

U.S. Department of Labor
Office of Federal Contract Compliance Programs
Contractor Recognition Program - Excellence in Disability Inclusion Award

A. JUSTIFICATION

This request is for Office of Management and Budget (OMB) approval of a new information collection. This collection will implement the biennial Excellence in Disability Inclusion (EDI) Award, which will recognize federal contractor and subcontractor establishments that ensure equal employment opportunity, foster employment opportunities for individuals with disabilities, and have achieved a level of excellence in their compliance with Section 503 of the Rehabilitation Act of 1973, as amended (Section 503).¹

1. Legal and Administrative Requirements

The U.S. Department of Labor’s (DOL) Office of Federal Contract Compliance Programs (OFCCP) administers and enforces the three equal employment opportunity laws listed below² that prohibit employment discrimination by federal contractors and subcontractors.³

- Executive Order 11246, as amended (EO 11246),
- Section 503 of the Rehabilitation Act of 1973, as amended (Section 503), and
- Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, (VEVRAA).

EO 11246 prohibits contractors from discriminating against applicants and employees based on race, color, religion, sex, sexual orientation, gender identity, and national origin. Additionally, it prohibits contractors from taking adverse employment actions against applicants and employees for inquiring about, discussing, or disclosing information about their pay or the pay of their co-workers, subject to certain limitations. EO 11246 applies to contractors, and to federally assisted construction contractors holding a government contract in excess of \$10,000, or government contracts that have, or can reasonably expect to have, an aggregate total value exceeding \$10,000 in a 12-month period. EO 11246 also applies to government bills of lading, depositories of federal funds in any amount, and to financial institutions that are issuing and paying agents for U.S. savings bonds and notes in any amount.

Section 503 prohibits contractors from discriminating against applicants and employees on the basis of disability and requires contractors to take affirmative action to employ, and advance in

¹ See Regulations Implementing Section 503 of the Rehabilitation Act, <https://www.dol.gov/ofccp/regs/compliance/section503.htm> (last accessed April 16, 2018).

² 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. 41 CFR 60, <https://www.ecfr.gov/cgi-bin/text-idx?gp=&SID=b686ff45080d69713c00bf18b651cc37&mc=true&tpl=/ecfrbrowse/Title41/41chapter60.tpl> (last accessed March 22, 2019).

³ Hereinafter all references to “contractors” include federal contractors and subcontractors unless otherwise stated.

employment, qualified individuals with disabilities. Its requirements apply to contractors with a government contract in excess of \$15,000.⁴

VEVRAA prohibits contractors from discriminating against protected veterans, namely, disabled veterans, recently separated veterans, active duty wartime or campaign badge veterans, and Armed Forces service medal veterans. VEVRAA also requires contractors to take affirmative action to employ, and advance in employment, qualified protected veterans. Its requirements apply to contractors with a government contract of \$150,000 or more.⁵

Background and Program Requirements

The EDI Award will seek to highlight successful practices and strategies that have expanded and improved the recruitment, hiring, retention, and promotion opportunities of individuals with disabilities. By highlighting the exemplary practices of successful contractor establishments, other contractors should be encouraged to adopt these or similar practices to support their compliance with mandatory obligations under Section 503.

The Office of Disability Employment Policy (ODEP) joins OFCCP in its effort to recognize sound contractor compliance practices. ODEP is the only nonregulatory federal agency that promotes policies and coordinates with employers and all levels of government to increase workplace success for people with disabilities. ODEP fulfills its mission by promoting the adoption and implementation of ODEP-developed and validated policy strategies and effective practices. ODEP's approach is to drive systems and practice change by disseminating ODEP policy strategies, sharing information, and providing technical assistance to government agencies, service providers and nongovernmental entities, as well as public and private employers.

To be considered for the award, contractors must meet the below eligibility criteria:

- a. The nominated contractor establishment (i.e., facility or location of the parent company or firm) meets the written affirmative action program (AAP) jurisdictional threshold and has a current AAP for Section 503 and EO 11246, and VEVRAA, if applicable.⁶

⁴ Effective 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 FR 53129 (Aug. 30, 2010).

⁵ Effective 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).

⁶ Although the AAP employee thresholds under the three mandates are the same – 50 employees or more – the AAP dollar amount threshold for VEVRAA is higher than EO 11246 and Section 503. Under VEVRAA, the AAP requirement takes effect with a contract of \$150,000 or more, whereas the contract amount threshold is \$50,000 or more under EO 11246 and Section 503. Therefore, a contractor may meet the latter threshold but not the threshold for VEVRAA. A contractor does not have to meet the VEVRAA contract amount requirement of \$150,000 or more to participate in this program. However, if the contractor meets the VEVRAA threshold, it must have an AAP and meet any other applicable requirements under VEVRAA, as it does with EO 11246 and Section 503, to qualify for this program. The threshold requirements are found on OFCCP's website at https://www.dol.gov/ofccp/posters/Infographics/files/JurisdnThresholds-7_ENGESQA508c.pdf (last accessed

- b. The nominated contractor establishment has implemented equal employment opportunity and affirmative action programs (EEO/AA) under Section 503 and EO 11246, and VEVRAA, if applicable.
- c. The nominated contractor establishment has no unresolved violations of Section 503 and EO 11246, and VEVRAA, if applicable, as identified during OFCCP compliance evaluations or complaint investigations.⁷ Unresolved issues include violations that are in litigation, violations in an open conciliation agreement, and violations in a pending compliance review. A scheduled compliance evaluation or a complaint filed against the nominated contractor establishment during the application process will not disqualify a contractor establishment from applying. However, if violations are found at the contractor establishment after it receives the award, OFCCP will revoke it.
- d. The nominated contractor establishment has no adverse decisions by a court, Administrative Review Board (ARB), or Administrative Law Judge (ALJ) related to violations of Section 503, EO 11246, VEVRAA, or Title I of the Americans with Disabilities Act (ADA), as amended, within the last three years.⁸

Contractor establishments who wish to apply for the award must submit a nomination package⁹ consisting of the six parts described below:

- a. The nomination package must include the following identifying information.
 - The name of the contractor or parent company, and the name of the contractor's establishment that is being submitted for the recognition. It must also include the physical address (no post office box), and Employer Identification Number (EIN number);
 - Whether the contractor has a total workforce of more than 100 employees or a workforce of 100 or fewer employees;
 - If the contractor has 100 or fewer employees, whether it uses the job groups created for the EO 11246 utilization analysis for the 7 percent utilization goal or is exercising the option to apply the 7 percent goal to its entire workforce;¹⁰
 - The name, title, address, phone number, and email address for the point of contact for the nomination package;
 - The name, title, address, phone number, and email address for the Chief Executive Officer (CEO) or President of the contractor; and

March 22, 2019).

⁷ Contractors currently being evaluated or investigated by OFCCP may apply for the award. However, prior to award, OFCCP will confirm that all potential awardees continue to meet the eligibility criterion.

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⁹ All pages of the nomination package must be clear, readable, and typed. No handwritten material will be accepted. Typed pages must be double-spaced on 8.5" X 11" page, one-side only, in Times Roman 12 point font. Incomplete nomination packages will not be considered. Packages with items that exceed established page limits or do not comply with other requirements will not be considered.

¹⁰ 41 CFR § 60-741.45. OFCCP's regulations prescribe a utilization goal of 7 percent for employment of qualified individuals with disabilities for each job group in the contractor's workforce; the 7 percent utilization goal may be applied to the entire workforce for contractors with 100 or fewer employees.

- The name, title, address, phone number, and email address for the executive responsible for overseeing the EEO/AA activities of the contractor.
- b. The nomination package must include signed Statements of Support¹¹ from the contractor’s CEO or President and the contractor’s highest-ranking executive responsible for overseeing the EEO/AA program or initiative at the nominated contractor establishment. Both Statements of Support must include the below information:
- An acknowledgement that the nominated contractor agrees to make its CEO and senior executive responsible for EEO/AA activities available for in-person or video interviews that will highlight promising employer practices, if asked;
 - An acknowledgement that the nominated contractor will participate at relevant conferences, webinars, and an online “national dialogue” that features best practices, if asked;
 - An acknowledgment that the nominated contractor or its establishment will participate in a two day Policy Academy - a conference convened by DOL to share best practices gleaned over the post-award period - through presentations, roundtables, and other similar activities; if asked;
 - An acknowledgement that the nominated contractor establishment agrees to participate in a video success story on the importance of contractor compliance with OFCCP’s regulations and that generally aligns with ODEP’s broad goal of developing and validating policy strategies and effective practices for increasing employment opportunities for individuals with disabilities, if asked;
 - A certification that the nominated contractor establishment is currently in compliance with its Section 503 and EO 11246 obligations, and VEVRAA, if applicable, and has no unresolved (e.g., violations that are in litigation, violations in an open conciliation agreement, and violations in a pending compliance review) OFCCP violations; and
 - A certification that the nominated contractor establishment has no adverse decisions by a court, ARB, or ALJ related to any of the below laws, and is not currently under monitoring related to the same, for the three years prior to its nomination package submission for any of the following:
 - Section 503;
 - EO 11246;
 - VEVRAA, if applicable; and
 - Title I of the ADA.
- c. The nomination package must include a signed Statement of Support from the contractor’s disability-focused employee resource group (ERG), if an ERG exists within the establishment or within the contractor. As with the rest of the nomination package, these statements may only be submitted in a manner that complies with any applicable

¹¹ Each contractor official Statement of Support must not exceed two one-sided, typed, double-spaced pages.

privacy laws.¹² Contractors must not coerce any individuals to participate or retaliate against those that choose not to participate.

- d. The nomination package must include a copy of the contractor establishment's current year Section 503 AAP prepared in accordance with the requirements of 41 CFR § 60-741.40 through § 60-741.47.
- e. The nomination package must include the following data from the previous AAP year, i.e., the most recently completed AAP year:
 - The results of the evaluation of outreach and recruitment efforts intended to identify and recruit qualified individuals with disabilities as described in 41 CFR § 60-741.44(f);
 - The utilization analysis evaluating the representation of individuals with disabilities in each job group, or, if appropriate, evaluating the representation of individuals with disabilities in the workforce as a whole, as provided in 41 CFR § 60-741.45;¹³
 - Documentation of the computations or comparisons described in 41 CFR § 60-741.44(k); and
 - Documentation of all actions taken to comply with the audit and reporting system requirements described in 41 CFR § 60-741.44(h) including, but not limited to, the results of self-audits and the remedial actions needed.
- f. The nomination package must include a description¹⁴ of the EEO/AA program or initiative that the contractor establishment implemented for individuals with disabilities under Section 503 and should contain the below information:
 - The description of the program or initiative, including its duration (i.e., a start date and either an end date, or an indication that the program is ongoing as of the date of application) and long-term sustainability, how it was developed, its important components and activities, data collection and analysis needs;
 - The performance goals that were established for the program or initiative, how they were measured, and the extent of management accountability for these goals;
 - The impact of the program or initiative on the voluntary self-identification rates of applicants and employees, if any;
 - The demonstrated support and engagement of contractor employees, senior contractor officials and/or senior contractor establishment officials for the program or initiative;
 - The impact that the program or initiative had on attaining or demonstrating significant progress toward attaining the aspirational 7 percent goal;
 - The effective use of technology in the program or initiative;

¹² While OFCCP and ODEP may use some of the information submitted in the nomination package for the creation of training, compliance assistance, model best practices, and other similar activities, no individual details submitted in the Statements of Support will be publicly revealed. See paragraph 10 of this supporting statement for more details on the confidentiality protections afforded to the information collected from program participants.

¹³ This refers to the evaluation at 41 CFR § 60-741.45(d)(3).

¹⁴ This description must not exceed 15 one-sided, typed, double-spaced pages.

- The tangible and intangible benefits achieved as a result of the program or initiative, and whether the program or initiative met its established performance goals; and
- The challenges and barriers, if any, that the contractor experienced while implementing the program or initiative, how they were overcome, and what key lessons learned would benefit other contractors.

Contractor establishments that are covered by this recognition (or another OFCCP award that provides a moratorium¹⁵) at the time of applying for the award will not be eligible. However, a moratorium at a separate establishment under the same contractor through an award program does not preclude the contractor establishment from applying for the award. More information on eligibility is provided in paragraph 8 of this supporting statement.

Nomination packages may include hyperlinks to videos or other information that demonstrates important aspects related to this program that contractors would like to highlight. To streamline and simplify the nomination process, contractors must use the appropriate form for submitting nomination packages. The form and its instructions are published in this information collection request (ICR) for review and comment.

2. Use of Collected Material

The Executive Review Committee (ERC), the reviewing body for all nomination submissions, will be composed of federal participants designated by ODEP and OFCCP.¹⁶ The ERC's members will review and rate the submissions separately and reach consensus on the individual scores. Awards will be granted on two levels: The EDI Gold Award will be the highest level of recognition while the EDI Pacesetter Award (honorable mentions) will recognize establishments making a discernable and noteworthy effort towards disability inclusion. The ERC will recommend two Gold Awardees for small contractors (i.e., a contractor with a total workforce of 100 or fewer employees) and two for large contractors (i.e., a contractor with a total workforce of more than 100 employees). The ERC will rate each nominee based on the below criteria:

- The overall extent to which the program or initiative met its established performance goals.
- The quantifiable impact of the program or initiative on attaining or demonstrating significant progress toward attaining the aspirational 7 percent goal.
- The level of demonstrated support and engagement of senior contractor and/or contractor establishment officials.
- The level of staff/employee support and engagement in the program or initiative.
- The long-term sustainability of the program or initiative and its results.
- The amount of innovation and creativity demonstrated.

¹⁵ A moratorium refers to an exemption from a scheduled OFCCP compliance evaluation. Moratorium periods under OFCCP's awards, programs, and initiatives are not cumulative. If a contractor establishment is under a moratorium through another OFCCP program or initiative in conjunction with the EDI Award, the two compliance evaluation exemption periods will run concurrently to their respective full term.

¹⁶ The ERC may contact the EEOC and DOJ to obtain information on ADA violations at the contractor establishment during the selection process.

- The effective use of technology in the program or initiative.
- The level of manager accountability for program or initiative performance or results.
- The level of positive change made to the corporate culture.
- The extent to which the program or initiative can be exported or used by other contractors.
- The difficulty or importance of the challenges and barriers that the program/initiative successfully overcame.

The nomination criteria will be scored based on the following scale:

- 5 = Exceptional/Superior
- 4 = Very High
- 3 = High
- 2 = Moderate
- 1 = Low/inadequate
- 0 = Nonexistent/Not Applicable/Unknown

The scores will be determined by adding the points for each criterion. Nominees will be able to score a maximum of 55 points and a minimum of 44 points to qualify for the Gold Award. The two contractor establishments with the highest scores above 44 will receive Gold Awards in each of the two award categories (i.e., large and small), assuming they are not disqualified for other reasons. If multiple establishments tie for the highest score, each establishment will receive a Gold Award. Similarly, if multiple establishments tie for the second highest score, each establishment will also receive a Gold Award. OFCCP and ODEP will also issue up to 20 Pacesetter Awards (honorable mentions).

OFCCP and ODEP will solicit nominations every other year. Contractor establishments selected for a Gold Award will receive a three-year moratorium related to scheduled compliance evaluations. Gold Award recipients must certify their compliance with EO 11246, Section 503, and VEVRAA, if applicable, each year during the moratorium in a letter to OFCCP. OFCCP will revoke the award from recipients that are unable to certify their compliance. The Pacesetter awardees will not be eligible for the three-year moratorium.

Award winners will be required to participate in a post-award “Year of Engagement” program activities. OFCCP and ODEP will oversee the recipients’ involvement in outreach efforts, such as presentations at relevant conferences, webinars, online “national dialogues,” and additional outreach to other employers. Further, OFCCP will welcome Pacesetter participation should they choose to participate on a voluntary basis in the Year of Engagement.

The recommended awardees will be subject to DOL clearance to identify any DOL or outside agency violations before their selection becomes final. Receiving an award will have no impact on other DOL agencies and programs related to disability employment rights and practices, and other DOL investigations and audits. Similarly, the award is not evidence of an employer’s compliance with other federal or state agency nondiscrimination obligations.

An award is subject to revocation by OFCCP if any required contractor certification is intentionally false, or if any required data on program performance is shown to be intentionally false or misleading.

3. Use of Information Technology

OFCCP will accept nomination packages electronically via email through a designated email box.

4. Description of Efforts to Identify Duplication

There is no duplication of effort related to this information collection as it supports a unique awards program proposed under the mandates of Section 503, as enforced by OFCCP. The regulations at 41 CFR 60-741 (Affirmative Action and Nondiscrimination Obligations of Federal Contractors and Subcontractors Regarding Individuals with Disabilities) prescribe the affirmative action and equal employment opportunity obligations of contractors related to individuals with disabilities. The major relevant sections of this part are listed below.¹⁷

- Section 60-741.1 establishes the purpose, applicability, and construction of this part.
- Section 60-741.2 lists the relevant definitions of this part.
- Section 60-741.5 describes the equal opportunity clause in federal contracts.
- Section 60-741.40 describes the purpose and applicability of an AAP.
- Section 60-741.44 identifies the required elements of an AAP.
- Section 60-741.45 requires contractors to apply a 7 percent utilization goal to each of their job groups, and gives them the option to apply the 7 percent goal to their entire workforce if they have 100 or fewer employees.
- Section 60-741.60 identifies the evaluation methods OFCCP uses to determine a contractor's compliance with the agency's regulations.

5. Impact on Small Businesses

This information collection does not have a significant economic impact on small businesses. Based on similar awards programs OFCCP has administered in the past, it anticipates receiving no more than 100 nomination packages. The latest Employer Information Report EEO-1 (EEO-1 Report) available data shows that there were 120,950 contractor establishments with 50 or more employees in FY 2016.¹⁸ One hundred nominations constitute a negligible percentage (0.082%) of the contractor establishments that meet the AAP employee threshold and thereby meet the eligibility criteria to apply for this award. To reduce burden and streamline the nomination

¹⁷ The recordkeeping and reporting requirements associated with these Sections are approved by OMB under one of OFCCP's existing information collections: Construction Recordkeeping and Reporting Requirements (OMB No. 1250-0001); Recordkeeping and Reporting Requirements-Supply and Service (OMB No. 1250-0003); Recordkeeping and Third Party Disclosure Requirements under VEVRAA (OMB No. 1250-0004); Recordkeeping and Third Party Disclosure Requirements under Section 503 (OMB No. 1250-0005).

¹⁸ The EEOC and OFCCP jointly collect EEO-1 Report data but the EEOC is the sponsor of that information collection, which is approved by OMB under OMB Control No. 3046-0007.

process, OFCCP will supply a form that contractors must use to submit a package for consideration.

6. Consequences of a Less Frequent Collection

This is a voluntary recognition award that will be issued biennially, as described above in paragraph 1. Less frequent collection would limit the agency's ability to recognize and disseminate sound compliance practices.

7. Special Circumstances

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

8. Consultation Outside the Agency

Pursuant to the Paperwork Reduction Act of 1995, as amended, (PRA), OFCCP invited the public to submit comments on this proposed information collection. The Federal Register notice was published on October 5, 2018 (83 FR 50410). OFCCP received four substantive comments on the ICR. After careful consideration, the agency presents below a summary of the comments and its responses.

Eligibility Requirements and Moratorium

Commenters requested clarification regarding the criteria and establishment eligibility for the award program. OFCCP clarified the eligibility criteria, which are outlined in paragraph 1.

Commenters suggested that OFCCP expand the eligibility criteria so contractor establishments participating in functional affirmative action programs (FAAPs) can apply for the award. Because of AAP and establishment-based requirements necessary for the nomination, an establishment may not submit a FAAP instead of an AAP. However, OFCCP is exploring future award programs for FAAP participants.

Commenters expressed that they found the certification requirements for award winners during the moratorium vague and requested clarification. To clarify the requirement and explicitly state the burden, OFCCP provides the language below.

OFCCP anticipates that it will present the first awards in FY 2019. The establishment-specific three-year (36 calendar months) moratorium period will begin on the date of the award. The contractor establishments receiving the awards will be required to certify their compliance with EO 11246, Section 503, and VEVRAA, if applicable, at the end of each 12-month period (i.e., the certification is for the previous 12-month period) by sending a letter to the Director of OFCCP. The certification letter should be signed by the president or CEO of the contractor along with the highest-ranking official responsible for EEO/AA.

The certification must include this statement: “I hereby certify that (insert name of contractor establishment) located at (insert street address), with Employer Identification Number (insert EIN number) is a federal contractor or subcontractor covered by the laws enforced by the Office of Federal Contract Compliance Programs (OFCCP). I certify that for the previous 12-month period this establishment maintained the required affirmative action programs and otherwise fully complied with nondiscrimination and affirmative action requirements of Executive Order 11246, as amended; Section 503 of the Rehabilitation Act, as amended; the Vietnam Era Veterans’ Readjustment Assistance Act, as amended, if applicable, Title I of the Americans with Disabilities Act, and the implementing regulations for each of these authorities. I understand that should OFCCP determine that this establishment was not in compliance, through a compliance evaluation, a complaint investigation, or an investigation based on third party credible evidence, the establishment’s status as an EDI awardee and the related three-year compliance evaluation moratorium will be revoked. I further understand that in such instances, OFCCP retains all rights set forth in applicable regulations to seek corrective actions to remedy such violations, including the institution of administrative or judicial enforcement proceedings.

If OFCCP becomes aware of a false or intentionally misleading statement after an award is made, the contractor establishment will have the award revoked and will be disqualified from consideration for other OFCCP award and recognition programs for a period of four years.

Commenters requested clarification regarding moratoriums and whether participating in other programs and incentives would deem an establishment ineligible for the EDI Award. The following three points apply:

- a contractor establishment that has won another OFCCP award and is in moratorium status at the time of applying for the EDI Award may not apply;
- a separate contractor establishment within the same contractor firm is eligible to apply for the EDI Award even if another establishment is under a moratorium through the EDI Award or any of OFCCP’s awards programs;
- an establishment that is under a moratorium through a program or incentive that is not an award program may apply for the EDI Award.

A commenter asserted that contractors should be able to apply for multiple awards programs. The EDI Award involves sharing knowledge and best practices with other contractors. If OFCCP allows a contractor to win multiple awards, it may result in a fewer number of award winners, which would limit the diversity of best practices to be shared. It also may not produce a diversity of best practices that are applicable to all industries. These results would be opposite of the award program’s intent.

Commenters questioned whether information regarding disability representation should be categorized by job group or workforce, as either method is allowed under federal regulations. Contractors with 100 or fewer employees have the option to apply the utilization goal to their job groups or their entire workforce, in accordance with 41 CFR § 60-741.45. OFCCP is not advising contractors to choose one method over the other, as the regulations allow contractors with 100 or fewer employees the flexibility to choose. OFCCP requests that contractors include

this information in the nomination package to better understand the establishment’s size and workforce composition.

Commenters compared this award to an award previously issued by ODEP, the New Freedom Initiative Award (NFI), and proposed its criteria as more efficient. The NFI award included similar language in its eligibility criteria: “Nominees must report any unresolved violations of state or Federal law, as determined by compliance evaluations, complaint investigations, or other Federal inspections and investigations. In addition, the nominee must also report any pending Federal or state enforcement actions, and any corrective actions or consent decrees that have resulted from litigation under laws enforced by [DOL].” Overall, OFCCP believes that the eligibility criteria under the EDI Award, including the annual certification of the award winners are less burdensome compared to the NFI Award while still ensuring that the contractor establishments that participate in this program comply with all applicable laws, regulations, and program requirements.

Commenters expressed concerns regarding excluding contractors that have ADA violations. OFCCP carefully evaluated these comments and is clarifying that only employment-related ADA violations will be considered. Specifically, contractors will only have to report Title I violations, such as violations based on discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement and compensation.

Commenters questioned having to submit current year and two previous years of AAPs. To reduce burden and to avoid possible recordkeeping complications, OFCCP will only require establishments to submit the current and prior year’s AAPs.

Additionally, OFCCP reconsidered its proposal to give three additional points to nominations that include apprenticeship programs and has determined that it will remove this item from the scoring criteria.

Executive Review Committee (ERC)

Commenters requested clarification and offered suggestions on how applicants should be rated by the ERC, and whether compliance officers would be able to review contractors and recommend awards. Regarding the process for the ERC, OFCCP and ODEP commit that they will adhere to a fair and consistent review of every nomination package. The two agencies may consult with the EEOC and DOJ for matters such as ADA Title I compliance violations. After further consideration regarding the composition of the ERC, ODEP and OFCCP have concluded that the ERC will not consist of nonprofit organizations and will have only federal employees and contract support staff with OFCCP and ODEP. OFCCP is exploring other opportunities for compliance officers to recognize federal contractors.

Award recognition and requirements

Commenters recommended a multi-level award or seal from OFCCP that could be used for branding purposes. We anticipate that there will be an award ceremony recognizing the winners

in September 2019. Awards will be granted on two levels: The EDI Gold Award will be the highest honor while the EDI Pacesetter will recognize the honorable mentions. OFCCP has expanded the Pacesetter from two to up to 20 potential winners.

Burden

OFCCP is committed to sharing best practices to improve disability inclusion while respecting contractors' time. Commenters expressed concern regarding the burden associated with the activities of the honorable mention recipients. After further evaluation, OFCCP agrees that honorable mention (Pacesetter) award recipients will not be required to participate in the post-award activities. However, OFCCP will welcome Pacesetter participation should they choose to participate on a voluntary basis.

Confidentiality

Commenters requested clarification on whether the application information will be subject to a Freedom of Information Act (FOIA) request or if there will be a "safe harbor" for the information submitted by contractors. Confidentiality protections afforded to the information that will be collected under this ICR are explained in paragraph 10.

Commenters expressed concern that directly approaching an employee or applicant who self-identifies as an individual with a disability to solicit a Statement of Support may erode confidence in the confidentiality of the self-identification process and impact others who chose to self-identify as an individual with a disability. In considering the concerns of commenters, OFCCP decided to remove the requirement for Statements of Support from individual applicants and employees. Rather, OFCCP will only require a Statement of Support from the ERG, if one exists. Contractors must not coerce any individuals to participate or retaliate against those that choose not to participate.

9. Gifts or Payments

OFCCP will not provide gifts or payments to respondents. Responses will be evaluated to determine whether an applicant will receive an EDI Award.

10. Confidentiality of Information

OFCCP will not disclose any information unless required by law. 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 DOL's implementing regulations at 29 CFR Part 70. OFCCP notifies contractors, in writing, if their records are subject to a FOIA request and will not make a decision to disclose the information until contractors have an opportunity to submit objections to its release.

Additionally, OFCCP safeguards and protects personally identifiable information it receives from contractors to the extent allowable under the law in accordance with the Privacy Act of 1974, as amended (5 U.S.C. §552a).

However, information submitted by award recipients related to the structuring, operations, activities, and results of this program will be made public to the extent that OFCCP and ODEP use this information for the creation of training, compliance assistance, model best practices, and other similar activities. No information submitted as part of the nomination package will be used or shared for the purposes of compliance evaluation or any enforcement action.

11. Questions of Sensitive Nature

This information collection does not contain any questions of a sensitive nature. The respondents of the information collection will provide information that correlates with the criteria of this awards program, as outlined above.

12. Information Collection Hour Burden

As outlined above, the submission requirements contain several elements that respondents must provide. The estimated burden hours to create and submit a package for consideration include:

- reviewing instructions
- researching existing data sources
- identifying contact information
- compiling the Section 503 AAP
- drafting Statements of Support
- reviewing the data
- submitting the data to OFCCP

The eligibility criteria include information that contractors maintain as part of their regular business operations or their existing recordkeeping requirements with OFCCP. Therefore, this information collection does not impose a new recordkeeping burden. Any burden associated with information that contractors are required to maintain is approved under the PRA requirements through one of OFCCP's existing information collections.¹⁹

OFCCP estimates that it will receive approximately 100 nominations for the EDI Award during each nomination period. The agency further estimates that it will take respondents approximately 21.5 hours to compile and submit the required information. This estimate is based on the sum of the hours necessary to complete all the six parts of the nomination package, as described in paragraph 1.²⁰ The estimated hours are 1.25 hours for part one; 3 hours for part

¹⁹ Construction Recordkeeping and Reporting Requirements (OMB No. 1250-0001); Recordkeeping and Reporting Requirements-Supply and Service (OMB No. 1250-0003); Recordkeeping and Third Party Disclosure Requirements under VEVRAA (OMB No. 1250-0004); Recordkeeping and Third Party Disclosure Requirements under Section 503 (OMB No. 1250-0005).

two²¹; 1.5 hours for part three; 1.5 hours for part four; 0 hours for part five²²; 11.25 hours for part six.

The table below summarizes the estimated annual respondent burden.²³

Respondents	Number of Responses per Respondent	Estimated Hour Burden per Respondent	Total Burden Hours	Hourly Loaded Wage Rate²⁴	Monetized Burden Costs
67	1	21.5	1,441	\$69.82	\$100,611

13. Information Collection Cost Burden

There are no capital or start-up costs, maintenance, or purchase of services related to submitting a nomination package. Further, contractors do not pay a fee to submit a nomination package for consideration.

14. Cost to the Federal Government

The first part of the federal cost is associated with the labor hours of the federal staff who will create the EDI Award program, review the nomination packages for timeliness and content, issue the awards, and engage in technical assistance and other related activities with the award-winners. The salary estimates are based on staff members on the Senior Executive Service (SES) scale²⁵ as well as the General Schedule (GS) scale.²⁶

²⁰ The recordkeeping burden for this part is accounted for under one of the existing collections: Construction Recordkeeping and Reporting Requirements (OMB No. 1250-0001); Recordkeeping and Reporting Requirements-Supply and Service (OMB No. 1250-0003); Recordkeeping and Third Party Disclosure Requirements under VEVRAA (OMB No. 1250-0004); Recordkeeping and Third Party Disclosure Requirements under Section 503 (OMB No. 1250-0005).

²¹ The estimate assigns 0.75 hours for composing each page under parts two, three, and six of the nomination package.

²² This burden is included in the 4.5 hours allocated to part four of the nomination package.

²³ The year of engagement and any other post-award activities are exempt from the PRA as they are projected to impact less than ten participants. Furthermore, as this is a biennial award and an ICR is approved for up to three years, the burdens reflected in the table are 2/3 of the burden for any single year in which responses are requested (e.g., 100 applications every two years/3 year ICR approval span).

²⁴ BLS, Occupational Employment Statistics, Occupational Employment and Wages, May 2017, https://www.bls.gov/oes/current/oes_nat.htm (last accessed March 25, 2019). \$44.92/hr Management Analysts and \$59.38/hr Human Resource Managers. The calculation uses an 80/20 split between Management Analyst and Human Resource Manager (\$47.82). BLS, Employer Costs for Employee Compensation, <https://www.bls.gov/news.release/ecec.toc.htm> (last accessed March 25, 2019), OFCCP includes an additional 46 percent for fringe benefit and overhead costs. \$47.82 x 1.46 = \$69.82.

²⁵ Office of Personnel Management, “Senior Executive Service: Compensation,”

Engaging staff from the SES and GS scales, OFCCP assumes the following burden:

- Development of program. OFCCP estimates that 11 federal staff will each spend 24 hours (or a total of 264 hours) to create the program. This amounts to a combined burden of \$23,512.
- Review of nomination packages. OFCCP estimates that 11 federal staff will each spend approximately 5 hours reviewing each nomination package, determining eligibility, and making award determinations (5 hours x 100 packages = 500 hours per person (or 5,500 total)). Averaging the hourly salary of the federal staff that will be involved in reviewing the packages and making determinations, OFCCP estimates that it will take the federal government \$489,830 to review on the nominations (\$89.06 per hour x 5,500 hours).
- Contractor recognition and engagement. OFCCP estimates that 11 federal staff will each spend 40 hours making the public announcements and working with the award-winners to create technical assistance, outreach, mentoring programs, and other material, as described in the justification section of this supporting statement. This amounts to a combined burden of 440 hours, or \$39,186.

The combined estimate for the federal cost is \$552,528 for the first year of the program and \$529,016 for subsequent years.

15. Program Changes or Burden Adjustments

This is a new information collection.

16. Publication of Data for Statistical Use

There will be no publication of statistical analysis related to this collection. OFCCP and ODEP will publicize the award winners. As stated in paragraph 2, the first awards will be presented to recipient(s) in 2019.

17. Approval Not to Display the Expiration Date

The agency will display the expiration date of this collection.

18. Exception to the Certification Statement

OFCCP is not seeking exceptions to the certification statement of this collection.

<https://www.opm.gov/policy-data-oversight/senior-executive-service/compensation/> (last accessed March 22, 2019).

²⁶ Salaries calculated from “Salary Table 2019-GS Incorporating the 1.4% General Schedule Increase,” available at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/GS_h.pdf (last accessed March 25, 2019). OFCCP includes an additional 46% to account for overhead and fringe benefits.

DOL OFCCP – Excellence in Disability Inclusion Award
OMB ICR Reference Number:
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B. STATISTICAL METHODS

This information collection does not use statistical methods.