

SUPPORTING STATEMENT

DEPARTMENT OF LABOR, OFCCP

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

OMB CONTROL NUMBER 1250-0005

A. JUSTIFICATION

This request is for Office of Management and Budget (OMB) renewal of an existing information collection implementing the recordkeeping and reporting requirements of Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793 (Section 503). These requirements apply to both supply and service and construction federal contractors who meet the appropriate thresholds as identified below.

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

1. Legal and Administrative Requirements

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, as amended, 38 U.S.C. 4212, or VEVRAA.³

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.

EO 11246 requires affirmative action and prohibits covered federal contractors⁴ from discriminating against applicants and employees based on race, color, religion, sex, sexual orientation, gender identity, or national origin. EO 11246 also prohibits contractors from taking discriminatory actions, including firing, against applicants and employees for inquiring about, discussing, or disclosing their own compensation information and, in certain instances, the compensation information of their co-workers. EO 11246 applies to 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 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 \$15,000.⁵

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.⁶

Consistent with the Administrative Procedure Act, OFCCP promulgated regulations implementing these programs under Title 41 of the Code of Federal Regulations (CFR) in Chapter 60. They are accessible on the Web at https://www.ecfr.gov/cgi-bin/text-idx?SID=2f6e76ba1ebf6d4c076736e8f3a82dcd&mc=true&tpl=/ecfrbrowse/Title41/41cfrv1_02.tpl#6000.

The reporting requirements under Section 503 are not included in this information collection, but rather, are included in the Construction Recordkeeping and Reporting Requirements ICR (OMB Control Number 1250-0001) and the Supply and Service Program ICR (OMB Control Number 1250-0003).⁷

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 includes federally assisted construction contractors and subcontractors.

⁵ 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 CFR 53129 (Aug. 30, 2010).

⁶ 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).

⁷ The Supply and Service Program ICR also covers recordkeeping requirements for any supply and service contractors that choose to participate in OFCCP’s Voluntary Enterprise-wide Review Program. Contractors who participate in that program will undergo a modified form of compliance evaluation, as will be defined in a separate ICR for that program.

Due to the pending expiration of OMB No. 1250-0005, OFCCP seeks reapproval of the agency’s Section 503 recordkeeping and third party disclosure requirements identified below. The agency also made changes to the Voluntary Self-Identification of Disability Form, in an overall effort to increase the response rate on the form. These changes to this information collection instrument include softening the tone of the form to make the language more positive, updating and alphabetizing the types of disability, shortening the form to one page, adding an optional employee identification field, adding a box that employers may modify for internal recordkeeping purposes, and removing the reasonable accommodation notice. OFCCP removed the notice because it is not necessary to the information collection. The notice also may mislead applicants and employees to believe that they must complete the form for a reasonable accommodation, or that completing the form will refer them for a reasonable accommodation. In order to give federal contractors time to incorporate the revised form into their electronic systems, OFCCP will delay compliance for 90 days. Contractors will therefore have 90 calendar days after OMB approves the new self-identification form to begin using it. Contractors must continue use of the form approved by OMB in 2017 until they have incorporated the revised form.

Section 60-741.5 sets forth the equal opportunity clause in Federal contracts. Each contractor is required to include the EO clause in each of its subcontracts of \$15,000 or more, although they may incorporate the clause by reference or operation.

Section 60-741.40 requires the development and maintenance of a Section 503 AAP. This regulation requires each contractor 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 voluntarily self-identify as individuals with a disability. In addition, the contractor is required to periodically invite each of its employees to voluntarily self-identify as an individual with a disability. Contractors must conduct this employee survey at five-year intervals, starting with the employer’s first year as a contractor subject to Section 503.

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 they provide equal employment opportunity to qualified individuals with disabilities.
- 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 those 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 implementation of the commitments in the contractor's affirmative action program.
- 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 a comprehensive evaluation of the contractor's employment practices (*i.e.*, compliance review) to a review restricted to one or more components of the contractor's organization or employment practices (*i.e.*, focused review).

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 needed to track the number of individuals with disabilities who apply for open positions, the number who are hired, and the number who remain employed. 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, and for employees to include the identification number. This is included to enable contractors to identify the job groups into which they should place individuals when performing their utilization analysis. Identification by name and employee identification number also 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 AAP. During a compliance evaluation, OFCCP reviews the contractor's AAP and supporting data 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 7% goal for the employment of individuals with disabilities by contractors, sets out the process contractors will use to assess whether they have met this goal, and requires contractors to maintain records of their assessment. It also requires them to develop and execute action-oriented programs to address any problem areas they identify in the assessment. This requirement provides contractors and OFCCP with a yardstick by which they can objectively measure the effectiveness of equal employment opportunity efforts. Contractors use data collected with the Voluntary Self-Identification of Disability Form to assist in determining whether their efforts result in meeting or exceeding the 7% goal.

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 website provides access to compliance resources and information, including the following.

- Section 503 Contractor Resources
<http://www.dol.gov/ofccp/regs/compliance/Resources.htm>
- Best Practices for Creating an Inclusive Workforce
<https://www.dol.gov/ofccp/Section503-FocusedReviews/files/Section503BestPracticesUpdated-FEDQA508c.pdf>
- Disability Inclusion Video
<https://www.dol.gov/ofccp/SelfIdVideo.html>
- 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>
- 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 website.

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.⁸

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 of a Less Frequent Collection

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.

Less frequent collection of this information 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. Accurate determination of compliance requires analysis of contractor actions taken and results obtained, by both OFCCP and the contractor. Additionally, the data collection frequency for this ICR largely mirrors that of OFCCP's other programs, particularly the EO 11246 and VEVRAA supply and service programs, as the agency generally conducts Section 503 compliance evaluations in conjunction with those programs with the exception of focused reviews.

⁸ 41 CFR 60-741.40 – Applicability of the affirmative action 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

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

8. Consultation Outside the Agency

On October 3, 2019, OFCCP published a 60-day notice in the *Federal Register* (84 FR 52897) inviting the public to submit comments on this proposed information collection. OFCCP specifically sought comments on the Self-Identification Form. The agency proposed several changes intended to improve the applicant and employee response rate. OFCCP also requested suggestions from stakeholders regarding alternate or additional options for updating the Form. In particular, the agency sought input on methods other than name to match self-identification information with applicants or employees for utilization and other analysis. The agency reviewed each of the 19 comments it received during the 60-day period from multiple individuals as well as one each from a federal contractor consortium, a law firm, and an employer association.

OFCCP received a mix of comments, predominantly regarding the Self-Identification Form. There was almost unanimous support for revising the form, however, there were differing views on how to edit the form. Multiple commenters suggested edits for the introductory text and the confidentiality statements. One commenter strongly suggested eliminating the prescribed form in favor of a more flexible approach similar to that used for the VEVRAA self-identification requirement. Several commenters suggested adding a field for an employee ID number or other employee identifier, while at least one specifically objected to the idea of adding any identifier other than the existing name field. Additionally, a few commenters addressed the revised list of disability categories. Beyond the form, the three organizational commenters each questioned the overall burden estimates provided, positing that the calculations significantly underestimated the actual time and costs involved in complying with the recordkeeping requirements. One commenter also raised a question regarding personnel activity definitions. Following is a detailed summary of the comments and the agency's responses.

Self-ID Form

As noted above, commenters generally supported the proposal to revise the form. The revisions proposed in the 60-day notice included softening the tone of the form to make the language more positive, updating and alphabetizing the types of disability, shortening the form to one page, and removing the reasonable accommodation notice. As explained below, these revisions were generally supported by commenters and OFCCP is proposing more changes based on the comments to add an optional employee identification field and add a box that employers may modify for internal recordkeeping purposes.

Four comments specifically supported the reasonable accommodation notice deletion, which has been adopted. However, the majority of the specific comments fell into three groups: respondent identification, text edits, and disability categories.

Eight commenters referenced respondent identification, with seven (including the three organizations) agreeing that an option to include one or more employee identifiers would be a positive addition. The eighth objected to including anything other than name questioning why an employer would need an identification number in addition to name to track applicants. However, the majority of comments on this issue suggested adding an identification method, such as employee identification number, to help contractors more easily keep track of employees. After considering the comments, OFCCP proposes to add an “Employee ID” field under the name field, and retain the move of the “Name” field to the top of the form. One comment also suggested that contractors be able to add fields with other employee identification information, such as date of hire and job title. Considering this comment in combination with the comments for making the form more flexible, OFCCP proposes to add a “For Employer Use Only” block at the bottom of the form that contractors may modify for recordkeeping purposes only. OFCCP would only permit contractors to modify that one portion of the form, to give them flexibility to enhance their recordkeeping for data analysis required by OFCCP’s regulations.

Seven commenters suggested replacement language for the introductory paragraphs and the confidentiality statements as well as plain language edits. OFCCP edited the text in response to the recommendations.

The revisions to the list of disability categories elicited ten comments, three of which were simple statements of support for the changes while one was generally negative. Five questioned the revised examples, both in terms of specific types of disabilities listed and overall. OFCCP worked with DOL’s Office of Disability Employment Policy on the revised list of disabilities based on prior feedback from the disability and contractor communities. The agency considered the comments and edited two of the disability descriptions accordingly. It relocated celiac disease from the list of gastrointestinal disorders based on one comment noting that celiac disease is not a gastrointestinal disorder. It also removed the qualifier “benefitting from hearing aid(s)” from the deaf or hard of hearing category to prevent a misconception that auditory processing disorder or mild hearing loss would not be a disability. One commenter requested that the “Disabilities include, but are not limited to” lead-in phrase be highlighted for emphasis. OFCCP accepted the recommendation and modified the formatting of that text accordingly.

The employer association submitted a comment advocating for OFCCP to eliminate the prescriptive nature of the form. The association said contractors should have the same flexibility to design their own form that they have under VEVRAA. As OFCCP stated in its final rule implementing the self-identification requirement, as well as in previous renewals for this ICR, the use of uniform language on the form ensures consistency in invitations while reassuring individuals with disabilities that the self-identification request is routine and executed pursuant to OFCCP’s regulations. It also facilitates contractor compliance by providing them with prescribed language that satisfies their regulatory obligations while avoiding increased costs

related to designing and implementing their own versions of the form. Therefore, OFCCP retains the requirement of prescribed text and structure for the Self-Identification Form.

The employer association also requested that OFCCP publish guidance permitting contractors to require that applicants and employees complete the form by either indicating whether they have a disability or selecting the “I don’t wish to answer” option on the form. 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 identify voluntarily 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.

Burden

OFCCP received three comments that addressed the burden, from the organizations. Two of the comments generally mentioned the amount of time, money, and resources that would be required to update all online systems and paper documents. Neither of the commenters provided alternative data that OFCCP could consider. The third comment mentioned that OFCCP underestimated the burden for the following requirements: pre- and post-offer invitation to self-identify; the employee invitation to self-identify; the external dissemination of policy, outreach and positive recruitment; the audit and reporting system; data collection and analysis; the utilization goal; the applicant self-identification completion; and the notification to subcontractors. This commenter stated that it had surveyed its federal contractor constituents, and provided alternative burden estimates for OFCCP to consider. However, the commenter did not provide data on the demographics of the federal contractor universe surveyed. OFCCP acknowledges that estimating the precise amount of time each company will take to engage in certain activities is difficult. The agency has always accounted for the fact that small contractors may not have the same human resources capabilities as large contractors. Therefore, all of the burden estimates are an average across establishments of varying sizes. OFCCP based its burden calculations on the methodology currently approved by OMB, and the agency declines to change its estimations.

Personnel Activity Definitions

As part of their comment, the contractor consultant organization requested that OFCCP publish additional guidance allowing contractors to use their own definitions for personnel activity terms. Specifically, they requested the agency allow contractors to self-define “job openings”, “applicants”, “hired”, and “jobs filled”, the same way they define those terms for Executive Order 11246 compliance purposes. This issue was raised and answered in the previous renewal of this ICR. OFCCP therefore reiterates the distinction between employees “hired” and “jobs filled,” as explained in its existing FAQs. The number of those “hired” refers to those internal and external applicants 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. The company, 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. However, as part of its continuous development of guidance to assist contractors in meeting their obligations, OFCCP will consider further refining its FAQs on these definitions.

9. Gift or Payments

OFCCP provides neither payments nor gifts to respondents.

10. Confidentiality of Information

OFCCP will treat records provided by the contractor as confidential to the maximum extent the information is exempt from public disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. 552. The agency will evaluate all information pursuant to the public inspection and disclosure provisions of FOIA, as well as DOL’s implementing regulations at 29 CFR Part 70. Following Executive Order 12600 and the agency’s FOIA disclosure regulations at 29 CFR part 70, OFCCP will also notify the contractor in writing if applicable records are subject to a FOIA request and will not make a decision to disclose the information until the contractor has the opportunity to submit objections to its release.

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).

Because the disability self-identification form invites applicants and employees to provide information about their disability status, the confidentiality requirements of the Rehabilitation Act of 1973 apply, and OFCCP will follow those requirements in implementing this information collection.

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. This data is necessary to enable OFCCP to assess contractors’ compliance with Section 503 and ensure that contractors are affording equal employment opportunity to individuals with disabilities. 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. The form also does not require that individuals disclose the nature of their disability or any other information related to their disability. Race and sex data are not required under the Section 503 regulations.

12. Information Collection Hour Burden

The public impact of this information collection is broken down into recordkeeping and third party disclosure burdens. As previously mentioned, the reporting requirements under Section 503 are included in the Construction Recordkeeping and Reporting Requirements ICR (OMB Control Number 1250-0001) and the Supply and Service Program ICR (OMB Control Number 1250-0003), including reporting associated with 41 CFR 60-741.60.

The sections that follow outline the calculations of the burden⁹ based on the legal and administrative requirements covered in paragraph 1 of this supporting statement. OFCCP bases its calculations on the 117,819 contractor establishments subject to its regulatory requirements.¹⁰

The total in combined recordkeeping and third party disclosure burden hours for this ICR (4,426,841) is more than the total number of hours approved in 2017 (4,392,369), as detailed in Sec. 15 below.

Recordkeeping Burden

Section 60-741.42 Invitation to self-identify

Section 60-741.42, requires contractors to 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) and (b) pre- and post-offer invitation to self-identify

Section 60-741.42(a) requires contractors to extend a pre- and post-offer invitation to self-identify as an “individual with a disability.” OFCCP estimates that contractors working at the company level will take 1.5 hours to review and retrieve the revised form, save it, and incorporate it into their application process. Because of updates made to the “Voluntary Self-Identification of Disability” form, the estimated burden in this information collection applies to all contractor parent companies, or 24,147 contractor companies. The burden for this provision is 36,221 hours (24,147 contractor companies × 1.5 hours = 36,221 hours).

Section 60-741.42(c) Employees invitation to self-identify

Section 60-741.42(c) requires contractors to invite incumbent employees to self-identify. This invitation to incumbent employees shall be extended the first year the contractor becomes subject to the requirements of this section and at five-year intervals, thereafter. OFCCP estimates that it will take contractors 1 hour 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. The estimated annual burden for this provision is 23,564 hours (117,819 contractor establishments × 1 hour/5 years = 23,564 hours).

⁹The calculations on burden hours are based on contractor estimates and information provided by OFCCP field staff.

¹⁰OFCCP obtained the total number of contractor establishments from the most recent EEO-1 Report data available, which is from FY 2017.

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 29,455 hours (117,819 contractor establishments × 15 minutes/60 = 29,455 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. Therefore, the recurring burden for this provision is 20,029 hours (117,819 contractor establishments × 10 minutes/60 = 20,029 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 20,029 hours (117,819 contractor establishments × 10 minutes/60 = 20,029 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 167,303 hours (117,819 contractor establishments × 85 minutes/60 = 167,303 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 117,819 hours (117,819 contractor establishments × 1 hour = 117,819 hours).

OFCCP further estimates that it will take contractors an additional 10 minutes to maintain records of the utilization analysis. The burden is 20,029 hours (117,819 contractor establishments × 10 minutes/60 = 20,029 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.”

Total Recordkeeping Burden

Activity	Hours
Pre-offer invitation to self-identify; 60-741.42 (a)	36,221
Employees invitation to self-identify; 60-741.42 (c)	23,564
Maintain self-ID forms; 60-741.42(c)	29,455
Maintain outreach and recruitment documentation; 60-741.44(f)(4)	20,029
Document compliance; 60-741.44(h)	20,029
Collect and analyze categories of data; 60-741.44(k)	167,303

Conduct utilization analysis; 60-741.45	117,819
Maintain records of utilization analysis; 60-741.45	20,029
Total	434,449

Third Party Disclosure Burden

Sections 60-741.42(a) and (b) – Pre- and post-offer invitation to self-identify

Applicants for available positions with covered contractors will have a minimal burden complying with Sections 60-741.42(a) and (b) in the course of completing their application for employment with the contractor. These sections require contractors to invite all applicants, pre- and post-offer, 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 3,393,187 hours (117,819 contractor establishments × 15 vacancies × 24 applicants × 5 minutes/60 = 3,393,187 hours).

Section 60-741.42(c)

Contractor employees will have to spend some time reviewing and/or completing the survey. There are approximately 31,927,590 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 510,841 hours ((31,927,590 employees × 5 minutes/60) / 5 years = 510,841 hours).

Section 60-741.44(f)(1)(ii)

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. OFCCP estimates that contractors will take 15 minutes (.25 hours) to prepare the notification and send it to subcontractors, vendors, and suppliers, and an additional 15 minutes (.25 hours) to update email address changes in the company’s email system. Likewise, the agency estimates the burden for any information technology assistance needed to send the written communication as 15 minutes (.25 hours). The burden for this request is 88,364 hours (117,819 contractor establishments × .75 hours = 88,364 hours).

Total Third Party Disclosure Burden

Activity	Hours
Complete pre-invitation self-ID form; 60-741.42 (a)	3,393,187
Complete employee invitation to self-ID form; 60-741.42 (c)	510,841
External dissemination of policy,	88,364

outreach, and positive recruitment; 60-741.44 (f)	
Total	3,992,392

Total Recordkeeping, Reporting, and Third Party Disclosure Burden Hours

The table below contains the summary of the total burden hours associated with this ICR, combining recordkeeping, reporting, and third party disclosure hours.

Recordkeeping burden hours	434,449
Reporting burden hours	0
Third party disclosure burden hours	3,992,392
Total hours	4,426,841

Monetized Burden Cost

OFCCP estimates the total recordkeeping burden hours translate to approximately \$30,750,300 in burden costs to contractors using data from the Bureau of Labor Statistics for employee compensation (434,449 hours x \$70.78).¹¹

OFCCP estimates that the total third party disclosure burden hours for contractors translate to approximately \$32,165,324 in burden costs to contractors using data from the Bureau of Labor Statistics for employee compensation (599,205 hours x \$53.68).¹²

OFCCP estimates that the total third party disclosure burden hours for non-contractors translate to approximately \$182,146,278 in burden costs to contractors using data from the Bureau of Labor Statistics for employee compensation (3,393,187 hours x \$53.68).

13. Information Collection Cost Burden

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

11 Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2018, https://www.bls.gov/oes/current/oes_nat.htm (last accessed January 21, 2020). \$45.38 per hour for Management Analysts and \$60.91 per hour for Human Resource Managers. The calculation uses an 80/20 split between Management Analysts and Human Resource Managers, which equals \$48.48 plus 46 percent of wages for fringe benefits. \$48.48 x 1.46 = \$70.78

12 Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2018, https://www.bls.gov/oes/current/oes_nat.htm (last accessed January 21, 2020). \$36.77 per hour for civilian workers and 46 percent of wages for fringe benefits. \$36.77 x 1.46 = \$53.68

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 vacancies per establishment, the minimum estimated total cost to contractors will be \$763,467 ((117,819 establishments × 20 percent) × 360 copies × \$0.09¹³ = \$763,467).

14. 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 4,426,841 burden hours. The 2017 clearance contained approval of 4,392,369 hours. This results in an overall increase of 34,472 hours. The increase is a result of an increase in the total number of contractor companies and contractor establishments.

A summary of the change in hours is below.

a. Recordkeeping Burden Hours

The previous submission included 390,324 hours. The current request is 434,449 hours for an adjustment increase of 44,125 hours. This increase is a result of updates made to the “Voluntary Self-Identification of Disability” mandatory form that will require all contractors to review and retrieve the updated invitation to self-identify, save the revised version, and incorporate it into their application form.

b. Third Party Disclosure Burden Hours

The previous submission included 4,002,045 hours. The current request is 3,992,392 hours for an adjustment decrease of 9,653 hours. Despite the increase in the number of establishments and the number of employees who self-identify, the burden decreased because of a change to the methodology used to calculate the burden for completing the self-identification form.

c. Monetized Burden Cost

¹³ Based on the average copying cost at major paper supply stores as of June 17, 2019.

The previous submission included a monetized burden cost of \$150,282,664.38. The current request is \$245,061,902 for an adjustment increase of \$94,779,237.62. This increase is the result of a department wide measure to include 46% fringe benefits in the wage rate.

d. Other Burden Hours and Costs

The previous submission included \$667,186.56 in printing/copying costs. The current request estimates \$763,467 for printing/copying. This is an adjustment increase of \$96,280.44. This increase in printing/copying costs is a result of an increase in copying costs from \$.08 per page to \$.09 per page.

16. Publication of Data for Statistical Use

There will be no publication of statistical analysis related to this collection.

17. Approval Not to Display the Expiration Date

OFCCP is not seeking approval to not display the expiration date of this collection.

18. Exceptions to the Certification Statement

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

B. STATISTICAL METHODS

This information collection does not use statistical methods.