

U.S. Department of Labor
Office of Federal Contract Compliance Programs
Complaint Involving Employment Discrimination by a Federal Contractor or Subcontractor
OMB No.1250-0002

A. JUSTIFICATION

The Office of Federal Contract Compliance Programs (OFCCP) is responsible for administering three equal employment opportunity authorities that prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran by Federal contractors and subcontractors.¹ OFCCP also prohibits taking adverse employment actions against applicants and employees because they inquired about, discussed, or disclosed information about their pay or the pay of their co-workers, subject to certain limitations. If a person thinks they have been subject to discrimination, they may file a complaint with OFCCP. This information collection covers the form that is used by applicants and employees of Federal contractors and subcontractors to file complaints with OFCCP.

1. Legal and Administrative Requirements

OFCCP’s legal authorities require that affirmative action be taken to provide equal employment opportunities. The three legal authorities OFCCP enforces are listed below:

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

OFCCP promulgated regulations implementing these authorities consistent with the Administrative Procedure Act. These regulations are found at Title 41 of the Code of Federal Regulations (CFR) in Chapter 60.

EO 11246 requires affirmative action and prohibits Federal contractors from discriminating against applicants and employees based on race, color, religion, sex, sexual orientation, gender

¹ Unless otherwise stated, the term “contractor” includes both contractors and subcontractors, and the term “contract” also includes “subcontracts.” See 41 CFR 60-1.3 (definitions of “contract” and “contractor”).

² The regulations implementing EO 11246 that are applicable to contractors are found in 41 CFR parts 60-1, 60-2, 60-3, 60-20, and 60-50.

³ The regulations implementing Section 503 that are applicable to contractors are found at 41 CFR part 60-741.

⁴ The regulations implementing VEVRAA that are applicable to contractors are found at 41 CFR part 60-300.

identity or national origin. Additionally, EO 11246 prohibits Federal contractors from, under certain circumstances, taking adverse employment actions against applicants and employees for asking about, discussing, or sharing information about their pay or the pay of their co-workers. EO 11246 also requires Federal contractors to engage in affirmative action to provide equal employment opportunity. The nondiscrimination requirements of EO 11246 apply to Federal contractors and federally assisted construction contractors holding a Government contract of more than \$10,000, or Government contracts that have, or can reasonably expect to have, an aggregate total value exceeding \$10,000 in a 12-month period.⁵ 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.⁶

Section 503 prohibits employment discrimination based on disability, and requires Federal contractors to take affirmative action to hire and promote qualified individuals with disabilities. Its nondiscrimination requirements apply to Federal contractors with Federal contracts in excess of \$15,000.⁷

VEVRAA prohibits employment discrimination against protected veterans and requires Federal contractors to take affirmative action to hire and promote protected veterans. Its requirements apply to Federal contractors with Federal contracts of \$150,000 or more.⁸

No private right of action exists under EO 11246, Section 503 or VEVRAA, which means that a private individual may not bring a lawsuit against an employer or prospective employer for noncompliance with its obligations under the authorities enforced by OFCCP. However, any employee or applicant for employment with a contractor may file a complaint with OFCCP alleging discrimination or failure to comply with affirmative action obligations.⁹ OFCCP investigates these complaints and retains the discretion whether to pursue administrative or judicial enforcement.

To file a complaint with OFCCP, a complainant or authorized representative may complete Form CC-4. Alternatively, a complainant may send a letter including the name, address, and telephone number of the complainant, the name and address of the contractor or subcontractor and a description of the acts considered to be discriminatory and any other pertinent information.

⁵ 41 CFR 60-1.5(a).

⁶ *Ibid.*

⁷ 41 CFR 60-741.1(b). An adjustment to the coverage threshold for Section 503 went into effect on October 1, 2010. The threshold increased from \$10,000 to \$15,000 based on an inflationary adjustment made pursuant to 41 U.S.C. 1908. See Federal Acquisition Regulation; Inflation Adjustment of Acquisition-Related Thresholds, 75 CFR 53129 (Aug. 30, 2010).

⁸ 41 CFR 60-300.1(b). An adjustment to the coverage threshold for VEVRAA went into effect on October 1, 2015. The threshold increased from \$100,000 to \$150,000 based on an inflationary adjustment made pursuant to 41 U.S.C. 1908. See Federal Acquisition Regulation; Inflation Adjustment of Acquisition-Related Thresholds, 80 FR 38293 (July 2, 2015).

⁹ Under Section 503 of the Rehabilitation Act of 1973 and the Vietnam Era Veterans' Readjustment Act of 1974 individuals may file a complaint based on a contractor's failure to comply with its affirmative action obligations. See, 41 CFR 60-300.61(a) and 41 CFR 60-741.61(b).

A complaint alleging discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin must be filed within 180 days from the date of the alleged discrimination, unless the time for filing is extended for good cause shown. Complainants alleging discrimination for discussing, disclosing, or inquiring about pay also have 180 days from the date of the alleged discrimination to file a complaint. If the complaint alleges a violation based on disability or status as a protected veteran, the complaint must be filed within 300 days unless the time for filing is extended for good cause shown. Some examples of what may constitute good cause include: mental or physical incapacity; military deployment, incarceration, or possibly being unaware of the discrimination; misleading information provided by the employer or Agency that prevents or delays filing; or information withheld by the employer that prevents or delays filing.

OFCCP may refer complaints filed on bases covered under Executive Order 11246 or Section 503 to the U.S. Equal Employment Opportunity Commission (EEOC) as described in the most recent formal agreement entered into by OFCCP and the EEOC.¹⁰ OFCCP retains complaints filed under Section 503 in many circumstances (see 41 CFR 60-742.5(e)). OFCCP may also refer some Section 503 complaints to EEOC using the procedures found at 41 CFR 60-742.5(d) and 29 CFR 1641.5(e). OFCCP investigates all complaints filed under VEVRAA.

Pursuant to the upcoming expiration of OMB No. 1250-0002, this information collection request (ICR) seeks approval of OFCCP’s complaint information collection form, titled “Complaint Involving Employment Discrimination by a Federal Contractor or Subcontractor (“complaint form” or “Form CC-4”). There is only one change to the form, to ask complainants to provide the date for any other allegations of employment discrimination with other Federal or local agencies.

2. Use of Collected Materials

The complaint form is used by OFCCP staff as the first step in the initiation of a complaint investigation. If the complaint is timely and appears to raise discrimination or retaliation issues within OFCCP’s jurisdiction, then OFCCP initiates a complaint investigation. A standardized complaint form helps guide complainants in providing important information about their discrimination allegations and reduces the time it takes OFCCP staff to determine jurisdiction. This form improves efficiency in responding to complainants and in initiating investigations.

3. Use of Information Technology

¹⁰ OFCCP has a Memorandum of Understanding with EEOC that includes coordinated processing of EO 11246 complaints, “Coordination of Functions; Memorandum of Understanding,” 76 FR 71029 (Nov. 16, 2011). *See also*, 41 CFR 60-1.24(a).

Complainants can download or electronically submit the complaint form via OFCCP’s Web site at <http://www.dol.gov/ofccp/regs/compliance/pdf/pdfstart.htm>.

4. Description of Efforts to Identify Duplication

Information collected on the complaint form is unique to the individual complainant and no duplication is possible.

5. Impact on Small Businesses

OFCCP complaints are not filed by business entities but by non-business entities such as individuals or organizations. Therefore, this information collection does not have a significant economic impact on a substantial number of small entities.

6. Consequences of a Less Frequent Collection

There is no schedule for the collection of this information. Nonetheless, if OFCCP did not collect this information, there could be a detrimental impact on its ability to carry out its mission and enforce the non-discrimination protections and affirmative action obligations in EO 11246, Section 503, and VEVRAA.

7. Special Circumstances

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

8. Consultation Outside the Agency

On October 17, 2019, OFCCP published a 60-day notice in the Federal Register, 84 FR 56205, inviting comments on the proposed renewal for this information collection request. No public comments were received.

9. Gifts or Payments

OFCCP does not provide gifts or payments to respondents.

10. Confidentiality of Information

Some of the information contractors submit to OFCCP during a complaint investigation may be considered business confidential 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 DOL’s implementing regulations at 29 CFR Part 70. OFCCP notifies contractors, in writing, whose records are subject to a FOIA request. OFCCP makes no 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).

11. Questions of a Sensitive Nature

Although the complaint form does not specifically request sensitive or protected information, the complainant may disclose such information when describing the circumstances that led to filing the complaint. As noted above, a Privacy Act disclosure statement is included in the instructions with the form.

12. Information Collection Hour Burden

OFCCP received 588 complaints in fiscal year (FY) 2016, 686 complaints in FY 2017, and 1,418 complaints in FY 2018, which amount to an average of 897 complaints over the last three fiscal years. Based on its experience with complainants and staff, OFCCP estimates that it takes approximately one hour for the completion and submission of the complaint form or a letter. OFCCP projects that this information collection will impose a burden of 897 hours to respondents (897 complaints x 1 hour). The one change proposed to the form, to ask complainants to provide the date for any other allegations of employment discrimination with other Federal or local agencies, does not change the burden estimation.

OFCCP estimates that the cost of completing the CC-4 is \$33,306 (897 hours x \$37.13 per hour).¹¹

13. Information Collection Cost Burden

OFCCP receives an annual average of 897 complaints and estimates that approximately 90 percent of complaints are submitted electronically by facsimile or email while the other 10 percent are submitted by mail. OFCCP assesses a cost for the 10 percent of complaints submitted by mail.

OFCCP estimates the average cost of copying at \$.09 per page¹² and estimates an average mailing cost of \$1.70.¹³ The cost for the complainant is estimated at \$1.88 (\$.18 for copying two

¹¹ In the 60-day Supporting Statement, OFCCP overestimated the wage rate. In the 30-day Supporting Statement, OFCCP provides a more accurate estimate. The agency uses the average amount that employers spend in employee wages and salaries for civilian workers as reported in *Employer Costs for Employee Compensation*, September 2019, United States Department of Labor, Bureau of Labor Statistics, Table 1, available at <https://www.bls.gov/news.release/pdf/ecec.pdf>. \$25.43 per hour plus 46 percent of wages for fringe benefits. \$25.43 x 1.46 = \$37.13

¹² Based on the average copying cost at major paper supply stores as of January 7, 2020.

¹³ Based on the cost of a stamp (\$.55) and a standard-sized rectangular envelope (\$1.15) <https://www.usps.com/ship/mail-shipping-services.htm> (last accessed January 7, 2020).

pages + \$1.70 for mailing). Therefore, OFCCP estimates that the 10 percent, or 90 complaints, will cost complainants \$169 annually (90 complaints x \$1.88).

14. Cost to the Federal Government

The Federal labor cost reflects the 2.25 hours it takes OFCCP staff to process the form and includes one hour for an administrative support staff (GS-6) to review the complaint and check jurisdiction, one hour for a professional staff (GS-13) to verify the jurisdiction and prepare correspondence, and 0.25 hours for a manager (GS-14) to review and sign the documents. This cost was determined by surveying OFCCP’s regional offices on the amount of time it takes to process a complaint. The calculation for the labor costs are detailed below.

Grade/ Step	Wage Rate ¹⁴	Time (hours)	Total (wage rate x hours)
6/4	\$25.83	1	\$25.83
13/4	\$60.55	1	\$60.55
14/4	\$71.55	0.25	\$17.89
Cumulative labor cost per complaint			\$104

The cost to the Federal Government (OFCCP) for receiving the forms, reviewing them for jurisdiction and timeliness, and determining their disposition is estimated at \$93,288 (897 complaints x \$104 per complaint).

15. Program Changes or Burden Adjustments

OFCCP is requesting OMB approval of 897 burden hours and \$169 in costs. This is an increase in burden from the previous approval of 753 hours and \$61.50 in costs. Changes in burden from OMB’s last review, which concluded in May 2017, are reported in the tables below.

Activity	Currently Approved Hours	Requested Change	Explanation
Complaint Form	753	Increase of 144	Increase in the average number of complaints filed over the past three fiscal years.
Total Reporting Burden	753	Increase of 144	Increase in the

¹⁴ Average hourly rates are from the Office of Personnel Management (OPM) 2020 General Schedule Salary Table and include 46% for fringe benefits https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/GS_h.pdf (last accessed January 7, 2020).

Activity	Currently Approved Hours	Requested Change	Explanation
			average number of complaints filed over the past three fiscal years.
Total Third Party Disclosure	0	No change	
Total Annual Burden (in hours)	753	Increase of 144	Increase in the average number of complaints filed over the past three fiscal years.

Summary of Costs	Currently Approved Cost Dollars	Requested Change	Explanation
Annual Operations and Maintenance Costs	\$61.50	Increase of \$107.50	Increase in the average number of complaints filed over the past three fiscal years, leading to more mailed submissions and an increase in shipping costs.
Annualized Start-up and Capital Cost	\$0	No change	
Total Estimated Annual Costs	\$61.50	Increase of \$107.50	Increase in the average number of complaints filed over the past three fiscal years, leading to more mailed submissions and an increase in shipping costs.

16. Publication of Data for Statistical Use

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OFCCP will not publish the data collected on the CC-4.

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 in this information request.

PART B—STATISTICAL METHODS

This information collection does not use statistical methods.