

NOTE TO REVIEWER

The Office of Federal Contract Compliance Programs (OFCCP) requests Office of Management and Budget (OMB) approval for 4,392,369 hours in combined recordkeeping and third party disclosure burden hours for compliance by federal contractors and subcontractors with Section 503 of the Rehabilitation Act, as amended (29 U.S.C. 793). This compares with 10,229,910 hours in the most recently approved clearance request in 2014, a decrease of 5,837,541 (6,629,073 – 10,229,910 = -5,837,541) hours. This decrease reflects an adjustment in the number of affected federal contractors, which was overestimated in the previous information collection.

OFCCP will not be collecting any new or different information. The burden hours primarily represent those federal contractors and subcontractors that are required under Section 503 to develop, update, and maintain an affirmative action program. Reporting requirements under Section 503 are not included in this information collection, but rather, are included in the Scheduling Letter and Itemized Listing information collection request for nonconstruction supply and service federal contractors, separately approved under OMB Control Number 1250-0003.

As explained in Section 15 of this supporting statement, the decrease in burden hours for this information collection is largely a result of OFCCP's proposal to use data from the Employer Information Report EEO-1 (EEO-1 Report) to determine the number of covered federal contractors and contractor establishments. Previously, OFCCP averaged data from multiple sources but that methodology resulted in an overestimation of the number of affected contractors. The EEO-1 Report provides a more accurate estimate of contractors and establishments covered by Section 503. EEO-1 Report data from fiscal 2014 shows 23,960 federal contractor parent companies filed reports, with 115,831 total contractor establishments. These numbers are significantly less than the estimates used in the previous information collection (57,104 contractor companies and 211,287 contractor establishments). In addition, the decrease in burden hours is a result of adjustments in the estimated time contractors need to complete the employee self-identification survey, to account for the five-year interval between having to conduct surveys, and for certain requirements in the Section 503 regulations that are only applicable to new contractors.

SUPPORTING STATEMENT

DEPARTMENT OF LABOR, OFCCP

OFCCP RECORDKEEPING and REPORTING REQUIREMENTS—29 U.S.C. 793 SECTION 503 OF THE REHABILITATION ACT OF 1973, AS AMENDED

OMB CONTROL NUMBER 1250-0005

A. JUSTIFICATION

The Office of Federal Contract Compliance Programs (OFCCP) is responsible for administering three equal opportunity laws that prohibit discrimination based on particular protected categories and require affirmative action to provide equal employment opportunities:

- Executive Order 11246, as amended (EO 11246),¹
- Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793 (Section 503),² and
- Vietnam Era Veterans' Readjustment Assistance Act of 1974,³ as amended, 38 U.S.C. 4212 (VEVRAA).

EO 11246 prohibits federal contractors⁴ from discriminating against applicants and employees based on race, color, religion, sex, sexual orientation, gender identity, and national origin. EO 11246 also prohibits contractors from taking discriminatory actions, including firing, against applicants and employees for asking about or sharing information about their own compensation and, in certain instances, the compensation information of their co-workers.⁵ EO 11246 applies to contractors holding a Government contract in excess of \$10,000, or Government contracts that

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

2 The regulations implementing Section 503 applicable to supply and service contractors are found at 41 CFR Part 741.

3 The regulations implementing VEVRAA applicable to supply and service contractors are found at 41 CFR Part 60-300.

4 As used herein and unless otherwise specified, the term "contractors" refers to federal contractors and subcontractors subject to the laws enforced by OFCCP. For EO 11246, the term also included federally assisted construction contractors and subcontractors.

5 EO 13665 amended EO 11246 to include a prohibition on discrimination against any employee or applicant for inquiring about, discussing, or disclosing compensation or the compensation of another employee or applicant. Executive Order 13665, Non-Retaliation for Disclosure of Compensation Information, 79 FR 20749 (April 11, 2014). The final rule published on September 11, 2015 and became effective on January 11, 2016. 80 FR 54934 (Sept. 11, 2015).

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 paying agents for U.S. Savings Bonds.

Section 503 prohibits employment discrimination against applicants and employees based on disability and requires contractors to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals without discrimination based on physical or mental disabilities. Its requirements apply to contractors with a Government contract in excess of \$15,000.⁶

VEVRAA prohibits employment discrimination against protected veterans, namely disabled veterans, recently separated veterans, active duty wartime or campaign badge veterans, and Armed Forces service medal veterans, and requires contractors to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals without discrimination based on their status as a protected veteran. Its requirements apply to contractors with a Government contract of \$150,000 or more.⁷

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.

For purposes of OFCCP's recordkeeping and reporting requirements, the agency divides the obligations under these authorities into multiple information collection requests (ICRs).⁸ These divisions are based on OFCCP's distinct enforcement authorities (e.g., EO 11246 and VEVRAA each has its own recordkeeping ICR), programs, and related regulatory requirements.

The reporting requirements under Section 503 are not included in this information collection, but rather, are included in the Scheduling Letter and Itemized Listing ICR for nonconstruction supply and service contractors, separately approved under OMB Control Number 1250-0003.

Due to the pending expiration of OMB No. 1250-0005, OFCCP is seeking approval of the agency's Section 503 recordkeeping and third party disclosure requirements.

⁶Effective October 1, 2010, the coverage threshold under Section 503 increased from \$10,000 to \$15,000, in accordance with the inflationary adjustment requirements in 41 U.S.C. 1908. *See*, Federal Acquisition Regulation; Inflation Adjustment of Acquisition-Related Thresholds, 75 CFR 53129 (Aug. 30, 2010).

⁷Effective October 1, 2015, the coverage threshold under VEVRAA increased from \$100,000 to \$150,000, in accordance with the inflationary adjustment requirements in 41 U.S.C. 1908. *See*, Federal Acquisition Regulation; Inflation Adjustment of Acquisition-Related Thresholds, 80 FR 38293 (July 2, 2015).

⁸OFCCP's other current ICRs include: Construction Recordkeeping Requirements (OMB No. 1250-0001), Complaint Procedures (OMB No. 1250-0002), Supply and Service Program (Scheduling Letter and Itemized Listing) (OMB No. 1250-0003), VEVRAA Recordkeeping Requirements (OMB No. 1250-0004), Functional Affirmative Action Program Agreement Procedures (OMB No. 1250-0006), Government Contractors, Prohibitions Against Pay Secrecy Policies and Actions (OMB No. 1250-0008), and Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors (OMB No. 1250-0009). In the future, and as appropriate, OFCCP proposes to consolidate several of these ICRs.

1. LEGAL AND ADMINISTRATIVE REQUIREMENTS

Section 503

41 CFR 60-741 – Affirmative Action and Nondiscrimination Obligations of Federal Contractors and Subcontractors Regarding Individuals with Disabilities

These regulations address the affirmative action and nondiscrimination obligations of contractors and subcontractors related to individuals with disabilities. They define coverage, specify clauses to be included in contracts, provide a procedure to ensure compliance by covered contractors, and specify certain reporting and recordkeeping requirements, establish an aspirational utilization goal of 7 percent, and specify the basic requirements for AAPs under Section 503.

Section 60-741.5 sets forth 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 at each establishment.

Section 60-741.42 requires contractors to invite job applicants at the pre-offer and post-offer stages to self-identify as individuals with a disability. In addition, the contractor is required to invite each of its employees to voluntarily self-identify as an individual with a disability. This employee survey must be conducted at five-year intervals.

Section 60-741.44 identifies the 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.
- Review all physical and mental job qualification standards to ensure that, to the extent any tend to screen out qualified individuals with disabilities on the basis of disability, that the standards are job-related and consistent with business necessity.
- Provide reasonable accommodations for physical and mental limitations.
- Develop and implement 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, and undertake appropriate outreach and positive recruitment activities designed to effectively recruit qualified individuals with disabilities.
- Establish an audit and reporting system to measure the effectiveness of the AAP.
- Designate a responsible official to implement and oversee the AAP.

- Provide training to all personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes to ensure that the commitments in the contractor's affirmative action program are implemented.
- Conduct data collection analysis pertaining to applicants and hires on an annual basis and maintain them for a period of three (3) years, including, the number of applicants who self-identified as individuals with disabilities or who are otherwise known to be individuals with disabilities; the total number of job openings and total number of jobs filled; the total number of applicants for all jobs; the number of applicants with disabilities hired; and the total number of applicants hired.

Section 60-741.45 establishes a 7 percent utilization goal for employment of individuals with disabilities for each job group in the contractor's workforce or to the entire workforce if the contractor has 100 or fewer employees. Contractors must conduct an annual utilization analysis and assessment of problem areas, and establish specific action-oriented programs to address any identified problems.

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 (i.e. compliance review) to a narrowly focused analysis of a selected employment practice or policy (i.e. compliance check). Evaluation of compliance with Section 503 is concurrent with evaluation of a contractor's compliance with EO 11246 and VEVRAA.

2. USE OF COLLECTED MATERIAL

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 to collect valuable data on the number of individuals with disabilities who apply for, are hired into, and are employed in federal contractor positions. If this data shows that the contractor is not meeting the utilization goal, the contractor must determine if impediments to equal employment opportunity for individuals with disabilities exist, and if so, develop and execute action-oriented programs to correct these problem areas.

The form that contractors 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 enables 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 effectiveness of nondiscrimination and affirmative action efforts.

3. USE OF INFORMATION TECHNOLOGY

In general, under OFCCP regulations each contractor develops its own methods for collecting and maintaining information. Contractors have the option to use methods that best suit their needs as long as they can retrieve and provide OFCCP with the requested data upon request during a compliance evaluation.

The majority of 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 performing the below functions.

- Collecting employment activity data related to Section 503
- Conducting Section 503 utilization analysis
- Analyzing outreach and recruitment
- Tracking self-identification
- Disseminating internal and external EO policies
- Providing notice to subcontractors and vendors
- Auditing and reporting of AAP program elements

In addition, OFCCP provides compliance assistance to all contractors, including smaller contractors by leveraging information technology. For example, OFCCP's Web site provides access to compliance resources and information, including the following.

- Section 503 Contractor Resources
<http://www.dol.gov/ofccp/regs/compliance/Resources.htm>
- Fact Sheets, Frequently Asked Questions and Webinar training
<http://www.dol.gov/ofccp/regs/compliance/section503.htm>
- Sample AAPs
<http://www.dol.gov/ofccp/regs/compliance/AAPs/AAPs.htm>

- Disability and Veterans Community Resources Directory
<https://ofccp.dol-esa.gov/errd/Resources.503VEVRAA.html>
- Employment Resource Referral Directory
<https://ofccp.dol-esa.gov/errd/index.html>
- Checklist for Compliance with Section 503
http://www.dol.gov/ofccp/regs/compliance/ChecklistforCompliancewithSection503_JRF_QA_508c.pdf

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 improved information technology and thus, OFCCP does not include it in the calculation of burden hours.

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 contractors to submit AAPs and supporting documentation via e-mail or other electronic format.

As part of OFCCP's ongoing commitment to complying with Section 508 of the Rehabilitation Act, a remediated version of the Section 503 self-identification form is available on OFCCP's Web site. The form is also available in multiple languages.

4. DESCRIPTION OF EFFORTS TO IDENTIFY DUPLICATION

The 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.

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. IMPACT ON SMALL BUSINESSES

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.⁹

OFCCP also minimized the burden of the information collection requirements on small entities by giving contractors with a total workforce of 100 or fewer employees the option to compare the individuals with disabilities in their entire workforce to the 7 percent utilization goal, whereas larger contractors must measure utilization for each job group. This will decrease the burden of the utilization analysis.

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

The requirements outlined in this ICR ensure that covered 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 of \$50,000 or more 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

⁹ 41 CFR 60-741.40 – Applicability of the affirmative action program.

OFCCP received one comment on the Section 503 ICR from the Equal Employment Advisory Council (EEAC), a nonprofit employer association. Though the EEAC did not indicate any desired alterations to the information collection instrument or recordkeeping requirements, the association offered OFCCP two recommendations to consider for future guidance.

First, EEAC recommends that OFCCP further clarify the meaning of the terms “hires” and “jobs filled,” as used in the ICR and 41 CFR 741.44(k), via Frequently Asked Questions (FAQs) on OFCCP’s Web site. In response to EEAC’s comment, OFCCP clarifies the distinction between employees “hired” and “jobs filled,” as currently explained in the FAQs. The number of those “hired” refers to those internal and external applicants who are selected for a position through a competitive process. “Jobs filled,” on the other hand, refers to all jobs the company filled by any means, be it through a competitive or non-competitive process. It, therefore, should take into account jobs filled by both internal and external candidates who competed and were selected for a new position – those who were “hired” – as well as those positions that were filled via non-competitive placements, promotions, transfers, and reassignments. As part of its continuous development of guidance to assist contractors in conducting data collection and analysis required by 41 CFR 60-741.44(k), and in response to EEAC’s comment, OFCCP will consider whether further refinement of its FAQs on these definitions is needed.

EEAC’s other recommendations are related to the “Voluntary Self-Identification of Disability, Form CC-305.” OFCCP has proposed no changes to the form. EEAC does not propose any changes, either, and suggests that mandatory changes to the form content could increase associated time and expense commitments. However, EEAC asserts that further flexibility in being able to customize the language and formatting of the form would be beneficial for its clients to meet the needs and culture of their organizations. As OFCCP stated in its final rule implementing the self-identification requirement, the use of uniform language on the form is needed to ensure consistency in invitations and to reassure individuals with disabilities that the self-identification request is routine and executed pursuant to OFCCP’s regulations. Also, standardized language facilitates contractor compliance by providing contractors with prescribed language that satisfies their regulatory obligations. For these reasons and to prevent increased costs to contractors, OFCCP is not proposing changes to the language or manner of the self-identification form.

In addition, EEAC requests that OFCCP issue guidance stating that contractors may require applicants and employees to complete the form. EEAC asserts that it can be challenging for some federal contractors to make the form optional in their online systems, and that requiring completion of the form does not compel employees and applicants to disclose information related to disability, since it includes the “I don’t wish to answer” option. OFCCP’s position has not changed since publishing its final rule that updated the Section 503 voluntary self-identification requirements in 2013, now codified at 41 CFR 60-741.42. These regulations require contractors to invite applicants and employees to voluntarily identify whether they have a disability. Accepting the invitation by completing the form is a choice to be made by the applicant or employee. Contractors

cannot make it mandatory for applicants and employees to accept the invitation by selecting an answer to the question posed by the form before proceeding to the next stage of the online application process.

EEAC also recommends additional FAQs allowing contractors to pre-populate the invitation to self-identify with “previously collected information in the ‘name’ and ‘date’ fields on electronic versions of Form CC-305 or exclude or de-activate these fields entirely.” OFCCP will examine this issue, but has not reached a decision on whether to issue additional guidance regarding pre-population of the form. If appropriate, the agency will develop and provide guidance on how contractors can display the form in a manner consistent with both the regulations and the way that online application systems function.

9. GIFT OR PAYMENTS

OFCCP provides neither payments nor gifts to respondents.

10. CONFIDENTIALITY OF INFORMATION

Contractors who submit the required information may view it as 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. QUESTIONS OF SENSITIVE NATURE

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 assess their utilization of qualified individuals with disabilities and their outreach efforts and recruitment of 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 ANNUAL INFORMATION COLLECTION BURDEN

The following is a summary of the methodology for the calculation of the recordkeeping and third party disclosure requirements for OFCCP's Section 503 ICR.

As noted at the beginning of this supporting statement, the total in combined recordkeeping and third party disclosure burden hours for this ICR (4,392,369) is less than the total number of hours approved in 2014 (10,229,910), as detailed in Sec. 15 below.

A. Information Collections

Standard Form – Voluntary Self-Identification of Disability

Pursuant to § 60-741.42, contractors use the standard form entitled “Voluntary Self-Identification of Disability” to invite applicants, hires, and employees to identify as an individual with a disability pre-offer, post-offer, and through periodic invitations 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.” In the previous information collection, OFCCP estimated 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. Existing contractors will no longer need to take these steps to comply with the pre-offer invitation requirement, so the estimated burden in this information collection applies to only new contractor parent companies, or 1 percent of the 23,960 contractor companies. The burden for this provision is 360 hours (240 new contractor companies × 1.5 hours = 360 hours).

Applicants for available positions with covered 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 an individual with a disability. 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 3,474,930 hours (115,831 contractor establishments × 15 listings × 24 applicants × 5 minutes/60 = 3,474,930 hours). This is a third-party disclosure.

In the previous information collection, OFCCP estimated that it will take contractors 1.5 hours to conduct the invitation to self-identify employee survey. This includes the time needed to set up procedures to conduct the invitation, distribute communications, and collect and track self-identification forms. OFCCP believed this process would become much more streamlined over time and require significantly less than 1.5 hours in subsequent years. Therefore, for this information collection, OFCCP estimates that it will take contractors 1 hour to conduct the invitation to self-identify survey. Contractors are required to conduct the survey at five-year intervals. The estimated annual burden for

this provision is 23,166 hours (115,831 contractor establishments × 1 hour/5 years = 23,166 hours).

Contractor employees will have to spend some time reviewing and/or completing the survey. There are approximately 31,626,890 contractor employees. OFCCP estimates that employees will take 5 minutes to complete the self-identification form. The burden for this provision, assuming every employee completes the form, is 527,115 hours ((31,626,890 employees × 5 minutes/60) / 5 years = 527,115 hours). Utilizing Bureau of Labor Statistics data in the publication “Employer Costs for Employee Compensation” (December 2015), which lists an average total compensation for all civilian workers as \$33.58 per hour, the cost of this provision would be \$17,700,521.70. This is a third-party disclosure.

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 28,958 hours (115,831 contractor establishments × 15 minutes/60 = 28,958 hours).

Section 60-741.44 Required contents of the affirmative action program

OMB Control Number 1250-0004 contains the burden estimates for documenting and maintaining material evidence of annually updating and, for new contractors, developing parts of a joint Section 503 and VEVRAA affirmative action program. Therefore, there is no additional burden for those parts of the Section 503 AAP in this information collection request. OFCCP separately identifies provisions below 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 regulations 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 than what was already calculated in the companion ICR for VEVRAA Recordkeeping Requirements (OMB No. 1250-0004).

Section 60-741.44(f)(4) requires a contractor to document all outreach activities it undertakes for individuals with disabilities, 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 on the contractor’s computer

system to store data for an additional year, as this burden was previously accounted for in the VEVRAA ICR's burden analysis of § 60-300.80(b). Therefore, the recurring burden for this provision is 19,305 hours (115,831 contractor establishments × 10 minutes/60 = 19,305 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. The annual recordkeeping burden of this provision is 19,305 hours (115,831 contractor establishments × 10 minutes/60 = 19,305 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. OFCCP believes that most contractors 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 164,094 hours (115,831 contractor establishments × 85 minutes/60 = 164,094 hours).

Section 60-741.45 Utilization Goal

Section 60-741.45 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 115,831 hours (115,831 contractor establishments × 1 hour = 115,831 hours).

OFCCP further estimates that it will take contractors an additional 10 minutes to maintain records of the utilization analysis. The recordkeeping burden is 19,305 hours (115,831 contractor establishments × 10 minutes/60 = 19,305 hours).

Section 60-741.81 Access to records

Section 60-741.81 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 recordkeeping cost to contractors is based on Bureau of Labor Statistics data in the publication “Employer Costs for Employee Compensation” (December 2015), which lists total compensation for management, professional, and related occupations as \$55.47 per hour and administrative support as \$24.75 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, for a weighted average of \$40.72 per burden hour.

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

Requirements	Burden Hours	Burden Costs
741.42 (Employee Survey)	23,166	\$943,319.52
741.42 (Modifying Application System)	360	\$14,659.20
741.42 (Self-Identification Recordkeeping)	28,958	\$1,179,169.76
741.44(f)(4) (Recordkeeping Outreach Activities)	19,305	\$786,099.60
741.44(h) (Recordkeeping Affirmative Action Program Audit)	19,305	\$786,099.60
741.44(k) (Data Collection and Analysis)	164,094	\$6,681,907.68
741.45 (Utilization Analysis)	115,831	\$4,716,638.32
741.45 (Utilization Analysis Recordkeeping)	19,305	\$786,099.60
Total	390,324	\$15,893,993.28

Table 2: Summary of Third Party Disclosure Burden Hours and Costs for Contractors

Requirement	Burden Hours	Burden Costs
741.42 (Employee Survey)	527,115	\$17,700,521.70

The estimated cost for contractor employees to complete the self-identification survey is based on Bureau of Labor Statistics data in the publication “Employer Costs for

Employee Compensation” (December 2015), which lists an average total hourly compensation for all civilian workers of \$33.58.

Table 3: Summary of Third Party Disclosure Burden Hours and Costs for Non-Contractors

Requirement	Burden Hours	Burden Costs
Section 60-741.42 (Self-Identification)	3,474,930	\$116,688,149.40

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” (December 2015), which lists an average total hourly compensation for all civilian workers of \$33.58.

Table 4: Total Burden for §§60-741.42; 60-741.44; and 60-741.45

Recordkeeping Burden Hours	390,324
Reporting Burden Hours	0
Third Party Disclosure Burden Hours	4,002,045
Total Burden Hours	4,392,369

13. OPERATIONS AND MAINTENANCE COSTS

OFCCP estimates that contractors 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, OFCCP is including in this estimate printing and/or copying costs. Therefore, OFCCP estimates a single one-page form for both the pre- and post-offer invitation. Assuming 20 percent of all contractors will use a paper-based application system, and receive 24 applications for an average of 15 listings per establishment, the minimum estimated total cost to contractors will be \$667,186.56 ((115,831 establishments × 20 percent) × 360 copies × \$0.08 = \$667,186.56).

14. ESTIMATE OF ANNUAL COST TO FEDERAL GOVERNMENT

OFCCP 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. PROGRAM CHANGES OR BURDEN ADJUSTMENTS

OFCCP is requesting OMB approval of 4,392,369 burden hours. The 2014 clearance contained approval of 10,229,910 hours. The decrease in hours of the current request is attributable largely to OFCCP's proposal to use data from EEO-1 Reports to determine the number of covered contractors and contractor establishments instead of the methodology used in the previous information collection, which averaged data from multiple sources. EEO-1 data from FY 2014 shows 23,960 contractor parent companies filed reports, with 115,831 total contractor establishments. These numbers are significantly less than the estimates used in the previous information collection (57,104 contractor companies and 211,287 contractor establishments).

OFCCP believes that the EEO-1 Report provides the more accurate estimate of contractors and establishments covered by this Section 503 information collection. Section 60-1.7 requires specified Federal prime contractors and subcontractors to file an EEO-1 Report annually.¹⁰

Employers use the EEO-1 Report (question 3) to self-identify as contractors and subcontractors and indicate whether they meet the thresholds under EO 11246 for AAP coverage: 50 or more employees and \$50,000 or more contract value.¹¹ This employee and contract value threshold is the same jurisdictional threshold for AAP coverage under Section 503. Thus, the number of contractors identified in the EEO-1 Reports should be equal to the number of contractors required to establish a Section 503 AAP, making the EEO-1 Reports the most accurate source for estimating the number of covered contractors subject to this information collection.

In the previous information collection approved in 2014 and in the Section 503 final rule published in September 2013, OFCCP had estimated the number of affected contractors and establishments to be 57,104 and 211,287, respectively. OFCCP now believes that these figures are an overestimate of the number of contractors with recordkeeping and third party disclosure burdens under this information collection. The numbers estimated in the final rule derived from a combination of data from FY 2009 EEO-1 Reports, the Federal Procurement Data System, the Veterans Employment and Training Services annual report, and other sources. See 78 FR 58729. The data from these sources is no

¹⁰ 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 information collection can be viewed at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201610-3046-001.

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

longer current. Moreover, the methodology used to arrive at the estimates was based in large part on how OFCCP develops its Scheduling List of contractors for compliance evaluations. OFCCP develops its list of contractors for scheduling compliance evaluations by using multiple sources of information such as Federal acquisition and procurement databases, EEO-1 Reports, Dun & Bradstreet (D&B) data, and the U.S. Census Bureau tabulations. Statistical thresholds such as industry type and employee counts of contractor establishments are also used. The list may be further refined by applying a number of neutral factors such as contract expiration date and contract value on the number of establishments per contractor that will be scheduled in any one cycle. This methodology is appropriate for scheduling compliance evaluations, but it does not accurately reflect the number of contractors required to develop AAPs.

This distinction is recognized in the most recent Scheduling Letter and Itemized Listing ICR (Control Number 1250-0003), in which OFCCP estimated the number of contractors required to develop AAPs under EO 11246 using data from only the EEO-1 Reports, instead of the more complex methodology OFCCP uses to create its Scheduling Letter and Itemized Listing. Thus, to be consistent with that approach, OFCCP will now use data from only the EEO-1 Reports to estimate the number of contractors affected by this information collection, which consists of recordkeeping and third part disclosures resulting from the Section 503 AAP requirements.

In addition, the decrease in burden hours is a result of adjustments in the estimated time contractors need to complete the employee self-identification survey, to account for the five-year interval between having to conduct surveys, and for certain requirements in the Section 503 regulations that are only applicable to new contractors.

A summary of the change in hours is below.

a. Recordkeeping Burden Hours

The previous submission included 862,756 hours. The current request is 390,324 hours for an adjustment decrease of 472,432 hours. This decrease is a result of the use of the contractor totals from the EEO-1 Reports data, discussed above, as well as adjustments in the time estimated for contractors to conduct the invitation to self-identify survey under section 60-741.42(a), to reflect that the survey is to be completed at five-year intervals, and to account for requirements that are applicable only to new contractors.

b. Third Party Disclosure Burden Hours

The previous submission included 9,367,154 hours. The current request is 4,002,045 hours for an adjustment decrease of 5,365,109 hours. This decrease is primarily a result of the use of the contractor totals from the EEO-1 Reports data, discussed above, as well as an adjustment to account for the requirement that contractor employees are invited to complete the self-identification survey only once every five years.

c. Other Burden Hours and Costs

The previous submission included 1,556,089 hours in initial capital or start-up costs and \$1,217,002 in printing/copying costs. The current request no longer includes any initial capital and start-up costs, and estimates \$667,186.56 for printing/copying. This is an adjustment decrease of 1,556,089 hours and \$549,815.44. This decrease in printing/copying costs is exclusively a result of the use of the contractor totals from the EEO-1 Reports data, discussed above.

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.

17. APPROVAL NOT TO DISPLAY THE EXPIRATION DATE

OFCCP is not seeking such approval.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

OFCCP is able to certify compliance with all provisions.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.