

**OFCCP Recordkeeping and Reporting Requirements--Supply and Service
1250-0003
August 2018**

Non-Material Change Request to OMB Control No. 1250-0003

The Office of Federal Contract Compliance Programs (OFCCP) is requesting a non-material change to OMB Control No. 1250-0003, Recordkeeping and Reporting Requirements - Supply and Service, to include the regulatory provisions currently covered under OMB Control No. 1250-0008, Government Contractors, Prohibitions against Pay Secrecy Policies and Actions, and OMB Control No. 1250-0009, Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors. As described below, OMB Control No. 1250-0008 included a one-time burden on existing contractors associated with amending the equal opportunity clause to include the pay transparency provision. OMB Control No. 1250-0009 included a one-time burden on existing contractors associated with amending the equal opportunity clause and the tag line in job advertisements and solicitations to include the terms “sexual orientation, gender identity” in the protected bases. 1250-0009 also included a reporting requirement for foreign country visa denials, described in more detail below. The most recent approval for OMB Control No. 1250-0001, Construction Recordkeeping and Reporting Requirements, incorporated 1250-0008 and 1250-0009 into OFCCP’s construction program. Upon the approval of this non-material change to incorporate the regulatory provisions from 1250-0008 and 1250-0009 into OFCCP’s supply and service program (OMB Control 1250-0003), OFCCP will submit discontinuance requests for the 1250-0008 and 1250-0009 ICRs since the one-time burden accounted for in these ICRs has been fully manifested.

Background

OMB Control No. 1250-0008. In April 2014, Executive Order 13665 (Non-Retaliation for Disclosure of Compensation Information) amended Executive Order 11246 to prohibit Federal contractors and subcontractors from discharging or discriminating in any other way against employees or applicants who inquire about, discuss, or disclose their own compensation or the compensation of another employee or applicant, subject to certain limitations. OMB Control No. 1250-0008 covered the one-time burden associated with the revision to the regulations that implement Executive Order 11246 by accounting for the burden incurred by existing contractors and subcontractors to amend the equal opportunity clause in their existing contracts and purchase orders. The clause must be included in every contract and subcontract and its purpose is to notify contractors and subcontractors of their obligations under Executive Order 11246 (41 CFR 60-1.4). While contractors have the option to include the clause verbatim or by reference, OFCCP’s regulations prescribe the language for both options and thus the agency claims no on-going burden.

OMB Control No 1250-0009. In July 2014, Executive Order 13672 (Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government and Executive Order 11246, Equal Employment Opportunity) amended Executive Order 11246 to include in its implementing regulations the terms “sexual orientation” and “gender identity” in the protected bases wherever they appear in the regulations. Consequently, the two additional protected bases were also added to the equal opportunity clause (41 CFR 60-1.4). OMB Control No. 1250-0009 covered the one-time burden associated with the revision to the regulations that

**OFCCP Recordkeeping and Reporting Requirements--Supply and Service
1250-0003
August 2018**

implement Executive Order 11246 by accounting for the burden incurred by existing contractors and subcontractors to amend the clause in their existing contracts and purchase orders, which also included amending the tag line in job advertisements and solicitations. As stated above, since OFCCP provides the prescribed language, it claims no on-going burden for this requirement.

This non-material change request pertains to the regulatory requirement found at 41 CFR 60-1.10. This section requires federal contractors and subcontractors to notify OFCCP when an employee or potential employee is denied a visa of entry to a country in which or with which the contractor or subcontractor is doing business, and believes the denial was due to one or more of the protected bases covered by Executive Order 11246. The on-going burden for this requirement was inadvertently excluded from OFCCP's Recordkeeping and Reporting Requirements - Supply and Service information collection (OMB Control No 1250-0003) and the agency is hereby requesting its inclusion. OFCCP estimated in OMB Control No. 1250-0009 that a contractor would spend approximately two hours reporting each visa denial. Further, presuming that all LGBT contractor employees who visit these countries for work purposes are denied a visa on the basis of sexual orientation or gender identity, OFCCP had estimated between 915 to 1,586 incidences of annual visa denials. However, OFCCP has not received any visa denial reports in the last three years. Therefore the burden for this requirement is currently 0 hours (0 contractors x 2 hours = 0 hours).

Transferring the burden associated with the regulatory requirement found at 41 CFR 60-1.10 from 1250-0009 to 1250-0003 will not add an additional burden to 1250-0003 and will allow for both 1250-0008 and 1250-0009 to be discontinued without any loss of coverage.