibits Federal contractors from discriminating against applicants and employees based on race, color, religion, sex, or national origin. EO 11246 applies to Federal contractors and subcontractors, and to federally assisted construction contractors holding a Government contract of more than \$10,000, or Government contracts, that have, or can reasonably expect to have, an aggregate total value exceeding \$10,000 in a 12-month period. 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 qualified individuals on the basis of disability, and requires contractors to take affirmative action to hire and promote qualified

² The regulations implementing Executive Order 11246 applicable to supply and service contractors are published at 41 CFR Parts 60-1, 60-2, 60-3, 60-20, and 60-50.

³ See “Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities,” 78 Federal Register 185, pp. 58682-58752 (24 September 2013). The regulations implementing section 503 are published at 41 CFR Part 60-741.

⁴ See “Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans, Veterans of the Vietnam Era, Disabled Veterans, Recently Separated Veterans, Active Duty Wartime or Campaign Badge Veterans, and Armed Forces Service Medal Veterans,” 78 Federal Register 185, pp. 58614 – 58679,(24 September 2013). The regulations implementing VEVRAA are published at 41 CFR Part 60-300.

individuals with disabilities. Its requirements apply to Federal contractors and subcontractors with a Government contract in excess of \$10,000.

VEVRAA prohibits employment discrimination against protected veterans and requires contractors to take affirmative action to hire and promote protected veterans. 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 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 disabled veterans, recently separated veterans, Armed Forces Service Medal Veterans, and active wartime or campaign badge veterans.

For the purposes of OFCCP's recordkeeping and reporting requirements, the agency divides the obligations under these authorities into the information collection requests (ICR) listed in the table below. These divisions are based on the distinct programs and related regulatory requirements.

OMB Number	Description
1250-0001	Construction Recordkeeping Requirements
1250-0002	Complaint Procedures
1250-0003	Supply and Service Program
1250-0004	VEVRAA
1250-0005	Section 503
1250-0006	Functional Affirmative Action Program Agreement Procedures

Some general approaches and assumptions are applicable across the regulations enforced by OFCCP. Many relate to assessing cost and burden in this ICR, including those listed below.

- This ICR does not include burden estimates for compliance with the information collections in VEVRAA and section 503 because Control Numbers 1250-0004 (VEVRAA) and 1250-0005 (section 503) cover these requirements. However, OFCCP references these statutes in this ICR because provisions in the Scheduling Letter and Itemized Listing require contractors to provide documents and information relevant to their compliance with VEVRAA and section 503.
- Due to the nature of their use, OMB considers the Scheduling Letter and the Itemized Listing reporting requirements. OFCCP, therefore, includes the time contractors spend responding to the Scheduling Letter and Itemized Listing when calculating the reporting burden hours. The agency also includes a burden hour calculation for the time spent collecting records for OFCCP's compliance check.

- Annually, OFCCP identifies approximately 3.2 percent⁵ of the 116,079⁶ contractor establishments for a compliance evaluation or about 3,774 contractor establishments.

Pursuant to the expiration of OMB No. 1250-0003, this ICR seeks approval of the agency's supply and service recordkeeping requirements. This ICR also seeks approval of a revised Scheduling Letter and Itemized Listing for supply and service contractors in light of the publication of new regulations creating new recordkeeping and reporting requirements in section 503 and VEVRAA. Contractor establishments that OFCCP schedules for a compliance evaluation receive notice by way of the agency's Scheduling Letter and Itemized Listing. These items specifically notify the establishments that they must submit their EO 11246, VEVRAA and section 503 Affirmative Action Programs (AAPs) and supporting data.

1. Legal and Administrative Requirements

Executive Order 11246 Regulations

41 CFR Part 60-1 -- Obligations of Contractors and Subcontractors.

This regulation sets out the basic nondiscrimination and affirmative action requirements of the EO 11246 enforcement program. It defines coverage, specifies clauses to be included in contracts, provides a procedure to ensure compliance by covered contractors, specifies certain reporting and recordkeeping requirements, and establishes the basic requirements for AAPs under EO 11246. AAPs are required under OFCCP regulations to demonstrate contractors' efforts to ensure a diverse workforce. Part 60-1 contains recordkeeping, reporting and third party disclosure requirements for the supply and service program. OFCCP discusses specific sections of this part below.

Section 60-1.4 describes the equal opportunity clause in Government contracts. Section 60-1.4(a)(3) requires a contractor to notify labor organizations of their obligations under EO 11246 and its implementing regulations. OFCCP explains third party disclosure requirements in numbered paragraph 12.c below, titled Third Party Disclosure Burden.

Section 60-1.7 requires specified Federal prime contractors and subcontractors to file an Employer Information Report EEO-1 (EEO-1 Report) annually. The U.S. Equal Employment Opportunity Commission (EEOC) and OFCCP use EEO-1 Report data to analyze employment patterns for women and minorities and as a civil rights enforcement tool. OMB approved the EEO-1 Report information collection under OMB No. 3046-0007. The EEO-1 Report requires reporting in seven racial and ethnic categories:

- Hispanic or Latino,

⁵This number is based on an average of the total number of compliance evaluations conducted in FY2010 (4441), FY2011 (3463), FY2012 (3496), and FY2013 (3696) divided by the total number of contractor establishments (215,452).

⁶The number of supply and service contractor establishments is based on 116,079 Federal contractor establishments that filed EEO-1 Reports in 2012. OFCCP believes that this includes all contractor companies (including their establishments) that are required to develop AAPs. It also accounts for all VETS 100A filers that meet the threshold for developing AAPs.

- White not Hispanic or Latino,
- Black or African-American not Hispanic or Latino,
- Native Hawaiian or Other Pacific Islander not Hispanic or Latino,
- Asian not Hispanic or Latino,
- American Indian or Alaska Native not Hispanic or Latino, and
- Two or More Races not Hispanic or Latino.

Employers, based on the EEO-1 Report, are also required to report data for nine job categories.⁷ To view the information collection, go to http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=200901-3046-001.

Section 60-1.12 requires contractors to preserve any personnel or employment record made or kept 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, this retention period is one year. Section 60-1.12 provides that the contractor must be able to identify the gender, race and ethnicity of each employee for any record the contractor maintains. Where possible, the contractor must also identify the gender, race and ethnicity of each applicant or Internet applicant.

Section 60-1.20 addresses the investigative methods OFCCP uses to evaluate a contractor's compliance with the agency's regulations. These methods range from an in-depth comprehensive evaluation of the contractor's employment practices (e.g., a "compliance review") to a narrowly focused analysis of a very limited aspect of a selected employment practice or policy (e.g., a "compliance check").

This section also requires contractors selected for a compliance evaluation to submit their AAPs and supporting documentation to OFCCP within 30 days of the request. OFCCP uses a Scheduling Letter, which includes the Itemized Listing, to make this document request.

Section 60-1.40 requires the development and maintenance of an EO 11246 AAP. This regulation requires each contractor and subcontractor with 50 or more employees and that meets the following criteria to develop an AAP for each of its establishments:

- has a contract of \$50,000 or more; or
- has Government bills of lading which in any 12-month period total or can reasonably be expected to total \$50,000 or more; or

⁷ The Officials and Managers category is divided into the subcategories -- Executive/Senior Level Officials and Managers, and First/Mid Level Officials and Managers.

- serves as a depository of Government funds in any amount; or
- is a financial institution that is an issuing and paying agent for U.S. Savings Bonds and savings notes in any amount.

Detailed instructions for the development of an AAP are in 41 CFR Part 60-2 and are discussed below.

41 CFR Part 60-2

Part 60-2 defines the scope of the AAP requirements under EO 11246, as well as the purpose and contents of AAPs, and coverage requirements. See also Section 60-1.40.

Specifically, Section 60-2.1 describes which contractors must develop AAPs and provides instructions for including employees in AAPs, requires contractors to develop an AAP for each establishment, and requires that employees be included in the AAP for the establishment at which they work. Section 60-2.1 outlines alternatives for AAP development for establishments with fewer than 50 employees, or where the contractor makes employee selection decisions for an establishment at a higher-level establishment. Section 60-2.1(d)(4) permits contractors, with the agreement of OFCCP, to develop and maintain AAPs based on functional or business units rather than establishments.

Section 60-2.11 requires that contractors use either an organizational display or workforce analysis as their organizational profile. An organizational profile depicts an establishment's staffing pattern and contractors use it to determine whether barriers to equal employment opportunity exist in their organizations. The organizational profile also provides an overview of the demographic composition of the workforce at the establishment level; this may help identify organizational units where women and minorities are underrepresented or concentrated.

An organizational display, used as an organizational profile, is a detailed graphical, tabular chart, text, spreadsheet or similar presentation of a contractor's organizational structure. For each organization unit, the organizational display contains the name of the unit, the job title, gender, race and ethnicity of the unit supervisor, the total number of male and female employees, and the total number of male and female incumbents in each of the below listed groups.

- Black
- Hispanic
- Asian/Pacific Islander
- American Indian/Alaskan Native

By contrast, a workforce analysis is a listing of each job title as it appears in applicable collective bargaining agreements or payroll records ranked from the lowest to highest paid within each department or other similar organizational unit, including departmental or unit supervision. The workforce analysis must show the total number of employees, the total number of male and female employees, and the total number of male and female

employees in the specified race or ethnic categories for each job title. The wage rate and salary range for each job title are also required.

Section 60-2.12 describes what is required for a job group analysis. A job group analysis is a method of combining job titles within a contractor's establishment. Contractors with 150 or more employees must group jobs by similarity of content, wage rates, and opportunities. However, contractors with fewer than 150 employees have the option of using the nine occupational groups used in the EEO-1 Report as job groups. The job group analysis must include a list of job titles that comprise each job group. Generally, job group analysis includes all jobs located at an establishment. Jobs located at another establishment are annotated to identify their actual location.

Section 60-2.13 addresses incumbency in job groups and requires the contractor to record separately the percentage of minorities and women it employs within each job group.

Section 60-2.14 applies to determining availability, and requires the contractor to estimate the number of qualified minorities or women available for employment in a given job group. Availability is expressed as a percentage of all qualified persons available for employment in that job group.

Section 60-2.15 compares incumbency to availability by requiring the contractor to compare the representation of minorities and women in each job group with their representation among those available for employment in the group. The contractor is required to establish placement goals for any job group with fewer women or minorities than would reasonably be expected by their availability.

Section 60-2.16 contains the parameters and criteria for setting placement goals and requires the contractor to establish placement goals for any job group with fewer women or minorities than would reasonably be expected by their availability.

Section 60-2.17 sets forth additional required elements of an AAP. These elements are the designation of a responsible official for implementing equal employment opportunity and the AAP, the identification of problem areas in the employment process, the creation of action-oriented programs designed to correct identified problem areas, and the use of an internal auditing and reporting system to measure the effectiveness of the AAP.

Of particular note are the steps required to identify problem areas. The contractor must conduct in-depth analyses of its employment practices to determine whether impediments to equal employment opportunity exist. As part of these analyses, the contractor must evaluate:

- employment activity (applicant flow, hires, terminations, promotions and other personnel actions) to determine whether there are selection disparities;
- compensation systems to determine whether there are gender, race, or ethnicity-based disparities; and

- selection, recruitment, referral, and other personnel procedures to see if they result in disparities in the employment and advancement of minorities or women.

Taken together, Sections 60-2.11 through 2.17 describe the required recordkeeping elements of developing, maintaining, and updating an AAP. Numbered paragraph 12a (below), Estimate of Information Collection Burden – Recordkeeping Burden, reviews the burden associated with complying with the recordkeeping requirements. When contractors respond to the Scheduling Letter and Itemized Listing, they provide their AAPs and specific supporting documentation.

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

The EEOC, the U.S. Office of Personnel Management (OPM), the Department of Labor (DOL), and the Department of Justice (DOJ) adopted the Uniform Guidelines on Employee Selection Procedures (referred to as the “Guidelines”) in 1978. The Guidelines apply to tests and other selection procedures used to make employment-related decisions. The Guidelines are consistent with the purpose of EO 11246 and have the full force and effect of the law. Under the Guidelines, each contractor maintains records and other information for each job sufficient to permit analyses of the impact of its selection procedures on the employment opportunities of people based on race, sex, or ethnic group.⁸ Using this information, the contractor and OFCCP identify and evaluate the contractor’s selection procedures for adverse impact. It is one of the tools used by contractors in identifying problem areas in an EO 11246 AAP.

When a test or other selection procedure is determined to have an adverse impact, the Guidelines require the contractor to validate the test or procedure (41 CFR 60-3.4) and to retain its validation study documentation. In addition, section 60-3.15 requires a contractor with 100 or more employees to keep records for each job that are sufficient to allow the contractor to make an adverse impact determination. The contractor makes this determination at least annually and makes it for each racial or ethnic group constituting at least 2 percent of the labor force in the relevant labor area or 2 percent of the applicable workforce.

Section 60-3.15 requires a contractor with less than 100 employees to keep records on the number of persons hired, promoted, and terminated for each job by sex and, where appropriate, by race and national origin. Section 60-3.15 also requires the contractor to keep records showing the number of applicants for hire and promotion by sex and, where appropriate, by race and national origin, as well as records showing the selection procedures utilized.

The OMB approved the Guidelines under OMB No. 3046-0017. To view the information collection, go to this Web address: http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=200807-3046-001.

⁸ Section 60-3.4 requires recordkeeping and analyses on the following race and ethnic groups: Black, Hispanic, Asian/Pacific Islander, American Indian, and White. A total is also provided for each group.

VEVRAA Regulations

OFCCP recently revised its regulations implementing VEVRAA. Included in the revisions was the rescission of 41 CFR Part 60-250. Regulations on the rights and protections provided to veterans, and the related obligations and responsibilities of contractors, are in 41 CFR Part 60-300.

These regulations establish the basic nondiscrimination and affirmative action requirements of the VEVRAA enforcement program. They define coverage, specify clauses to be included in contracts, provide procedures to ensure compliance by covered contractors, specify certain reporting and recordkeeping requirements, establish a benchmark for veteran representation in the workforce, and specify the basic requirements for AAPs under VEVRAA. A discussion of the relevant sections of 60-300 follows.

Section 60-300.5 describes the equal opportunity clause in Federal contracts.

Section 60-300.40 requires contractors with 50 or more employees and contracts of \$100,000 or more entered into or modified after December 1, 2003 to develop a VEVRAA AAP.

Section 60-300.44 identifies required elements of an AAP, including those listed below.

- Develop and include an equal opportunity policy statement in the AAP.
- Review personnel processes to ensure that qualified protected veterans are provided equal opportunity and that the contractor is engaged in outreach to recruitment resources.
- Review all physical and mental job qualification standards to ensure that those that screen out or tend to screen out qualified disabled veterans are job-related and are based on business necessity.
- Provide reasonable accommodations for physical and mental limitations.
- Develop procedures to ensure that employees are not harassed because of their veteran status.
- Develop procedures and practices to disseminate affirmative action policies, both internally and externally.
- Establish an audit and reporting system to measure the effectiveness of the AAP.
- Designate a responsible official to implement and oversee the AAP.

Section 60-300.45 requires contractors to either adopt the national hiring benchmark or establish a hiring benchmark for protected veterans using five factors.⁹

Section 60-300.60 identifies the investigative methods OFCCP uses to evaluate a contractor's compliance with the agency's regulations. These methods range from an in-depth comprehensive evaluation of the contractor's employment practices (e.g., a compliance review) to a narrowly focused analysis of a very limited aspect of a selected employment practice or policy (e.g., a "compliance check"). Evaluation of compliance with VEVRAA is concurrent with evaluation of the contractor's compliance with Executive Order 11246.

Detailed instructions for the development of a VEVRAA AAP are in 41 CFR Part 60-300.

Section 503 Regulations

OFCCP recently revised its regulations implementing section 503, which are found at 41 CFR 60-741 and address the affirmative action and nondiscrimination obligations of contractors and subcontractors related to individuals with disabilities. It defines coverage, specifies clauses to be included in contracts, provides a procedure to ensure compliance by covered contractors, specifies certain reporting and recordkeeping requirements, establishes an aspirational utilization goal of 7 percent, and specifies the basic requirements for AAPs under section 503.

Section 60-741.5 describes the equal opportunity clause in Federal contracts.

Section 60-741.40 requires the development and maintenance of a section 503 AAP. This regulation requires each contractor and subcontractor that has 50 or more employees, and a contract of \$50,000 or more to develop an AAP for each establishment.

Section 60-741.44 identifies required elements of an AAP, including those listed below.

- Develop and include an equal opportunity policy statement in the AAP.
- Review personnel processes to ensure that qualified individuals with disabilities are provided equal opportunity and that the contractor is engaged in outreach to recruitment resources.
- Review all physical and mental job qualification standards to ensure that those that screen out qualified individuals with disabilities on the basis of disability are job-related and are based on business necessity.
- Provide reasonable accommodations for physical and mental limitations.

⁹ 41 CFR 60-300.45.

- Develop procedures to ensure that employees are not harassed because of their disability.
- Develop procedures and practices to disseminate affirmative action policies, both internally and externally.
- Establish an audit and reporting system to measure the effectiveness of the AAP.
- Designate a responsible official to implement and oversee the AAP.

Section 60-741.45 requires contractors to apply a 7 percent utilization goal to each of their job groups or to their entire workforce if the contractor has 100 or fewer employees.

Section 60-741.60 identifies the investigative methods OFCCP uses to evaluate a contractor’s compliance with the agency’s regulations. These methods range from an in-depth comprehensive evaluation of the contractor’s employment practices (e.g., a compliance review) to a narrowly focused analysis of a very limited aspect of a selected employment practice or policy (e.g. a “compliance check”). Evaluation of compliance with section 503 is concurrent with evaluation of a contractor’s compliance with Executive Order 11246.

Detailed instructions for the development of a section 503 AAP are in 41 CFR Part 60-741.

2. USE OF MATERIALS

EEO-1 Report Data¹⁰

The Joint Reporting Committee, comprised of OFCCP and EEOC, promulgates the EEO-1 Report. Employers use the EEO-1 Report “Question 3” to self-identify as contractors and subcontractors and indicate whether they meet the 50 employees and \$50,000 contract value threshold for AAP coverage. In turn, OFCCP uses the report to identify and select Federal contractors for compliance evaluations, and to assess a contractor’s equal employment opportunity trends.

Should EEO-1 Report data become unavailable or become inadequate for the agency’s purpose, OFCCP would identify and obtain alternative sources of information. Most likely Census or BLS data could replace or augment EEO-1 data.

Affirmative Action Programs – 41 CFR Part 60-2, 41 CFR 300.40, and 41 CFR 741.40
 The AAP is the contractor’s plan for ensuring nondiscrimination and equal employment opportunity. OFCCP does not impose a detailed master format for AAPs. This approach allows each contractor to design a format that suits its particular business circumstances. The structure and complexity of an AAP may vary considerably depending on the size and complexity of the contractor’s organization.

¹⁰ 41 CFR 60-1.7 – Reports and other required information.

Contractors are, therefore, free to utilize information technology as they see fit when designing and developing their AAPs. The only requirement is that they must be capable of retrieving and providing to OFCCP the data required by our regulations.

Our regulations at section 60-2.10(b) outline the contents of an AAP under Executive Order 11246, as listed below.

- Organizational Profile
- Job Group Analysis
- Placement of Incumbents in Job Groups
- Determining Availability
- Comparison of Incumbency to Availability
- Placement Goals
- Designation of Responsibility for AAP Implementation
- Identification of Problem Areas based on an in-depth analysis of employment activity, compensation systems, recruitment, and referral, to determine the existence of sex, race, or ethnicity based disparities
- Action-oriented Programs
- Periodic Internal Audits

During a compliance evaluation, OFCCP examines the contractor's written EO 11246 AAP including the sections above, supporting documentation, compensation data, and documents related to personnel actions, employment policies and practices to determine whether the contractor is complying with its obligations not to discriminate in employment and to take affirmative action to ensure equal employment opportunity.

Sections 60-741.44 and 60-300.44 describe the required contents of a contractor's written AAPs under section 503 and VEVRAA, respectively. During a compliance evaluation, OFCCP reviews the contractor's AAPs to determine whether the contractor is complying with its obligations not to discriminate in employment and to take affirmative action to ensure equal employment opportunity. This review entails examination of various support documentation including:

- assessments of personal processes under 41 CFR 60-741.44(b) and 60-300.44(b);

- assessments of physical and mental qualifications under 41 CFR 60-741.44(c) and 60-300.44(c);
- results of evaluation of the effectiveness of outreach and recruitment efforts 41 CFR 741.44(f) and 60-300.44(f);
- records of activities to comply with audit and reporting system requirements under 41 CFR 60-741.44(h) and 60-300.44(h);
- details of computations and calculations contained in the data collection analysis under 41 CFR 60-741.44(k) and 60-300.44(k);
- utilization analysis evaluating the representation of individuals with disabilities in each job group or, if appropriate, evaluating the representation of individuals with disabilities in the workforce as a whole, as provided in 41 CFR 60-741.45; and
- documentation of the hiring benchmark adopted, the methodology used to establish it if using the five factors, and the results of its comparison to incumbent workforce as described in 41 CFR 60-300.45.

3. IMPROVED INFORMATION TECHNOLOGY

In general, under OFCCP regulations each contractor develops its own methods for collecting support data, developing and maintaining information. Contractors are free to use whatever methods best suit their needs as long as they can retrieve and provide OFCCP with the data required by the agency's regulations.

The vast majority of Federal contractors and subcontractors are repeat contractors. Since they are subject to OFCCP's regulatory requirements year after year, most have developed their information technology systems to generate the data required by OFCCP regulations.

Information technology systems used to comply with data requirements under OFCCP's regulations should be capable of:

- conducting workforce analysis,
- conducting job group analysis,
- facilitating calculation of availability,
- conducting EO 11246 utilization analysis,
- collecting employment activity data related to EO 11246, section 503 and VEVRAA,
- conducting section 503 utilization analysis,
- analyzing outreach and recruitment,
- tracking self-identification,
- disseminating EO policies,
- providing notice to subcontractors and vendors, and

- facilitating calculation of VEVRAA benchmarks.

In addition, OFCCP provides compliance assistance to all contractors, including smaller contractors, that is, those with fewer than 150 employees, by leveraging information technology. For example, our Internet provides wider access to compliance resources and information, including:

- Small Business Guide at <http://www.dol.gov/ofccp/TAGuides/sbguide.htm>
- New Contractors' Guide at http://www.dol.gov/ofccp/TAGuides/new_contractors_guide.htm
- Section 503 and VEVRAA Contractor Resources at <http://www.dol.gov/ofccp/regs/compliance/Resources.htm>
- Fact Sheets, Frequently Asked Questions and Webinar training available at <http://www.dol.gov/ofccp/regs/compliance/section503.htm> and <http://www.dol.gov/ofccp/regs/compliance/vevraa.htm>
- 2006-2010 EEO Tabulation available at <http://www.census.gov/people/eeotabulation/data/eeotables20062010.html>
- Sample AAP for Small Employers at <http://www.dol.gov/ofccp/regs/compliance/pdf/sampleaap.htm>
- Contractors' VEVRAA Hiring Benchmark Database at <http://www.dol-esa.gov/errd/VEVRAA.jsp>
- Employment Resource Referral Directory at <http://www.dol-esa.gov/errd/index.html>

OFCCP believes that advances in technology make contractor compliance with the recordkeeping and reporting requirements easier and less burdensome. However, in the absence of empirical data, OFCCP is unable to quantify the impact of specific improvements or efficiencies resulting from the use of specific information technologies and thus, OFCCP does not include specific information technologies and applications in its calculation of burden hours. However, OFCCP does consider the existence of automated versus manual systems.

According to the Government Paperwork Elimination Act (GPEA, P.L. 105-277, 1998), by October 2003, Government agencies must generally provide the option of using and accepting electronic documents and signatures, and electronic recordkeeping, where practicable. OFCCP fulfills its GPEA requirements by permitting electronic transmission, via e-mail or computer disk, of a contractor's AAP and supporting documentation.

4. DESCRIPTION OF EFFORTS TO IDENTIFY DUPLICATION

The reporting and recordkeeping requirements in this request result exclusively from the implementation of EO 11246, section 503, and VEVRAA. These authorities uniquely empower the Secretary of Labor, and by a Secretary's Order, the OFCCP, to require the collection, analysis, and reporting of data and other information in connection with the enforcement of the laws and regulations requiring Government contractors to take affirmative action to ensure equal employment opportunity. No duplication of effort exists because no other Government agencies have these specific data collection requirements.

Where possible, OFCCP participates in information sharing and standardized requirements. Examples are our joint collaboration on and use of EEOC's EEO-1 Report, and our use of the Uniform Guidelines on Employee Selection Procedures created with EEOC, OPM, DOJ and DOL. See 41 CFR 60-3.4.

While contractors maintain other employment data as a normal course of business, AAPs are unique in that contractors create them specifically to meet the requirements of OFCCP regulations. These AAPs are not available from any other source.

5. COLLECTION BY SMALL ORGANIZATIONS

OFCCP's information collection does not have a significant economic impact on a substantial number of small entities. OFCCP minimizes the information collection and recordkeeping burden on a significant number of small businesses by exempting contractor establishments with fewer than 50 employees from the AAP requirement. However, once OFCCP's authority covers one contractor's establishment, all of its employees must be accounted for in an AAP whether or not each of the contractor's establishments meet the minimum 50 employees threshold.

As noted in OFCCP's new information collection request for section 503 approved under OMB Control Numbers 1250-0005, OFCCP has minimized the burden of the information collection requirements on small entities by permitting contractors with a total workforce of 100 or fewer employees to compare the individuals with disabilities in their entire workforce to the 7 percent utilization goal. This will decrease the burden of the utilization analysis.

6. CONSEQUENCES FOR FEDERAL PROGRAMS IF THIS INFORMATION IS COLLECTED LESS FREQUENTLY

Contractors and subcontractors file EEO-1 Reports annually. Less frequent collection could negatively affect OFCCP's civil rights enforcement activities because the agency would no longer have access to the most current data. As mentioned previously, EEO-1 data informs our compliance evaluation selection process that typically occurs twice a year, and underpins our analyses of employment trends and patterns. Presently, data resulting from annual filing of the EEO-1 Report is one year old by the time OFCCP

receives it; it can be 2 years old by the time OFCCP obtains new or updated data. If OFCCP allows contractors to file EEO-1 Reports in alternate years, the agency would receive and use data that is between two to four years old.

The older the data the greater the chances are that more qualified workers may be victims of discrimination and that the discrimination continues for a longer period. A consequence may be that damages or make whole remedies and the overall burden of contractor compliance are greater.

7. SPECIAL CIRCUMSTANCES FOR THE COLLECTION OF INFORMATION

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

8. CONSULTATION OUTSIDE THE AGENCY

OFCCP published a Federal Register notice on May 12, 2011 (92 FR 27670) soliciting comments from the public on its information collection request including the proposed revisions to the Scheduling Letter and Itemized Listing.¹¹ OFCCP reviewed each of the submissions it received from various contractors, industry organizations and associations, consultants, advocacy and non-profit groups and others during the 60-day comment period.

Subsequently, the Department of Labor submitted OFCCP's information collection request including a revised Scheduling Letter and Itemized Listing to the Office of Management and Budget (OMB) for review and approval on September 28, 2011. During that 30-day comment period, OMB received three submissions from industry associations and consultants. OFCCP reviewed these comments as well.

After giving the comments serious consideration, OFCCP determined that the benefits associated with receiving improved data from contractors are the "best, most innovative and least burdensome tasks for achieving regulatory ends."¹² Moreover, our assessment finds societal benefits result from finalizing the proposed changes to the Scheduling Letter and Itemized Listing. Among them are the:

- inclusion of more qualified workers in the nation's workforce,
- ability to identify possible compensation and pay discrimination violations earlier in the compliance evaluation thereby saving the government and contractors time and money,
- ability to provide America's returning veterans and wounded warriors meaningful employment opportunities as they transition from the military,
- opportunity to develop a workforce that reflects the diversity of the nation, including individuals with disabilities, and

¹¹ The ICR included the Compliance Check Scheduling Letter, which was submitted with no proposed revisions.

¹² See Executive Order 13563.

- strengthening of our ability to compete effectively in a global economy based on the diversity and skill of America’s workforce.

In considering the comments, OFCCP did identify alternatives to some proposals in its information collection request that would be as effective in assessing contractor compliance with their nondiscrimination and affirmative action obligations that are less burdensome. Therefore, OFCCP made several changes to its 2011 proposal. Detailed below are the comments and proposed revisions, organized by topic.

Section 503 and VEVRAA (Itemized Listing 13 – 2011, Proposed Items 7 through 14 and 20 through 22 in the proposed revised documents)

In its 2011 proposed Scheduling Letter and Itemized Listing, OFCCP requested that contractors provide copies of the VETS 100/100A Report and accommodation policies and records of accommodations granted. After considering the comments and assessing the practicality and utility of the proposed requirement of providing the VETS 100/100A Report, OFCCP proposes to remove this request since the agency has access to this report through the Veterans Employment and Training Service.

In addition, since the last public comment period on September 28, 2011, OFCCP published final rules for section 503 and VEVRAA on September 24, 2013.¹³ The rules made changes that now require contractors to undertake additional recordkeeping and data collection that must be provided to OFCCP during the compliance evaluation process. Since the proposed September 2011 proposed Scheduling Letter and Itemized Listing remains pending final action by OMB, OFCCP is seeking to amend or alter its September 2011 proposal to incorporate needed section 503 and VEVRAA information collections.

The new items, specifically, Items 7 through 14, and 20 through 22, are summarized below and address:

- Item 7: Documenting the results of the contractor’s evaluation of the effectiveness of its outreach and recruitment efforts for individuals with disabilities. (41 CFR 60-741.44(f))
- Item 8: Documenting the actions taken by a contractor to comply with the audit and reporting system on the effectiveness of its AAP including actions taken to ensure compliance and remedial actions needed to bring a contractor into compliance with section 503 requirements. (41 CFR 60-741.44(h))
- Item 9: Documenting employment activity computations on total applicants, job openings, hires and for individuals with disabilities for a three-year period. (41 CFR 60-741.44(k))

¹³ See “Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals with Disabilities; Final Rule,” 78 Federal Register 185 (24 September 2013), pp.58682-58752 and “Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans, Veterans of the Vietnam Era, Disabled Veterans, Recently Separated Veterans, Active Duty Wartime or Campaign Badge Veterans, and Armed Forces Service Medal Veterans,” 78 Federal Register 185 (24 September 2013), pp. 58614-58679.

- Item 10: Documenting a utilization analysis for prior and current years that evaluate the representation of individuals with disabilities in the contractor's workforce. (41 CFR 60-741.45)
- Item 11: Documenting the results of the contractor's evaluation of the effectiveness of its outreach and recruitment efforts in VEVRAA (41 CFR 60-300.44(f))
- Item 12: Documenting the actions taken by a contractor to comply with the audit and reporting system on the effectiveness of its AAP, including actions taken to ensure compliance and remedial actions needed to bring a contractor into compliance with VEVRAA requirements. (41 CFR 60-300.44(h))
- Item 13: Documenting the employment activity computations on total applicants, job openings, hires and for protected veterans for a three-year period. (41 CFR 60-300.44(k))
- Item 14: Documenting the VEVRAA hiring benchmark and the methodology used to establish that hiring benchmark. (41 CFR 60-300.45(b)(2) 41 CFR 60-300.45)
- Item 21: Documenting the most recent assessment of a contractor's assessment of its personnel processes to ensure the processes do not limit the access of individuals with disabilities or protected veterans. (41 CFR 60-300.44(b) and 60-741.44(b))
- Item 22: Documenting the most recent assessment of physical and mental qualifications to ensure that to the extent that if job qualifications screen out individuals with disabilities or protected veterans, the job qualifications used are job-related and consistent with business necessity. (41 CFR 60-300.44(c) and 60-741.44(c))

Contractor Employment Leave Policies (Itemized Listing Item 8 - 2011 Proposal)

In its 2011 proposed Scheduling Letter and Itemized Listing, OFCCP sought to obtain copies of employment leave policies including, but not limited to, policies related to sick leave, medical leave, personal leave, leave for pregnancy, leave for pregnancy-related conditions, leave for religious holidays and observances, Family and Medical Leave, and other leaves of absence.

In the 30-day comment period, OMB received comments on the proposed changes outlined in Item 8 of the Itemized Listing on leave policies. Commenters supporting the proposal indicated that the request would enable OFCCP to identify indicators of discrimination that may otherwise go undetected. Commenters opposing the proposal indicated that the request was unnecessary as OFCCP had access to these policies during the compliance evaluation. Commenters also indicated that OFCCP's request for Family and Medical Leave Act (FMLA) information was outside OFCCP's jurisdiction.

OFCCP maintains its authority to review and analyze contractor personnel policies and procedures and such review does not constitute FMLA enforcement. The agency further asserts its authority to determine whether the policies discriminate based on sex, race, ethnicity, disability, or protected veteran status, and whether contractors are implementing policies in a manner that violates Executive Order 11246, section 503 or

VEVRAA. However, OFCCP has determined that such a review is unnecessary at the desk audit stage, particularly in light of the addition of new data requirements under section 503 and VEVRAA. Accordingly, OFCCP is eliminating from the 2014 revised Itemized Listing the requirement that contractors must provide copies of employment leave policies related to implementing family and medical leave, pregnancy leave, and leave for religious accommodation.

Employment Activity (Itemized Listing Item 11 - 2011 Proposal, Proposed Item 18)

In its 2011 proposed changes, OFCCP sought to collect employment activity such as applicants, hires, promotions, and terminations by job group and by job title, disaggregated by sex and five race/ethnic categories. During the 60-day and 30-day comment periods, OFCCP received several comments opposing the changes to this existing request for employment activity data. The opposing comments are categorized into the three groups below:

- the use of race/ethnic categories,
- the burden associated with providing data by both job title and job group, and
- the utilization of “applicant pools.”

Generally, commenters supporting the proposed changes believe the changes provide several enforcement benefits. They identify three clear benefits of the proposed changes:

- OFCCP will be able to give consideration to more factors that potentially influence personnel decisions,
- OFCCP will be able to conduct more precise inquiries, and
- OFCCP will have the data necessary to conduct more sophisticated data analysis that will reasonably ensure equal employment opportunity for workers and applicants.

OFCCP considered all comments received on its modified request for employment activity data. In forming its decision, OFCCP considered that contractors are already required to collect data on applicants, hires, promotions and terminations for each job title by gender, race, and ethnicity. The general record retention provisions at 41 CFR 60-1.12(c) provide that, for any record the contractor maintains, the contractor must be able to identify the gender, race, and ethnicity of each employee, and where possible, the gender race, and ethnicity of each applicant or Internet applicant. Thus, OFCCP has maintained in the current proposal the request for data by job group and job title as well as by sex and the five race/ethnic categories.

OFCCP’s proposed edit to the request for employment activity data by job title *and* job group¹⁴ was intended to allow for a more thorough desk audit during a compliance

14 OFCCP’s current Scheduling Letter and Itemized Listing requests employment activity by job group or job title.

evaluation. Using this additional data, OFCCP believed it could refine indicators of potential discrimination and as a result give better focus to its onsite investigation. Commenters asserted that the burden associated with providing data by both job title and job group was greater than OFCCP estimated because the request would require changes to their existing Human Resources Information Systems. Commenters argued that it would require additional start-up costs to either modify existing reports or create new reports. Considering these comments and its compliance evaluation process, OFCCP has modified this request to ask for data by both job group and job title to return to giving the contractors the option of providing the data by either job group or job title.

OFCCP initially proposed to request the actual pool of candidates for promotion and termination activities. OFCCP's intent in requesting actual pool was to better identify and refine potential indicators of discrimination during the desk audit. Commenters questioned the practicality of the requirement that contractors provide the actual pool of candidates who applied for or who were considered for promotion by their gender and race/ethnicity. They also questioned the requirement that contractors provide the actual pool of candidates considered for terminations by gender and race/ethnicity. The commenters claimed that unless an employer uses a bid system, decisions about promotions are typically made informally and employers, as a matter of practice, do not memorialize the pools or the results. Additionally, one commenter stated that the constituencies using the bid system are in production jobs typically found in unionized plants. Because the majority of the employees concerned are non-union, this demographic typically has low representation. Regarding actual pool data for terminations, one commenter argued that identifying the pool of candidates is only relevant for involuntary terminations resulting from downsizing. The commenter argued that those individuals terminated for cause are, in effect, the "pool." Another commenter asserted that the Uniform Guidelines on Employee Selection Procedures do not apply to terminations and that contractors should not be required to report voluntary terminations.

While OFCCP believes records of employment activity, including promotions and terminations, are essential tools in investigating potential discrimination, the agency acknowledges challenges that contractors face in providing pools of candidates for promotions and terminations. Thus, OFCCP is eliminating the pool data requirements for promotion and termination activity.

Thus taking into consideration the comments, OFCCP has modified its proposed scheduling letter to include the request for employment activity by job title or job group as well as by sex and the five race/ethnic categories

Compensation Data (Itemized Listing Item 12 - 2011 Proposal, Proposed Item 19)

In the September 2011 proposed revisions to the Scheduling Letter and Itemized Listing, OFCCP sought employee level demographic and annualized compensation data for full-time, part-time, contract and other categories of employees as of February 1. OFCCP also requested contractors provide policies related to compensation practices. During the 60-day and 30-day comment periods, OFCCP received many addressing this request.

Commenters supporting the proposal highlighted that the changes, if implemented, would be more effective in identifying pay discrimination. The commenters explained that individual compensation data allows OFCCP to identify differences in pay and examine whether or not there are legitimate reasons for the differences. As noted by these commenters, access to individualized compensation data will produce the below positive results.

- Better-informed assessments of contractors' compliance with EO 11246.
- Detailed information about potentially discriminatory practices, both systemic and individualized, which may otherwise be concealed when data is aggregated.
- Clearer information about, and an understanding of, a contractor's potentially discriminatory compensation system, (the how and why employees are being compensated).
- Properly classified workers who receive appropriate protections and benefits as the result of requiring compensation information for all employees, including full-time, part-time, contract, per diem or day labor and temporary workers.

Commenters opposed to the proposed changes fall into five categories:

- that the definition of employee, specifically that the definition in the proposal was broader than the definition in the current regulations;
- the burden associated with providing employee level compensation data is increased;
- there were confidentiality concerns surrounding the production of compensation data;
- the date of February 1, would cause contractors to take two snapshots of its workforce thus increasing burden; and
- the requirement to submit the data electronically was unrealistic and may adversely impact smaller contractors.

In response to the comments above, OFCCP broadly defines "employee" as a person employed by a Federal contractor, subcontractor or federally assisted construction contractor or subcontractor. Moreover, the current regulation at 41 CFR 60-2.1, which describes who is included in an AAP, does not refer to particular categories of employees, but rather refers generally to "employees." Accordingly, in sub-regulatory guidance OFCCP states that the term "employee," as used in the AAP regulations in part 60-2, is broad enough to include part-time, temporary and full-time employees. Therefore, OFCCP requires contractors to include part-time and temporary employees in

their AAPs. The proposed language in the compensation request does not change this longstanding requirement. Proposed Item 19 (formerly Item 12) seeks compensation data for “contract, per diem, or day laborers” as categories of temporary employees on the contractor’s payroll. This is not an expansion but a clarification of covered employees for reporting compensation data that supports enhanced data analysis.

OFCCP believes that the cumulative effect of changes in Item 19 (formerly Item 12) will be a net reduction in hours required to prepare the compensation data for a desk audit based on information submitted to OFCCP from contractors responding to the 2003 Compensation Questionnaire. The Compensation Questionnaire, the most recent relevant information currently available to us, indicates that contractors spent an average of 5.23 hours submitting compensation data requested in the previous Itemized Listing. The time accounted for gathering, grouping and analyzing the data before submitting it to OFCCP. The survey also showed that the time needed to report data by individual was 1.87 hours. The reporting by individual was a follow-up data request. Thus, OFCCP believes that by switching to a requirement for submission of individual data Item 19 (formerly Item 12) eliminates the need to gather, group, and analyze data. In short, the proposed change simplifies the requirement and reduces the burden.

Additionally, some commenters expressed confidentiality concerns surrounding the production of the compensation data. A commenter argued that the collection of compensation data would jeopardize sensitive information and another industry association commented that OFCCP should proactively seek to protect compensation data from disclosure. OFCCP’s longstanding policy is that it will not release data that is determined to be confidential or has the potential to subject the contractor to commercial harm if disclosed. This policy applies to the compensation information submitted in response to the Itemized Listing. Aside from a commitment to such a policy and an adherence to applicable provisions of the Privacy Act, OFCCP cannot provide the type of assurance of nondisclosure that would not be otherwise available by exemptions and special law enforcement record exclusions existing in the disclosure provisions of the Freedom of Information Act (FOIA).

Alternatively, one commenter argued that OFCCP should establish the protocol of returning the compensation data upon conclusion of the audit in order to avoid FOIA. OFCCP cannot return compensation data at the conclusion of the compliance evaluation. The documents submitted to OFCCP in response to the Scheduling Letter and Itemized Listing for the desk audit phase of the compliance review are considered “Federal records” within the meaning of the Federal Records Act, 44 U.S.C. Chapters 29, 31, and 33. Documents that are Federal records cannot be returned to the contractor even when they are no longer needed by OFCCP. Rather, as Federal records, the documents submitted for the desk audit must be disposed of according to the retention and disposition instructions specified in the agency’s records schedule and approved by the National Archives and Records Administration.

Furthermore, the commenter contended that the collection of compensation data on an individualized basis required “appropriate foundation.” OFCCP presumes that by

“appropriate foundation” the commenter means that OFCCP must have some indication of potential discrimination before it can request individualized compensation data. OFCCP’s compliance evaluation procedures, including the request for employee level compensation data, satisfy the constitutional requirements for administrative searches. When OFCCP requests that a contractor submit data for review off-site during the desk audit stage of a compliance review, the Fourth Amendment only requires that the disclosure sought be reasonable. *United Space Alliance, LLC v. Solis*, 824 F.Supp.2d 68 (DDC 2011)(citing *United States v. Morton Salt Co.*, 338 U.S. 632, 652-53 (1950)). A request is reasonable if it is “sufficiently limited in scope, relevant in purpose, and specific in directive so that compliance will not be unreasonably burdensome.”¹⁵

OFCCP requires written notification to contractors when the agency receives a FOIA request for contractor data. OFCCP will make no decision to disclose such documents until the contractor has an opportunity to submit objections to the release of the record or data. Moreover, OFCCP does not release data obtained during the course of a compliance evaluation until the investigation is complete. Furthermore, if the contractor is concerned with the confidentiality of information such as lists of employee names, reasons for termination, or pay data, then alphabetic or numeric coding or the use of an index of pay and pay ranges, consistent with the ranges assigned to each job group, are acceptable for purposes of the compliance evaluation, 41 CFR 60-1.20 (f). In light of privacy concerns raised by commenters, OFCCP revised this item to include a disclosure/confidentiality statement.

Commenters expressed concerns regarding the February 1st date for records of employee-level compensation data. Commenters argued that the February 1st start date is arbitrary and that there is no relationship between the data included on a W-2 form and the data that OFCCP requests. Furthermore, these commenters contended that this start date for compensation data together with a different AAP start date would result in two snapshots rather than one. The paramount aim of OFCCP’s selection of the February 1st start date was reducing burden to the contractor in terms of creating an additional compensation analysis that coincided with its AAP year. However, taking into account the input of contractors on this start date, OFCCP has revised the compensation data start date to correspond with the date of the workforce analysis in the contractor’s AAP.

After giving the comments thoughtful consideration, OFCCP has revised its proposed request for compensation information. In proposed Item 19 (formerly Item 12), OFCCP allows contractors to provide the data as of the date of the workforce analysis in its AAP. In addition, OFCCP recognizes that all contractors may not submit the data electronically and has modified its request to allow those that do not maintain it electronically to submit it in another manner. Finally, OFCCP clarified the request by specifying employees hours worked in a typical workweek rather than hours worked generally.

EEO-1 Reports

¹⁵ *United Space Alliance*, 824 F.Supp.2d 68 (DDC 2011) (quoting *Oklahoma Press Publishing Co. v. Walling*, 327 U.S. 186 (1946)); *Bank of America v. Solis*, 2011 WL 7394512 (DDC Dec. 13, 2011).

One commenter was critical of the requirement to provide three years of Employer Information Reports (EEO-1). This commenter argued such a collection was unnecessary and redundant with data the agency already has. OFCCP believes that the EEO-1 Report is critical to its evaluation process. Data currently available to the agency at the time of an evaluation can be as much as 24 months old. By having the contractor submit their copies of the documents, OFCCP is assured of having at the desk audit the most current EEO-1 Report data for the particular establishment under evaluation. OFCCP finds no reason to alter this item from its present phrasing nor does OFCCP feel it is pertinent to reduce the number of required EEO-1 Reports.

30-Day Submission Period

A commenter expressed disbelief regarding the feasibility of responding to the Scheduling Letter and Itemized Listing's new requirements and suggested extending the response time to 90 days. However, the 30-day submission period is required in the regulations. Moreover, the 30-day response time is generally sufficient for contractors to compile and submit data that they have maintained and analyzed in order to comply with the requirements of the regulations. The 90-day response period is undesirable because, in OFCCP's experience, some contractors will wait until they receive the Scheduling Letter to comply with their obligation to develop and update their AAPs.

Burden Analysis

During the 60-day and 30-day comment period, there were several comments related to OFCCP's calculation of burden. One commenter questioned whether OFCCP should have imposed the total estimated costs associated with compensation data through the rulemaking process rather than the paperwork clearance process. This commenter further argued that imposing these costs through rulemaking would have triggered the requirement under Executive Order 12866 that OFCCP conduct a cost-benefit analysis. However, OFCCP's authority to request compensation information is derived from Executive Order 11246 and existing implementing regulations. Furthermore, the compensation information requested comes from records that contractors are required to maintain under current regulations. Thus, OFCCP's proposed changes to the Scheduling Letter and Itemized Listing are consistent with the requirements of the Paperwork Reduction Act (PRA).

Additionally, Commenters suggested that OFCCP's estimates of the start-up costs and total costs to all establishments associated with Item 11, on employment activity as proposed in the 2011 submission to OMB and Item 12 on compensation data, were incomplete.¹⁶ In addition, a commenter contended the burdens of producing the data required in the revised Itemized Listing varies depending on the size of the responding firm, and the number of employees retained by the responding firm in particular. This commenter further asserted that burdens associated with providing the support data required in the Itemized Listing may be increased for larger firms.

¹⁶ Item 11 in the 2011 submission is now Item 18 in the proposed 2014 revised Scheduled Letter and Itemized Listing, while Item 12 on compensation data in 2011 is now Item 19 in the proposed 2014 revision.

In proposing revisions to its Scheduling Letter and Itemized Listing, OFCCP has revised its estimate of burden associated with this Information Collection Request. The current burden analysis takes into account the addition of items related to the new section 503 and VEVRAA data collections (an increase of 2.91 hours per contractor) as well as the modifications made to items requested (employment activity and compensation data) in the proposed September 2011 Scheduling Letter and Itemized Listing (a decrease of 3.36 hours per contractor). In addition, since the proposed September 2011 Scheduling Letter and Itemized Listing was published, OFCCP has revised its estimate of its universe of Federal contractor establishments to reflect EEO-1 filers for 2012. The universe used in the current proposal includes all contractor companies with 50 or more employees and a contract of \$50,000 or more. This universe includes VETS 100A filers that meet the requirements for developing AAPs.

OFCCP assessed the burden of contractor compliance with the revised Scheduling Letter and Itemized Listing and determined that, despite requesting additional information in several key areas, the burden hours decreased from 28.35 hours to 27.9 hours per contractor in its proposal. The primary reason for the decrease is the change in the request for compensation data included in the Itemized Listing from aggregated data to individual data. OFCCP believes that its calculation of burden is an accurate reflection of the recurring recordkeeping, reporting, operations and maintenance costs related to these requirements.

In considering whether larger contractors have a greater burden, OFCCP believes that the burden associated with gathering and producing an AAP and the supporting data does not primarily correlate to the size of the company, but rather the company's level of automation. As most large contractors are not first-time developers of annual AAPs, and have information technology systems to generate the data required by OFCCP regulations, OFCCP expects that the burden hours will not be significantly different for large contractors.

In addition to the comments on the time required to collect and analyze data, one commenter stated that OFCCP underestimates the number of first time contractors; specifically, health care providers were not included in the count of covered Federal contractors. In response, OFCCP based its determination of first time contractors by using its own case tracking system which showed an average of 1 percent of compliance evaluations were of first time contractors.

Thus, in considering the comments received in both the 60-day and 30-day periods, OFCCP has adopted some of the proposed alternatives. OFCCP believes that the alternatives adopted and the revisions made to its revised Scheduling Letter and Itemized Listing will be effective in assessing contractor compliance with their nondiscrimination and affirmative action obligations. OFCCP believes that finalizing the Scheduling Letter, Itemized Listing and Compliance Check Letter, as revised, enhances our ability to monitor contractor compliance with EO 11246, section 503, and VEVRAA.

9. GIFT GIVING

OFCCP provides neither payments nor gifts to respondents.

10. ASSURANCE OF CONFIDENTIALITY

Contractors who submit the required information may view it as extremely sensitive information. OFCCP will evaluate all information pursuant to the public inspection and disclosure provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552, and the Department of Labor's implementing regulations at 29 CFR Part 70. OFCCP requires that a contractor affected by a FOIA disclosure request be notified in writing and no decision to disclose information is made until the contractor has an opportunity to submit objections to the release of the information.

Furthermore, it is OFCCP's position that it does not release any data obtained during the course of a compliance evaluation until the matter is completed.

11. SENSITIVE QUESTIONS

Generally, OFCCP does not collect information of a personal nature, such as marital status, religious beliefs, or other matters commonly considered private during the course of a compliance evaluation. Where allegations of employment discrimination are present, such evidence may become relevant. Under such circumstances, OFCCP may seek evidence concerning the attitudes or biases of selecting officials regarding race, sex, color, religion, national origin, disability or veteran status, as appropriate. OFCCP has no set of standardized questions and the gathering of such data is unique to each investigation.

OFCCP regulations require contractors to list employees by sex and by race or ethnicity in their EO 11246 AAPs (see 41 CFR 60-2.11, 2.12, and 2.16). The contractor and the government require race, sex, and ethnicity data to evaluate the results of the contractor's affirmative action efforts. The data are also required to investigate for indicators of potential employment discrimination. No equal employment opportunity program could operate without such data. Generally, a contractor informs its employees that it collects and maintains race, sex, and ethnicity data strictly for purposes of meeting its nondiscrimination and affirmative action obligations.

A separate ICR covers employee complaint investigations approved by the OMB under OMB No. 1250-0002 – "Complaint of Discrimination in Employment Under Federal Government Contracts" (Form CC-4). Form CC-4 requires a description of an individual's disability, if disability discrimination is alleged. Consequently, OFCCP considers this a sensitive question. The disability information is necessary to establish jurisdiction under section 503 of the Rehabilitation Act of 1973, as amended. As noted in number 10 above, OFCCP assures compliance with the Privacy Act.

12. ESTIMATE OF INFORMATION COLLECTION BURDEN

The estimate of the information collection burden is broken down into recordkeeping and reporting. The following is a summary of the methodology for the calculation of the recordkeeping and reporting requirements for OFCCP's supply and service ICR, which includes the Scheduling Letter, Itemized Listing and Compliance Check Letter.

a. Recordkeeping Burden

OFCCP's regulations impose a recordkeeping burden for developing, updating, and maintaining AAPs for minorities and women.

The below calculations on hours needed to develop and update an AAP are based on contractor estimates of the hours required to update an AAP annually, and information provided by OFCCP field staff. OFCCP calculated recordkeeping hours for Professionals (Prof.) and Support Staff (Cler.) for the following three functions. The calculations also assume that there are 116,079 contractor establishments.

1) Initial Development of an AAP

OFCCP estimates that only 1 percent (or 1,161) of its 116,079 contractor establishments are first-time contractors developing initial AAPs. OFCCP assumes that it takes contractors a variable amount of time to develop an AAP. The hours may vary by size of the contractor's workforce, with the larger workforce requiring more time to perform this task, and the degree to which the contractor uses information technology or automation. Specifically, OFCCP estimates the following burden hours for developing an AAP:

- 73 hours for contractors with 1-100 employees;
- 91 hours for contractors with 101-150 employees;
- 144 hours for contractors with 151-500 employees; and
- 186 hours for contractors with more than 501 employees.

This is a weighted average¹⁷ of 91.67 hours. Below is the calculation of the estimated burden hours required for this activity.

$$1,161 \times 91.67 \text{ hours} = 106,429 \text{ hours}$$

2) Annual Update of an AAP

Similarly, OFCCP estimates that it takes the remaining 99 percent of existing contractors a variable amount of time to update an AAP. OFCCP estimates the following burden hours for updating an AAP:

- 18 hours for contractors with 1-100 employees;
- 35 hours for contractors with 101-150 employees;
- 78 hours for contractors with 151-500 employees; and
- 105 hours for contractors with more than 501 employees.¹⁸

¹⁷ The weighted average takes into consideration the number of contractors in each of the size categories (1-100), (101-149), (150-500), and (more than 501) and the related requirements.

¹⁸ In previous submissions, OFCCP provided a separate calculation for contractors with more than 1,001 employees. OFCCP has combined this category with employers of 501 to 1,000 employees due to increase

This is a weighted average of 33.70 hours per contractor.¹⁹ OFCCP calculates the total burden for updating an AAP as follows:

$$114,918 \times 33.70 \text{ hours} = 3,872,737 \text{ hours}$$

3) Maintenance of an AAP

OFCCP estimates that the hours required to maintain an AAP are the same as the amount necessary to accomplish the annual update, 3,911,862 hours (without reducing the 1 percent for new contractors)²⁰

4) Uniform Guidelines on Employee Selection Procedures

Four Federal agencies, in addition to OFCCP, use the Uniform Guidelines on Employer Selection Procedures (UGESP). However, nearly all of the burden hours are associated with OFCCP, EEOC, and the DOJ; the OPM assumed little if any burden related to the collection and retrieval of employment data required under UGESP.

The EEOC, under OMB Number 3046-0017, accounts for all employers with 15 or more employees. Federal contractors with 1 - 14 employees are subject to OFCCP's recordkeeping requirements. Based on the figures used by EEOC, OFCCP estimates that, on average, contractors expend 2.18 hours meeting this obligation. Using EEO-1 Reports, OFCCP determined that 1,021 contractors employ 1 - 14 employees. This recordkeeping requirement is 1,021 contractors x 2.18 hours = 2,226 hours.

Recordkeeping Total

The below summary of the recordkeeping burden hours includes AAP development, updates and maintenance, and UGESP as discussed in the section.

106,429	Initial Development of an AAP
3,872,737	Annual Update of an AAP
3,911,862	Maintenance of an AAP
<u>2,226</u>	UGESP Recordkeeping
7,893,254	Total Recordkeeping Burden Hours

b. Reporting Burden

In addition to recordkeeping hours, OFCCP calculated the reporting burden hours for its Scheduling Letter and Itemized Listing, and Compliance Check Letter. These calculations assume that OFCCP conducts an average of 3,774 compliance evaluations annually. Although OFCCP previously included an estimate of burden hours for the filing of the EEO-1 Report by contractors with 50 or more employees, the Information

efficiencies in technology. OFCCP believes that a contractor with more than 1,001 employees will expend no more hours than a contractor of 501 employees.

¹⁹ The weighted average takes into consideration the number of contractors in each of the size categories (1-100), (101-149), (150-500), and (more than 501) and the related requirements.

²⁰ See the above discussion in paragraph 12a(2), Annual Update of an AAP. Maintenance of an AAP includes, for example, data collection during the 12-month AAP cycle.

Collection submitted by EEOC and approved under OMB No. 3046-0007 accounts for all burden hours associated with the filing of the EEO-1 Report. Therefore, OFCCP no longer includes EEO-1 Report hours as part of its reporting burden.

1) Scheduling Letter and Itemized Listing

The Scheduling Letter and Itemized Listing provide the contractor with notice that it was selected for a compliance evaluation and requests submission of AAPs and supporting employment activity and compensation data.

OMB considers the assembling of the requested material and its submission to be a reporting requirement subject to the burden hour calculation required by the Paperwork Reduction Act. To determine burden hours reported, OFCCP gathered information from its 2003 Compensation Questionnaire and submitted this data to OMB in the 2004 ICR documentation. OFCCP sent the Compensation Questionnaire to contractors and measured the executive and administrative hours used to respond to data requested on OFCCP’s Itemized Listing. Based on the Compensation Questionnaire data, OFCCP estimated that, on average, a contractor devotes 28.35 hours to assembling and submitting data.

OFCCP is proposing to revise its Scheduling Letter and Itemized Listing to include the revisions made in the 2011 proposal, taking into account comments in both the 30-day and 60-day comment periods, and to incorporate the analyses and data collections included in the recently revised section 503 and VEVRAA regulations. Proposed revisions in the body of the Scheduling Letter were made for clarity and do not affect the overall burden hours. The chart below details the changes. These proposals should streamline and support quality compliance evaluations and make the most efficient use of contractor and OFCCP resources. Burden estimates below reflect both OFCCP’s 2011 proposals and its proposed 2014 revisions.

Item # Based on the Proposed 2014 Submission	Estimated Reporting Burden (hours/contractor)	Explanation
EO 11246, section 503, VEVRAA AAPs and Itemized Listing Items 1 through 6	28.35	This reflects the time a contractor takes to assemble and submit the information requested in the Scheduling Letter and Itemized Listing.

Item # Based on the Proposed 2014 Submission	Estimated Reporting Burden (hours/contractor)	Explanation
Proposed Itemized Listing Item 7	0.25	<p>This proposed item incorporates the requirements of the newly revised section 503 regulations.</p> <p>OFCCP estimates that assembling and submitting the results of the evaluation of effectiveness of outreach and recruitment efforts for individuals with disabilities (41 CFR 60-741.44(f)) will take contractors 15 minutes.</p>
Proposed Itemized Listing Item 8	0.25	<p>This proposed item incorporates the requirements of the newly revised section 503 regulations.</p> <p>OFCCP estimates that the assembling and submitting of the documentation of the audit and reporting system for individuals with disabilities (41 CFR 60-741.44(h)) will take contractors 15 minutes.</p>
Proposed Itemized Listing Item 9	0.33	<p>This proposed item incorporates the requirements of the newly revised section 503 regulations.</p> <p>OFCCP estimates that the assembling and submitting of the documentation of the computations and comparisons of employment activity described in 41 CFR 60-741.44(k) will take contractors 20 minutes.</p>
Proposed Itemized Listing Item 10	0.25	<p>This proposed item incorporates the requirements of the newly revised section 503 regulations.</p> <p>OFCCP estimates that the assembling and submitting of the documentation of utilization analysis evaluating the representation of individuals with disabilities described in 41 CFR 60-741.45 will take contractors 15 minutes.</p>

Item # Based on the Proposed 2014 Submission	Estimated Reporting Burden (hours/contractor)	Explanation
Proposed Itemized Listing Item 11	0.25	<p>This proposed item incorporates the requirements of the newly revised VEVRAA regulations.</p> <p>OFCCP estimates that the assembling and submitting of documentation of the results of the evaluation of effectiveness of outreach and recruitment efforts for individuals with disabilities (41 CFR 60-300.44(f)) will take contractors 15 minutes.</p>
Proposed Itemized Listing Item 12	0.25	<p>This proposed item incorporates the requirements of the newly revised VEVRAA regulations.</p> <p>OFCCP estimates that the assembling and submitting of the documentation of the audit and reporting system for individuals with disabilities (41 CFR 60-300.44(h)) will take contractors 15 minutes.</p>
Proposed Itemized Listing Item 13	0.33	<p>This proposed item incorporates the requirements of the newly revised VEVRAA regulations.</p> <p>OFCCP estimates that the assembling and submitting of the documentation of the computations and comparisons described in 41 CFR 60-300.44(k) will take contractors 20 minutes.</p>
Proposed Itemized Listing Item 14	0.25	<p>This proposed item incorporates the requirements of the newly revised VEVRAA regulations. OFCCP estimates that the assembling and submitting of the documentation of the methodology used and results of the contractor's comparison of its hiring benchmark as described in 41 CFR 60-300.45 will take contractors 15 minutes.</p>
<p>Itemized Listing Item 15 EEO-1 Report</p> <p>(Item 7 in the 2011 submission and in 2008 authorization)</p>	0	No Change

Item # Based on the Proposed 2014 Submission	Estimated Reporting Burden (hours/contractor)	Explanation
<p>Itemized Listing Item 16</p> <p>(Item 9 in the 2011 submission and Item 8 in 2008 authorization)</p>	<p>0</p>	<p>OFCCP clarifies the current request for a contractor’s collective bargaining agreement(s) and other information by defining the term “other information.”</p> <p>OFCCP estimates that this change to the Itemized Listing does not result in a change to the burden hours for this item.</p>
<p>Itemized Listing Item 17</p> <p>(Item 10 in the 2011 submission and Item 9 in the 2008 authorization)</p>	<p>0</p>	<p>OFCCP clarifies the current request by adding “immediate” before the term “preceding year.”</p> <p>OFCCP estimates that this change to the Itemized Listing does not result in a change to the burden hours for this item.</p>
<p>Itemized Listing Item 18</p> <p>(Item 11 in the 2011 submission and Item 10 in the 2008 authorization)</p>	<p>0</p>	<p>OFCCP modifies the 2008 employment activity request to ask for demographic information by racial/ethnic categories in order to reflect the current requirements. Contractors are currently required to collect employment activity by race/ethnic categories. In OFCCP’s experience, the AAP’s it currently receives do include employment activity data with race/ethnic categories identified. Thus, OFCCP estimates that there will be no change in burden from the 2008 authorization, thus no new burden is assumed.</p>

Item # Based on the Proposed 2014 Submission	Estimated Reporting Burden (hours/contractor)	Explanation
<p>Itemized Listing Item 19</p> <p>(Item 12 in 2011 submission and Item 11 in the 2008 authorization)</p>	<p>(3.36)</p>	<p>OFCCP modified its 2011 request for compensation data by changing the date of the “snap shot” to correspond with the date of the employer’s workforce analyses; seeking employee compensation data that includes employees hours worked in a typical workweek rather than hours worked generally; and changing the request related to electronic submission in Excel format from “if available” to “if maintained electronically.”</p> <p>OFCCP believes that the more precise data will allow OFCCP to perform specific analyses and pinpoint possible discrimination based on race or sex; and that the request for individual employee data simplifies the current request in which contractors must aggregate and analyze the individual data into groups.</p> <p>As a result, OFCCP estimates that the burden for contractors to assemble and submit the compensation data decreases by 3.36 hours.</p>
<p>Proposed Itemized Listing Item 20</p> <p>(Item 13(b) in the 2011 submission)</p>	<p>0.25</p>	<p>This proposed item incorporates the requirements of the newly revised section 503 regulations.</p> <p>OFCCP estimates that assembling and submitting reasonable accommodation policies and records of requests and their resolution will take contractors 15 minutes. The 2011 request was for policies and records of granted requests.</p>
<p>Proposed Itemized Listing Item 21</p>	<p>0.25</p>	<p>This proposed item is added to incorporate the requirements of the newly revised section 503 and VEVRAA regulations.</p> <p>OFCCP estimates that assembling and submitting of the documentation of a contractor’s most recent assessment of personnel processes as required by 41 CFR 60-300.44(b) and 60-741.44(b) will take contractors 15 minutes.</p>

Item # Based on the Proposed 2014 Submission	Estimated Reporting Burden (hours/contractor)	Explanation
Proposed Itemized Listing Item 22	0.25	<p>This proposed item is added to the Itemized Listing to incorporate the requirements of the newly revised section 503 and VEVRAA regulations.</p> <p>OFCCP estimates that assembling and submitting of the documentation of a contractor's most recent assessment of physical and mental qualifications as required by 41 CFR 60-300.44(c) and 60-741.44(c) will take contractors 15 minutes.</p>
Total Estimate of Burden	27.9	

In addition to these modifications and additions in the 2014 submission, OFCCP is eliminating two items that it requested in 2011, Item 13a for VETS 100/100A data, and Item 8 seeking leave policies.

The overall burden hour changes per contractor are as follows:

Hours per Contractor	
28.35	Items 1-6, 15 through 18 ²¹
2.91	Items 7-14 and 20-22 ²²
<u>(3.36)</u>	Item 19
27.9	Total Proposed Burden

OFCCP estimates that contractors will expend an average of 27.9 hours responding to the Scheduling Letter. Therefore, the total reporting burden is 3,774 x 27.9 = 105,295 hours.

2) Compliance Check Letter

The Compliance Check Letter is a limited purpose evaluation of the contractor's establishment to determine whether the contractor has maintained records consistent with 41 CFR 60-1.12. Contractors have the option to provide the documents either during an on-site or off-site.

21 Items 1-6, and Item 15 - 18 are existing Executive Order 11246 obligations and their burden hours are unchanged by the proposed revised Scheduling Letter and Itemized Listing. However, Item 19 is also an Executive Order item but its hours would change.

22 Items 7-10 propose changes to incorporate the new requirements of the Final Rule in Section 503 published in the Federal Register in September 2013; Items 11-14 propose changes to incorporate the new requirements of the Final Rule in VEVRAA that published in the Federal Register in September 2013; and Items 20-22 propose changes to incorporate the new requirements under both Section 503 and VEVRAA.

OFCCP has not scheduled any Compliance Checks in the past four years, therefore, the burden hours are zero.

Reporting Total

The below is a summary of the reporting burden hours for this ICR.

0	SF-100/EEO-1 Report
105,295	Scheduling Letter and Itemized Listing
0	Compliance Check
<hr/>	
105,295	Total Reporting Burden Hours

c. Third Party Disclosure Burden

OFCCP's third party disclosure burden hours are based on 41 CFR 60-1.4(a)(3), 60-300.5(a) 10, 60-741.5(a)5, which require contractors to notify its labor organizations that it must comply with EO 11246, section 503, and VEVRAA. Contractors may notify the organizations by mail, telephone, facsimile, or e-mail. Assuming it takes 30 minutes to compose and 30 minutes to distribute written notification by mail to its labor organizations. OFCCP estimates an average of 1 hour per contractor establishment or 215,482 hours for notifying labor organizations. This may be an overestimation because it assumes all contractors are notifying unions and the notifications are sent by United States Postal Service mail, which takes longer than electronic distribution

Third Party Disclosure Total

<hr/>	116,079	Annual Total
	116,079	Total Third Party Disclosure Burden Hours

The sum of the recordkeeping, reporting and third party disclosure burden in the Burden Change Summary is 15,286,495 hours.

	7,893,254	Total Recordkeeping Burden Hours
	105,295	Total Reporting Burden Hours
<hr/>	116,079	Total Third Party Disclosure Burden Hours
	8,114,628	Total Recordkeeping, Reporting, and Third Party Disclosure Burden Hours

d. Annualized Cost of the Burden Hours to Contractors

The contractors' estimated annualized cost is based on Bureau of Labor Statistics data in the publication, "Employer Costs for Employee Compensation" - September 2013, which lists total compensation for management, professional, and related occupations as \$51.74 per hour and administrative support as \$24.49 per hour.²³ OFCCP estimates that 52 percent of the burden hours will be management, professional, and related occupations

23 http://www.bls.gov/news.release/archives/ecec_12112013.htm

(Mgmt. Prof.) and 48percent will be administrative support (Adm. Supp.).²⁴ OFCCP has calculated the total estimated annualized cost as follows:

$$\text{Mgmt. Prof. } 8,114,628 \text{ hours} \times .52 \text{ hours} \times \$51.74 = \$218,322,443$$

$$\text{Adm. Supp. } 8,114,628 \text{ hours} \times .48 \text{ hours} \times \$ 24.49 = \$95,389,075$$

$$\text{Total annualized cost estimate} = \$313,711,518$$

Estimated average cost per establishment is: $\$313,711,518/116,079 = \$2,703$

13. ANNUAL OPERATION AND MAINTENANCE COST BURDEN TO RESPONDENTS

OFCCP estimates that contractors will have some operations and maintenance costs associated with this collection. In OFCCP’s experience, approximately 50 percent of contractors respond to the Scheduling Letter and Itemized Listing request by email and 50 percent respond by mail. Thus, of the 3,774 contractors scheduled, 1,887 will send their AAPs and supporting documentation by mail.

For those contractors that respond by mail, OFCCP estimates that they will copy their AAPs at an average cost of \$0.08 per page.

In addition, OFCCP estimates the average size of an AAP and supporting documentation to be 60 pages, an increase in 27 pages from the prior submission. This increase is due to the changes in the requirements to provide data by job title and job group, and the newly revised section 503 and VEVRAA regulations. The estimated total copying cost to contractors is \$9,058 (60 pages x \$0.08 x 1,887 = \$9,058).

In addition, OFCCP estimates an average mailing cost of \$19.99 per contractor. The total mailing cost for contractors will be $\$19.99 \times 1,887 = \$37,721$. Moreover, OFCCP estimates an average mailing cost of \$.70 per contractor for notifying labor organizations. The total mailing cost to labor organizations would be $\$.70 \times 116,079 = \$81,255$.

The total estimated costs would be $\$9,058 + \$37,721 + \$81,255 = \$128,034$ or \$1.10 per contractor establishment ($\$128,034/116,079$ contractor establishments).

14. ESTIMATE OF COST TO FEDERAL GOVERNMENT

OFCCP has estimated the cost to the Government as follows:

$$12 \text{ Hours per Compliance Check} \quad \times \quad 0 \text{ Compliance Checks} \quad = \quad 0 \text{ Hours}$$

²⁴ Fifty-two percent equals 4,219,607 hours, and 48 percent is 3,895,021.

32 Hours per Desk Audit X 3,774 Compliance Evaluations = 120,768 Hours

TOTAL	
HOURS	120,768

OFCCP estimates the hourly rate at \$33.30 (GS-12, step 1), annual salary of \$69,497, based on the Office of Personnel Management’s 2014 Salary Table for the Rest of the U.S consisting of the portions of the lower 48 United States not located within another locality pay area as defined by the Office of Personnel Management. The total cost would be \$33.30 per hour x 120,768 hours = \$4,021,574. This dollar amount is part of the normal cost of OFCCP’s enforcement work at the field level.

15. CHANGES IN BURDEN HOURS

OFCCP is requesting OMB approval of 8,114,628 burden hours. The 2008 clearance contains approval of 10,045,984 hours. The proposed 2014 estimate represents a net decrease of approximately 17 hours per contractor. We attribute this decrease to two factors. First, the reduction in the burden hours related to contractors developing, updating and maintaining AAPs. Based on OFCCP’s field experience, increasing numbers of contractors are using automated systems to track data and develop AAPs, thus the burden associated with these activities were adjusted downward between 2008 and 2011 to reflect the changes in technology.²⁵ The second factor is a reduction in the number of small contractors (1-14 employees) required to comply with UGESP. The sum of the recordkeeping, reporting and third party disclosure burden is 71 hours per contractor establishment.²⁶ A summary of the change in hours is below.

a. Recordkeeping Burden Hours

1) Initial Development of AAP:

The previous submission in 2008 included 109,098 hours. The current 2014 request is 106,429 for an adjustment decrease of 2,669 hours.

2) Annual Updating of AAP:

The previous 2008 submission included 4,818,517 hours. The current request is 3,872,737 for an adjustment decrease of 945,780 hours.

3) Maintenance of AAP:

²⁵ In its 2008 request, OFCCP estimated it took contractors 110.2 hours to develop an AAP and 49.15 hours to update an AAP and the same number of hours to maintain an AAP. Due to improvements in technology and a greater number of contractors using these technologies, in its 2011 (and 2014) requests OFCCP estimated it took 91.67 hours to develop an AAP and 33.7 hours each for updating and maintaining an AAP.

²⁶ The burden hours for each contractor establishment are determined by dividing the total hours (8,114,628) by the contractor establishment pool of 116,079.

The previous 2008 submission included 4,867,189 hours. The current request is 3,911,862 for an adjustment decrease of 955,327 hours.

4) Uniform Guidelines on Employee Selection Procedures:

The previous submission included 12,535 hours. The current request is 2,226 hours for an adjustment decrease of 10,309 hours.

b. Reporting Burden Hours

1) Standard Form 100

The number of report filers chargeable to OFCCP was zero in the previous submission and remains at zero in the current submission. Therefore, OFCCP has no changes in this category.

2) Scheduling Letter

The burden hours estimate decreases from 139,567 hours to 105,295 hours because the number of compliance evaluations requiring the use of the Scheduling Letter and Itemized Listing decreases by 1,149 (from 4,923 to 3,774). Thus, fewer contractor establishments receive Scheduling Letters. In addition, the burden hours for contractors receiving a scheduling letter also decrease from 28.35 hours in 2008 to 27.9 hours in 2014 because OFCCP has modified its request for compensation data by eliminating the request for summarized compensation data.

The overall burden hours associated with contractors receiving Scheduling Letters and Itemized Listings, therefore, decreases by 34,272 hours.²⁷ This is because the number of contractor establishments receiving Scheduling Letters decreased and the modifications to the items requested.

3) Compliance Check Letter

The previous submission included 50 hours for compliance checks. This submission requests no hours, for an adjustment decrease of 50 hours.

c. Third Party Disclosure Burden Hours

The third party burden hour estimate increased from 99,028 hours to 116,079 hours. The adjustment increase is 17,051 hours, which reflects the increase in the number of supply and service contractor establishments.

16. STATISTICAL USES AND PUBLICATION OF DATA

OFCCP does not publish the data collected by way of the items contained in this request as statistical tables.

²⁷ This is the difference between 139,567 burden hours and 105,295 hours for 2008 and 2014, respectively (28.35 hours x 4923 compliance evaluations minus 27.9 hours x 3774 compliance evaluations).

17. APPROVAL NOT TO DISPLAY THE EXPIRATION DATE

OFCCP is not seeking such approval. OFCCP displays the expiration date and OMB number on its scheduling letter.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

OFCCP is able to certify compliance with all provisions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.