

**DEPARTMENT OF LABOR, OFCCP  
OFFICE RECORDKEEPING and REPORTING REQUIREMENTS – 29 U.S.C. 793  
SECTION 503 OF THE REHABILITATION ACT OF 1973, AS AMENDED,  
29 U.S.C. 793**

**CONTROL NUMBER: 1250-0005**

**SUPPORTING STATEMENT A — JUSTIFICATION**

The Office of Federal Contractor 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”),<sup>1</sup>
- Section 503 of the Rehabilitation Act of 1973, as amended (referred to as section 503),<sup>2</sup> and
- The affirmative action provisions of the Vietnam Era Veterans’ Readjustment Assistance Act of 1974,<sup>3</sup> as amended, 38 U.S.C. 4212 (referred to as section 4212 or “VEVRAA”).

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 \$10,000 or more, 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 on the basis of disability, and requires contractors to take affirmative action to hire and promote qualified individuals with disabilities. Its requirements apply to federal contractors and subcontractors with a Government contract in excess of \$10,000.

Section 4212 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, protected veterans include special disabled veterans, Vietnam era veterans, recently separated veterans, and “other protected

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<sup>11</sup> 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. The EO 11246 regulations applicable to construction contractors are published at 41 CFR part 60-4.

<sup>2</sup> The regulations implementing section 503 are published at 41 CFR part 60-741.

<sup>3</sup> The regulations implementing section 4212 are currently published at 41 CFR parts 60-250 and 60-300. However, OFCCP has recently published a final rule revising the part 60-300 regulations and rescinding part 60-250 as obsolete. See \_\_\_ FR \_\_\_ ( ).

veterans” as specified in the regulations. For contracts of \$100,000 or more entered into or modified after December 1, 2003, protected veterans include disabled veterans, recently separated veterans, Armed Forces Service Medal Veterans, and “other protected veterans” as specified in the regulations.

OFCCP currently has divided the obligations under these authorities into three functional areas for the purposes of the agency’s information collection requests (ICR) approved by the Office of Management and Budget (OMB): construction (OMB No. 1250-0001); non-construction (also referred to as “supply and service”) (OMB No. 1250-0003); and VEVRAA (OMB No. 1250-0004). OMB No. 1250-0004 also covers the section 503 program.

Pursuant to the issuance of a final rule publishing revisions to the current section 503 implementing regulations, this ICR seeks approval of a separate OMB Control Number that covers certain section 503 recordkeeping requirements. OFCCP promulgated the final rule and the information collection requirements contained therein in accordance with the Administrative Procedure Act.

## **1. Legal & Administrative Requirements**

This information collection request supports a final rule revising the regulations implementing section 503. 41 CFR part 60-741 of these regulations sets forth the nondiscrimination and affirmative action obligations of federal contractors and subcontractors that have 50 or more employees, and a contract of \$50,000 or more. We discuss the specific sections of the revised part 60-741 that include information collection requirements below.

Section 60-741.42 outlines the requirements for contractor’s obligations to invite individuals to self-identify as a person with a disability.

Section 60-741.44 describes the required contents of a contractor’s written affirmative action program. Contractors must develop and include an equal employment opportunity policy statement in the program and periodically review their personnel processes to ensure that individuals with disabilities are provided equal employment opportunity. The regulations also require contractors to assess the effectiveness of their efforts to reach out to and recruit individuals with disabilities. Further, contractors must disseminate their affirmative action policy internally and externally and establish an audit and reporting system to measure the effectiveness of their affirmative action program. Contractors are required to maintain material evidence that demonstrates compliance with these requirements.

Section 60-741.45 establishes a national goal for the employment of individuals with disabilities by contractors, sets out the process contractors will use to assess whether the goal has been met, and requires contractors to maintain records of their assessment.

## **2. USE OF MATERIALS**

Section 60-741.42 outlines the requirements for contractors' obligations to invite individuals to self-identify as a person with a disability. This process enables the contractor and OFCCP to collect valuable data on the number of individuals with disabilities who apply for, are hired into, or are employed in federal contractor positions. . Applying the seven percent utilization goal to this data allows for assessment of the effectiveness of the contractor's recruitment and affirmative action efforts over time, and promotes successful recruitment and affirmative action.

The form that contractors will use to invite voluntary self-identification of disability includes a field for applicants and employees to provide their name and the date. This is included to enable contractors to identify the job groups into which individuals should be placed when performing their utilization analysis. Identification by name will also enable OFCCP to verify the accuracy of a contractor's utilization analysis during a compliance evaluation.

Section 60-741.44 describes the required contents of a contractor's written affirmative action program. During a compliance evaluation, OFCCP reviews the contractor's affirmative action program 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.

Section 60-741.45 requires contractors to establish a national goal for the employment of individuals with disabilities by contractors, sets out the process contractors will use to assess whether the goal has been met, and requires contractors to maintain records of their assessment. This requirement provides contractors and OFCCP with a yardstick to objectively measure the success of nondiscrimination and affirmative action efforts.

### **3. IMPROVED INFORMATION TECHNOLOGY**

In general, under OFCCP regulations each contractor develops its own methods for developing and maintaining information. The vast majority of government contractors and subcontractors are repeat contractors. Since they are subject to the OFCCP regulatory requirements year after year, most have developed their information technology systems to generate the data required by OFCCP regulations. They are free to change their information systems as they wish as long as they can retrieve the required data. Further, each contractor designs its own affirmative action program format to suit its particular business circumstances. The physical size of an affirmative action program may vary depending on the size and complexity of the contractor's organization.

We believe that advances in technology make contractor compliance with our recordkeeping and reporting requirements easier and less burdensome. Therefore, OFCCP permits contractors to create an electronically fillable version of the self-identification form provided that the electronic form meets certain minimum requirements. A contractor-created e-form must: 1) display the OMB control number

and expiration date; 2) contain the text of the form without alteration; 3) use a sans-serif font, such as Calibri or Arial; and 4) use at least 11-pitch for font size (with the exception of the footnote and burden statement, which must be at least 10-pitch in size). These requirements will ensure the form's consistency of appearance, ease of readability, and accessibility (*e.g.*, compatibility with screen reading technology). By using the OMB number and date, job applicants and employees know that the form is an officially approved government form.

OFCCP has accounted for the burden of making the form electronically fillable in the capital and startup costs for this information collection. We also estimate that it will take individuals the same amount of time to fill the form out because the text and fillable information will be identical. The only difference will be between using a pencil and clicking a button.

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

The reporting and recordkeeping requirements contained in this request result exclusively from the implementation of section 503. This authority uniquely empowers 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 law and regulations requiring Government contractors to take affirmative action to ensure equal employment opportunity. No duplication of effort exists because no other Government agency has these specific data collection requirements. Where possible, OFCCP participates in information sharing and standardized requirements with other federal agencies.

While contractors maintain other employment data in the normal course of business, affirmative action programs under section 503 are unique in that contractors create them specifically to meet the requirements of OFCCP regulations. This comprehensive document is not available from any other source. Therefore, no duplication of effort exists.

#### **5. MINIMIZING BURDEN ON SMALL ORGANIZATIONS**

We minimize the information collection and recordkeeping burden on a significant number of small businesses by exempting contractor establishments with fewer than 50 employees from the affirmative action program requirement. However, once OFCCP's authority covers one contractor's establishment, all of its employees must be accounted for in an affirmative action program whether or not each of the contractor's establishments meet the minimum 50 employees threshold.

OFCCP also 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% utilization goal. This will decrease the burden of the utilization analysis.

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

The requirements outlined in this ICR ensure that covered federal contractors and subcontractors meet their equal opportunity obligations to individuals with disabilities as described in section 503. The nondiscrimination requirements and general affirmative action requirements of section 503 apply to all covered contractors. *See* 41 CFR 60-741.4. The requirement to prepare and maintain an affirmative action program, the specific obligations of which are detailed at 41 CFR 60-741.44, apply to those contractors with a Government contract in excess of \$50,000 and 50 or more employees.

If this information is collected less frequently, it could compromise OFCCP's enforcement of section 503 and its implementing regulations. OFCCP reviews contractor compliance through its compliance evaluation process. *See* 41 CFR 60-741.60. In order to accurately determine compliance, both OFCCP and the contractor must be able to analyze contractor actions taken and results obtained. Additionally, the data collection frequency for this ICR largely mirrors that of OFCCP's other programs, particularly the EO 11246 supply and service program, as section 503 compliance evaluations are conducted concurrently with that program.

As noted under the supply and service ICR (OMB No. 1250-0003), the older the data the greater the chances are that more qualified workers are victims of discrimination and that the discrimination continues for a longer period. A consequence of such older data may be that the scope of the violation, resulting harm 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 Notice of Proposed Rulemaking (NPRM) in the Federal Register on December 9, 2011 (76 Federal Register (FR) 77056), seeking comment on a number of proposals that would strengthen the regulations implementing section 503. The NRPM was published for a 60-day public comment period. The proposed regulations detailed specific actions that contractors and subcontractors would be required to satisfy to meet their section 503 obligations, including increased data collection obligations and the establishment of a utilization goal for individuals with disabilities. After receiving several requests to extend the public comment period, OFCCP published a subsequent notice in the Federal Register on February 10, 2012 (77 FR 7108), extending the public comment period an additional 14 days.

In addition to the NPRM public comment period, OFCCP previously issued an Advanced Notice of Proposed Rulemaking (ANPRM), 75 FR 43116 (July 23, 2010), requesting public comment regarding potential ways to strengthen the section 503 affirmative action

regulations. OFCCP also conducted multiple town hall meetings, webinars, and listening sessions with individuals from the contractor community, state employment services, disability organizations, and other interested parties to understand the features of the section 503 regulations that work well, those that can be improved, and possible new requirements that could help to effectuate the overall objective of increasing employment opportunities for individuals with disabilities with federal contractors. All of the feedback and public comments OFCCP received were carefully considered when developing the information collection requirements in the final rule and corresponding ICR.

OFCCP received more than 400 comments on the NPRM. Commenter's represented diverse perspectives including: 185 individuals; 105 contractors; 41 groups representing contractors; 48 disability and veterans' rights advocacy groups; and 11 governmental entities. OFCCP received approximately 130 comments concerning the overall burdens and costs of the proposed rule from industry groups, contractors, individuals and government entities. More than 25 comments generally stated that the proposed rule would overburden contractors. The remaining comments included more specific criticism on the impact that the proposed rule would have on businesses and OFCCP's proposed estimates of the costs. Most of these comments stated that OFCCP's estimates of costs and hours were too low. Commenter's also expressed concern regarding the impact that the proposed provisions would have on business functions by requiring contractors to collect data and engage in other personnel activities that they claimed would ultimately not lead to jobs for individuals with disabilities. Commenters especially emphasized the costs of modifications to existing human resources information systems (HRIS) in order to collect new categories of data on individuals with disabilities. In response to these concerns, OFCCP modified many of the information collection requirements and burden estimates in the final rule.

OFCCP received comments on the NPRM's estimate that 171,275 contractor establishments would be impacted by the rule. Commenters recommended using an establishment count of 285,390 based on the Veterans Employment and Training Service (VETS) annual report. OFCCP declines to exclusively rely on the VETS report number. However, for the purposes of this information collection request, OFCCP averaged the 171,275 with the 251,300 establishment figures to come up with a total of 211,287 establishments that will have to respond to the information collection requirements. The 251,300 establishment figure is based on 2010 VETS data from their pending information collection request.<sup>4</sup> All costs and hours in the information collection request are calculated using this adjusted number of federal contractor establishments. Further, the burden for several information collection requirements in the final rule is presented in ranges. These estimates are averaged for this information collection request.

The NPRM proposed substantial changes to §60-741.42 which requires contractors to invite hires to self-identify as an individual with a disability. The NPRM proposed adding a new pre-offer invitation to self-identify and an annual survey of all employees to this section. It also detailed proposed mandatory language for these invitations. Several

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<sup>4</sup>OMB Control Number 1293-0005, Federal Contractor Veterans' Employment Report, VETS - 100/VETS-100A , [http://www.reginfo.gov/public/do/PRAViewDocument?ref\\_nbr=201104-1293-003](http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201104-1293-003) (last accessed Aug. 13, 2013).

commenters expressed concern about the burden and costs of this information collection. Commenters asserted that the pre-offer invitation to self-identify would require substantial modifications to contractors' application systems. Commenters also expressed concern about the administrative costs associated with annually inviting all employees to self-identify.

The final rule adopts the proposed requirement to invite self-identification from applicants both before and after a job offer has been made, and to invite self-identification from employees on an annual basis. In response to the comments, OFCCP has simplified the language of the invitations and consolidated them into a single form entitled "Voluntary Self-Identification of Disability" for contractors to use when inviting self-identification. The final rule requires contractors to invite each of their employees to self-identify as an individual with a disability during the first year it becomes subject to the requirements of this section, and at five year intervals, thereafter. At least once during the years between each invitation, contractors must remind their employees that they may voluntarily update their disability status at any time. This should decrease the administrative time that contractors will need to spend putting policies and procedures in place to comply with these requirements.

OFCCP also made key changes to the recordkeeping requirements to minimize the burden on contractors. The NPRM proposed that contractors maintain data pursuant to §§ 60-741.44(f)(4) ( outreach and recruiting efforts) and 60-741.44(k) (collection of referral, applicant and hire data) for five years. More than 50 commenters opposed these provisions. Several of the commenters were particularly concerned with the burden associated with the five-year requirement. In response, OFCCP reduced the proposed five-year recordkeeping requirement to three years in the final rule. Further, in light of the comments we received, the final rule does not incorporate the proposal in § 60-741.44(k) of the NPRM to maintain data related to referrals from State agencies and other organizations. Commenters expressed concern with this requirement, indicating that state agencies either cannot provide data or provide data inconsistently across the states. In reviewing the practical utility of the referral data in light of the burden that it would create on contractors, OFCCP eliminated the proposed requirement. OFCCP also eliminated the requirement to calculate applicant and hiring ratios. Eliminating these requirements and reducing the length of recordkeeping minimize the burden on contractors, while still requiring contractors to keep adequate records to aid and inform their outreach and recruitment efforts.

The final rule eliminates several of the NPRM's proposed recordkeeping requirements for the affirmative action program. The final rule does not adopt the proposed requirement for contractors to document and maintain records of all of the activities it undertakes to internally disseminate the company's section 503 affirmative action policy. Similarly, the final rule removes the proposal to require contractors to document and maintain records of its efforts to train all personnel involved in recruitment and selection to ensure that the contractor's affirmative action program is implemented. These proposals would have required contractors to make and keep voluminous records, particularly large contractors that have thousands of employees.

The NPRM proposed a new section that would establish a single, national utilization goal for individuals with disabilities. The proposed section required contractors to analyze company data regarding individuals with disabilities to determine whether it has met the utilization goal, among other things. The NPRM also sought comment on whether there should be a sub-goal for individuals with certain severe “targeted” disabilities. Several commenters stated that establishing a utilization goal for individuals with disabilities would be extremely burdensome. Commenters asserted that the burden would be doubled if contractors had to establish a sub-goal. Further, commenters noted that the proposed provision would require a substantial amount of staff time to research and collect the data for the utilization analysis.

The final rule adopts the proposed utilization goal of 7%, now section 60-741.45, and corresponding utilization analysis. Supply and service contractors are already required to conduct a utilization analysis. *See* 41 CFR 60-2.15(a). These contractors should have some mechanisms in place to conduct this analysis efficiently. However, OFCCP estimates some initial capital and start-up costs for contractors to modify their systems and put procedures in place to add disability to their annual workforce utilization analysis. OFCCP 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% utilization goal.

Finally, the NPRM proposed requiring contractors to develop and implement written procedures for processing requests for reasonable accommodation and prescribed specific mandatory elements that the procedures must contain. This proposal prompted strong support and strong criticism from commenters. After consideration of the comments, OFCCP decided not to require the development of written reasonable accommodation procedures. Instead, the final rule identifies having written reasonable accommodation procedures as a best practice for Federal contractors.

## **9. GIFTGIVING**

OFCCP makes no payments nor gives gifts to respondents.

## **10. ASSURANCE OF CONFIDENTIALITY**

Federal contractors who submit the documentation required by this information collection may view it as extremely sensitive information. While the rule provides no express confidentiality assurance, 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 as a matter of policy. OFCCP requires that contractors affected by a FOIA disclosure request be notified in writing and that no decision to disclose information be 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**

Section 503 requires contractors to provide a form to applicants and employees asking them to voluntarily self-identify as an individual with a disability and informing them of their right to request reasonable accommodation, if it is needed. This data is necessary to enable OFCCP to assess contractors' compliance with section 503 and ensure that individuals with disabilities are being accorded equal employment opportunity. . The information will also enable contractors to determine whether they are meeting the goal for the employment of qualified individuals with disabilities and assess the success of their efforts to reach out to and recruit such individuals with disabilities. . The form states clearly that the submission of the requested information is voluntary, and that the data is collected and maintained strictly for affirmative action purposes and will otherwise be kept confidential. Race and sex data are not required under the section 503 regulations.

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

OFCCP's new information collection request under Control Number 1250-0005 for section 503 includes the burden hours and costs for the new information collection requirements outlined in the final rule. This presentation also separately states existing requirements that are currently approved under OMB Control Number 1250-0004. Many of the information collections in the section 503 final rule mirror revisions contained in a recent final rule revising the VEVRAA implementing regulations (cite). In consideration of the fact that contractors will, thus, already be required to perform certain activities, OFCCP eliminated the burden in this analysis for provisions that mirror requirements in 41 CFR part 60-300. OFCCP also decreased the burden for one-time or capital and start-up costs that are substantially similar to those that are already required under the VEVRAA final rule.

### **A. Information Collections**

OFCCP's new information collection request under Control Number 1250-0005 for section 503 includes the burden hours and costs for the new information collection requirements outlined in the final rule. The burden for several information collection requirements in the final rule are presented in ranges. These estimates are averaged for the purposes of this information collection request.

#### **New Standard Form – Voluntary Self-Identification of Disability**

This information collection package requests approval of a new standard form entitled "Voluntary Self-Identification of Disability." Pursuant to § 60-741.42, contractors will use this standard form to invite applicants, hires and employees, to identify as an individual with a disability pre-offer, post-offer, and through an invitation to all

employees.

Section 60-741.42(a) requires contractors to extend a pre-offer invitation to self-identify as an “individual with a disability.” OFCCP estimates that contractors working at the company level will take 1.5 hours to review and retrieve existing sample invitations to self-identify, adopt the sample “as is” or make revisions to their existing form, save the invitation to self-identify and incorporate the document in the contractor’s application form.<sup>5</sup> The burden for this provision is 85,656 hours (57,104 contractor companies x 1.5 hours = 85,656 hours).

Applicants for available positions with covered Federal contractors will have a minimal burden complying with § 60-741.42(a) in the course of completing their application for employment with the contractor. Section 60-741.42(a), on pre-offer self-identification, requires contractors to invite all applicants to self-identify whether or not they are a protected veteran. OFCCP estimates that there will be an average of 24 applicants per job vacancy for on average 15 vacancies per year. OFCCP further estimates that it will take applicants approximately 5 minutes to complete the form. The burden for this provision is 6,338,610 hours (211,287 contractor establishments x 15 listings x 24 applicants x 5 minutes/60 = 6,338,610 hours). This is a third-party disclosure.

OFCCP estimates that it will take contractors 1.5 hours to conduct the invitation to self-identify survey. This includes the time needed to set up procedures to conduct the invitation, distribute communications, and collect and track self-identification forms. OFCCP believes this process will become much more streamlined over time and will likely require significantly less than 1.5 hours in subsequent years. The estimated burden for this provision is 316,930 hours (211,287 contractor establishments x 90 minutes/60 = 316,930 hours).

Contractor employees will have to spend some time reviewing and/or completing the survey. There are approximately 27,400,000 Federal contractor employees. OFCCP estimates that employees will take 5 minutes to complete the self-identification form. The burden for this provision is 2,283,333 hours (27,400,000 employees x 5 minutes/60 = 2,283,333 hours). Utilizing Bureau of Labor Statistics data in the publication “Employer Costs for Employee Compensation” (September 2011), which lists an average total compensation for all civilian workers as \$30.11 per hour, the cost of this provision would be \$68,751,157.

OFCCP further estimates that it will take contractors 15 minutes to maintain self-identification forms. This time includes either manually storing the forms in a filing cabinet or saving them to an electronic database. The burden for this provision is 52,822 hours (211,287 contractor establishments x 15 minutes/60 = 52,822 hours).

#### Section 60-741.44 Required contents of the affirmative action program

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<sup>5</sup> OFCCP utilized the same ratio (approximately 3.7) of parent companies to number of establishments from the EEO-1 data to determine that among the universe of 211,287 establishments there are approximately 57,104 Federal contractor companies.

OMB Control Number 1250-0004 contains the burden estimates for documenting and maintaining material evidence of annually updating a joint section 503 and VEVRAA affirmative action program. Therefore, there is no additional burden for this provision in this information collection request. OFCCP separately identified below, in § 60-741.44, provisions that are not included in burden estimates currently approved by 1250-0004.

#### Section 60-741.44(f) External dissemination of policy, outreach and positive recruitment

Section 60-741.44(f)(1)(ii) requires contractors to send written notification of the company's affirmative action program policies to subcontractors, vendors, and suppliers. Section 60-300.44(f)(1)(ii) of the VEVRAA final rule also requires contractors to send written notification of the company policy related to its affirmative action efforts to all subcontractors, including subcontracting vendors and suppliers. OFCCP therefore expects that contractors will send a single, combined notice, informing subcontractors, vendors and suppliers of their VEVRAA and section 503 policies. Accordingly, OFCCP estimates that there is no additional burden for this provision.

Section 60-741.44(f)(4) requires a contractor to document all activities it undertakes to comply with the obligations of this paragraph, and retain these documents for a period of 3 years. OFCCP estimates that it will take contractors 10 minutes to maintain the outreach and recruitment documentation that would typically be generated as a result of their obligations pursuant to other provisions in the regulations. This does not include any additional time to make the software configuration needed to tell the contractor's computer system to store data for an additional year, as this burden was previously accounted for in the VEVRAA final rule's burden analysis of § 60-300.80(b). Therefore, the recurring burden for this provision is 35,215 hours (211,287 contractor establishments x 10 minutes/60 = 35,215 hours).

#### Section 60-741.44(h) Audit and Reporting System

Section 60-741.44(h)(1)(vi) requires contractors to document the actions taken to meet the requirements of 60-741.44(h), as mandated in the current regulations. OFCCP estimates that it will take contractors 10 minutes to document compliance with this existing provision. Documentation may include, as an example, the standard operating procedure of the system including roles and responsibilities, and audit and reporting timeframes and lifecycles. Because contractors are currently required to have an audit and reporting system, it is expected that some documentation of the process and operation of the system audit already exists. The annual recordkeeping burden of this provision is 35,215 (211,287 contractor establishments x 10 minutes/60 = 35,215 hours).

#### Section 60-741.44(k) Data Collection and Analysis

Section 60-741.44(k) requires contractors to collect and analyze certain categories of data. Based on feedback received from public comments expressing concerns about the costs of modifying human resources information systems, OFCCP believes that most

contractors will have the capability to conduct the required calculations electronically. However, some companies may have to calculate this information manually. Therefore, OFCCP estimates that the average time to conduct the analysis and maintain the relevant documentation would be 1 hour 25 minutes. Relevant documentation could include the report or other written documentation generated by the calculations that explain the methodology, the data used, and the findings and conclusions; the data used to conduct the calculations for subsequent validation of the results; and other material used by the contractor for the calculations. The recurring burden for this provision is 299,233 hours (251,300 contractor establishments x 85 minutes/60 = 299,233 hours).

No new software needs are anticipated for compliance with § 60-741.44(k), however, a software switch or configuration may be required to tell the system to retain the records for the additional 1 or 2 years, as appropriate. The estimated time needed for making this switch is included with the burden estimate for § 60-71.44(f)(4).

#### Section 60-741.45 Utilization Goal

Section 60-741.45 of the final rule requires contractors to conduct a utilization analysis to evaluate the representation of individuals with disabilities in each job group within the contractor's workforce with the utilization goal established in paragraph (a) of this section. OFCCP estimates that contractors will take 1 hour to conduct the utilization analysis. The burden for this provision is 211,287 hours (211,287 contractor establishments x 1 hour = 211,287 hours).

OFCCP further estimates that it will take contractors an additional 10 minutes to maintain records of the utilization analysis. The recordkeeping burden is 35,215 hours (211,287 contractor establishments x 10 minutes/60 = 35,215 hours).

#### Section 60-741.81 Access to records

Section 60-741.81 of the final rule requires contractors who are the subject of a compliance evaluation or complaint investigation to specify all available record formats and allow OFCCP to select preferred record formats from those identified by the contractor during a compliance evaluation. Pursuant to the regulations implementing the PRA at 5 CFR 1320.4(a)(2), this information collection is excluded from the PRA requirements because it is related to an "administrative action, investigation, or audit involving an agency against specific individuals or entities."

### **B. Summary of Costs**

The estimated cost to contractors is based on Bureau of Labor Statistics data in the publication "Employer Costs for Employee Compensation" (September 2011), which lists total compensation for management, professional, and related occupations as \$50.11 per hour and administrative support as \$23.72 per hour. OFCCP estimates that 52 percent of the burden hours will be management, professional, and related occupations and 48 percent will be administrative support.

**Table 1: Summary of Burden Hours and Costs for Contractors**

<b>PRA Burden</b>	<b>Burden Hours</b>	<b>Total</b>
741.42 (Survey)	316,931	\$11,866,765.33
741.42 (Survey Employee Burden)	2,283,333	\$68,751,166.67
741.42 (Modifying Application System)	85,656	\$2,342,234.35
741.42 (Recordkeeping)	52,822	\$1,977,794.22
741.44(f)(4) (Recordkeeping Outreach Activities)	52,822	\$1,977,794.22
741.44(h) (Recordkeeping Affirmative Action Program Audit)	35,215	\$1,318,529.48
741.44(k) (Data Collection and Analysis)	299,323	\$11,207,500.59
741.45 (Utilization Analysis)	211,287	\$7,911,176.88
741.45 (Utilization Analysis Recordkeeping)	35,215	\$1,318,529.48
<b>Total</b>	<b>3,372,603</b>	<b>\$108,671,491.22</b>

**Table 2: Summary of Non-Contractor Burden Hours and Costs**

<b>Existing Requirement</b>	<b>Burden Hours</b>	<b>Burden Costs</b>
Section 60-741.42 (Self-Identification)	6,338,610	\$190,855,547

The total estimated cost for applicants to fill out the self-identification form is based on Bureau of Labor Statistics data in the publication “Employer Costs for Employee Compensation” (September 2011), which lists an average total compensation for all civilian workers as \$30.11.

### **C. Initial Capital or Start-up Costs**

#### **Human Resources Information Systems**

OFCCP estimates on average it will take each contractor, working at the company level, on average 18 hours to have a professional make the needed systems modifications to track applicant and hiring information for individuals with disabilities. This includes IT and administrative professionals to make any necessary changes. The estimated costs for these modifications are based on data from the Bureau of Labor Statistics in the publication “Employer Costs for Employee Compensation” (September 2011), which lists total compensation for a professional of \$47.21 per hour. The cost for these modifications is \$48,525,837 (57,104 contractor companies x 18 hours x \$47.21 = \$48,525,837). The total burden hours of 1,027,872 are amortized over three years to equal 342,624 hours per year.

#### **5 CFR 1320.3(b)(1)(i) - Reviewing Instructions**

Several commenters noted that the proposed rule did not quantify the burden of reading and understanding the section 503 revisions on contractors. OFCCP acknowledges that 5 CFR 1320.3(b)(1)(i) requires agencies to include in the burden analysis for new information collection requirements the estimated time it takes for contractors to review and understand the instructions for compliance. In order to minimize the burden, OFCCP will publish several compliance assistance materials including factsheets and “Frequently Asked Questions.” OFCCP will also host webinars for the contractor community that will describe the key provisions in the final rule.

OFCCP estimates it will take, on average, 2.5 hours to have a management professional at each establishment either read compliance assistance materials provided by OFCCP or participate in an OFCCP webinar to learn about the new requirements of the final rule. The estimated cost of this burden is based on data from the Bureau of Labor Statistics in the publication “Employer Costs for Employee Compensation” (September 2011), which lists total compensation for a management professional at \$50.11. Therefore, the estimated burden for the capital and start-up costs is 528,217 hours (211,287 contractor establishments x 2.5 hours = 528,217 hours). We calculate the total estimated cost for rule familiarization as \$26,468,979 (528,217 hours x \$50.11/hour = \$26,468,979). These burden hours are amortized over three years to equal 176,072 hours per year.

**Table 3: Total Burden for §§60-741.42; 60-741.44; and 60-741.45**

Recordkeeping Burden Hours	862,756
Reporting Burden Hours	0
Third Party Disclosure	9,367,154

Burden Hours	
Total Burden Hours	10,229,910

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

OFCCP estimates that the contractor will have some operations and maintenance costs in addition to the burden calculated above.

60-741.42 Invitation to Self Identify

OFCCP estimates that the contractor will have some operations and maintenance cost associated with the invitations to self-identify. The contractor must invite all applicants to self-identify at both the pre-offer and post-offer stage of the employment process. Given the increasingly widespread use of electronic applications, any contractor that uses such applications would not incur copy costs. However, to account for contractors who may still choose to use paper applications, we are including printing and/or copying costs. Therefore, we estimate a single one page form for both the pre- and post-offer invitation. Assuming contractors using a paper-based application system, used 24 applications for an average of 15 listings per establishment, the minimum estimated total cost to contractors will be \$1,217,002 (42,257 establishments x 360 copies x \$.08 = \$1,217,002).

**14. FEDERAL COSTS**

DOL associates no unique federal costs with this information collection. OMB Control Numbers 1250-0001 and 1250-0003 currently include the annual costs of federal contractor compliance evaluations to ensure their compliance with the information collection requirements contained herein.

**15. REASONS FOR PROGRAM CHANGES AND ADJUSTMENTS.**

This is a new information collection in support of the new section 503 regulation. As noted above, OMB Control Numbers 1250-0001 and 1250-0003 currently include the annual burden hours and related costs for the time it takes contractors to document the contents of the written affirmative action program under section 503. Upon approval of this information collection package, the Department will submit non-substantive change requests for Control Numbers 1250-0001 and 1250-0003 to reflect the fact that the section 503 portions of burden hours and costs are included in this separate ICR.

**16. PUBLICATION OF DATA**

OFCCP will not publish the data collected.

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

OFCCP does not seek approval not to display the expiration date.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions.

**SUPPORTING STATEMENT B—STATISTICAL METHODS**

This information collection does not employ statistical methods.