

**Department of Labor
Office of Federal Contract Compliance Programs
Construction Recordkeeping and Reporting Requirements**

OMB Control No. 1250-0001

This ICR seeks to revise the collection of information under OMB Control Number 1250-0001.

A. JUSTIFICATION

The U.S. Department of Labor’s (DOL) Office of Federal Contract Compliance Programs (OFCCP)¹ is requesting Office of Management and Budget (OMB) reauthorization of its construction program. This information collection request (ICR) covers recordkeeping and reporting requirements for construction federal contractors and subcontractors.² OFCCP maintains separate authorized collections for recordkeeping and reporting requirements that apply to supply and service contractors and subcontractors.

This ICR outlines the legal authority, procedures, burden, and cost associated with the recordkeeping and reporting requirements of construction contractors. It contains one form (Construction Contract Award Notification Form) that construction contractors must give to OFCCP notifying the agency of new contract awards that exceed \$10,000 and three information collection instruments (compliance review scheduling letter and itemized listing, direct federal compliance check letter, and federally assisted compliance check letter) that notify construction contractors that they have been selected to undergo a compliance evaluation. OFCCP is seeking reauthorization of the Construction Contract Award Notification Form (Form CC-314). OFCCP is merging the direct federal compliance check letter and federally assisted compliance check letter currently approved under OMB Control No. 1250-0011 into this ICR. This ICR also incorporates the requirements and burden for the new Construction Compliance Review Scheduling Letter and Itemized Listing.³ The agency seeks to consolidate the requirements and burden for OMB Control No. 1250-0011 and the new compliance review scheduling letter and itemized listing in order to centralize the recordkeeping and reporting requirements for construction contractors.

1. Legal and Administrative Requirements

OFCCP administers three equal employment opportunity mandates requiring affirmative action and prohibiting employment discrimination based on race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran by federal contractors

¹ “OFCCP” and “agency” are used interchangeably throughout this document.

² Hereinafter all references to “construction contractors” or “contractors” refers to direct federal construction contractors and subcontractors and federally assisted construction contractors and subcontractors, unless otherwise specified. Use of the word “contract” may refer to either a contract or subcontract, but the term “subcontract” is used with necessary to the context.

³ Published in the *Federal Register* on December 23, 2020 (85 FR 84002).

and subcontractors. Contractors are also prohibited from taking adverse employment actions against applicants or employees for asking about, discussing, or sharing information about their pay or the pay of their co-workers.

- 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).

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 60.⁴

EO 11246 prohibits contractors from discriminating against applicants and employees based on race, color, religion, sex, sexual orientation, gender identity, and national origin and requires contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment. 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 also requires affirmative action to provide equal employment opportunities. Unlike supply and service contractors, OFCCP does not require construction contractors that meet certain contract and employee count thresholds to develop an affirmative action program (AAP). Rather, construction contractors must take certain affirmative steps required by OFCCP's regulations at 41 CFR part 60-4. The EO 11246 requirements apply to contractors and federally assisted construction contractors holding a federal 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 federal 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 federal contractors from discriminating against applicants and employees on the basis of disability and requires contractors to take affirmative action to employ, and advance in employment, qualified individuals with disabilities. Its requirements apply to contractors with a federal contract in excess of \$15,000.⁵ If the contractor has at least 50 employees and a single contract of \$50,000 or more, it must also develop a Section 503 AAP, as described in 41 CFR 60-741, subpart C. Section 503 applies to businesses with federal construction contracts, but not to businesses with federally assisted construction contracts.

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

4 41 CFR 60, https://www.ecfr.gov/cgi-bin/text-idx?SID=107d24c64adad26f34aecac57ab67bb6&mc=true&tpl=/ecfrbrowse/Title41/41cfrv1_02.tpl#6000 (last accessed March 5, 2021).

5 The Section 503 threshold is subject to Federal Acquisition Regulation, Inflation Adjustment of Acquisition-Related Thresholds, 41 U.S.C. 431(a), which adjusts certain acquisition-related thresholds for inflation. The threshold last increased from \$10,000 to \$15,000 on August 30, 2010 (75 FR 53129).

apply to contractors with a federal contract of \$150,000 or more.⁶ If the contractor has at least 50 employees and a single contract of \$150,000 or more, it must also develop a VEVRAA AAP, as described in 41 CFR 60-300, subpart C. VEVRAA applies to businesses with federal construction contracts, but not to businesses with federally assisted construction contracts.

EO 11246, 41 CFR part 60-1

41 CFR part 60-1 sets out the nondiscrimination and affirmative action requirements under EO 11246. It defines coverage, specifies clauses to be included in contracts, provides a procedure to ensure compliance by covered contractors, specifies certain reporting and recordkeeping requirements, and contains recordkeeping, reporting and third party disclosure requirements for the construction program. The paragraphs that follow describe the requirements of the applicable Sections at this part.

Section 60-1.4 contains the EO 11246 equal opportunity clause that is incorporated in direct federal construction contracts and federally assisted construction contracts. Sections 60-1.4(a)(4) and 60-1.4(b)(4) require contractors to notify labor organizations of their obligations under EO 11246 and the implementing regulations.

Section 60-1.7 requires specific federal prime contractors and first-tier subcontractors to file an Employer Information Report (EEO-1 Report) annually. The U.S. Equal Employment Opportunity Commission (EEOC) and OFCCP use EEO-1 Report data to analyze employment patterns for women and minorities, and as a civil rights enforcement tool. Although the EEO-1 constitutes a joint data collection with OFCCP, the EEOC is the sponsor of the collection and carries the public reporting burden.⁷

Section 60-1.10 describes the reporting requirement for contractors when their employees or prospective employees are denied a visa of entry to a country in which or with which it is doing business, and it believes the denial is due to a basis covered by EO 11246.

Section 60-1.12 requires contractors to preserve any personnel or employment record made or kept for a period of not less than two years. However, if the contractor has fewer than 150 employees or does not have a contract of at least \$150,000, this retention period is one year.

Section 60-1.12(c) provides that the contractor must be able to identify the gender, race and ethnicity of each employee for any record the contractor maintains. Where possible, the contractor must also identify the gender, race and ethnicity of each applicant or Internet applicant.

Section 60-1.20 describes the types of compliance evaluations used to determine if the contractor maintains nondiscriminatory hiring and employment practices and is taking affirmative action to

⁶ The VEVRAA threshold is also subject to Federal Acquisition Regulation, Inflation Adjustment of Acquisition-Related Thresholds, 41 U.S.C. 431(a). Effective October 1, 2015, VEVRAA's threshold increased from \$100,000 to \$150,000. 80 FR 38298 (July 2, 2015).

⁷ The EEO-1 Report information collection is approved under OMB Control No. 3046-0049. To view the information collection, visit https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202002-3046-002 (last accessed March 5, 2021).

ensure that applicants are employed and that employees are placed, trained, upgraded, promoted, and otherwise treated during employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

Uniform Guidelines on Employee Selection Procedures, 41 CFR part 60-3.

The EEOC, the U.S. Office of Personnel Management (OPM), DOL, and the Department of Justice (DOJ) adopted the Uniform Guidelines on Employee Selection Procedures (UGESP) in 1978.⁸ UGESP applies to tests and other selection procedures used as a basis to make any employment-related decision. Under UGESP, each contractor maintains records and other information for each job sufficient to permit analyses of the impact of its selection procedures on the employment opportunities of people based on race, sex, or ethnic group.⁹ Using this information, contractors and OFCCP identify and evaluate selection procedures for adverse impact.

When a test or other selection procedure is determined to have an adverse impact, Section 60-3.4(c) requires the contractor to validate the test or procedure and Section 60-3.5(d) requires the contractor to retain its validation study documentation.

Section 60-3.15(a)(1) applies to contractors with 100 or fewer employees. It requires contractors to keep records on the number of persons hired, promoted, and terminated for each job by sex and, where appropriate, by race and national origin. This Section also requires contractors to keep records showing the number of applicants for hire and promotion by sex and, where appropriate, by race and national origin, as well as records showing the selection procedures used. This Section does not require contractors to make adverse impact determinations.

Section 60-3.15(a)(2) requires contractors with more than 100 employees to keep records for each job that are sufficient to allow contractors to make an adverse impact determination. Contractors make this determination at least annually and make it for each racial or ethnic group constituting at least 2 percent of the labor force in the relevant labor area or 2 percent of the applicable workforce.

Construction Contractors, 41 CFR part 60-4

41 CFR part 60-4 sets out EO 11246's nondiscrimination and affirmative action requirements for construction contractors. This part applies to all contractors, subcontractors, contracting agencies, and applicants¹⁰ that are party to or seek to enter federal and federally assisted construction contracts, as well as federal nonconstruction contractors awarding construction

⁸The UGESP information collection is approved under OMB Control No. 3046-0017. To view the information collection, visit https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201804-3046-002 (last accessed March 5, 2021).

⁹ Section 60-3.4(b) requires recordkeeping and analyses of the following race and ethnic groups: Black, American Indian, Asian/Pacific Islander, Hispanic, and White, and totals for each group.

¹⁰ An applicant is defined as an applicant for federal assistance involving a construction contract, or other participant in a program involving a construction contract as determined by regulation of an administering agency. The term also includes such persons after they become recipients of such federal assistance. 41 CFR 60-1.3.

contracts.¹¹ It defines coverage, specifies clauses to be included in contracts, provides a procedure to ensure compliance by covered contractors, and specifies certain recordkeeping and reporting requirements. The paragraphs that follow describe the requirements at this part.

Section 4.2 requires all contracting officers, applicants for construction contracts and covered nonconstruction contractors to include the “Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)” set forth in this Section, in all solicitations for offers and bids on all federal and federally assisted construction contracts or subcontracts. This notice includes the minority and female participation goals for the construction work performed in the covered area, which also apply to construction work performed outside of the covered area by geographical area. In addition, construction contractors, contracting officers, applicants for construction contracts, and covered nonconstruction contractors must notify OFCCP with written notification within 10 working days of award of a covered contract in excess of \$10,000.

This requirement ensures that all construction contractors are aware of the affirmative action requirements and obligations in the solicitation for offers and bids on all federal and federally assisted construction projects. Without this notification, construction contractors may not be fully aware of their obligations before they develop their bids and proposals. Further, the required notice of subcontract awards provides OFCCP with accurate and current information regarding which employers are working on federal contracts. This information serves two purposes: (1) to identify those construction employers that would benefit from technical assistance; and (2) to contribute to the formulation of OFCCP’s pool for selecting construction contractors for compliance evaluations.

Section 4.3 requires all contracting officers, applicants for construction contracts, construction contractors, and covered nonconstruction contractors to incorporate the “Standard Federal Equal Employment Opportunity Construction Contract Specifications” set forth in this Section, into all nonexempt federal contracts and subcontracts. The 16 affirmative action specifications listed under Section 60-4.3(a)7 describe the required steps that contractors must take to ensure nondiscrimination and equal employment opportunity. The recordkeeping requirements associated with executing these specifications are critical to the final evaluation and assessment of a contractor’s compliance. During a compliance evaluation, OFCCP examines contractors’ compliance with the 16 specifications, supporting documentation, compensation data, and documents related to personnel actions, and employment policies and practices 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.

Briefly, the specifications require covered contractors to engage in specific affirmative activities, which include:

- Ensuring and maintaining a work environment free of harassment;
- Establishing and maintaining a list of minority and female recruitment sources;

¹¹ Nonconstruction contractors and subcontractors are required to comply with these requirements if, as a part of their federal contract or subcontract, construction work is necessary in whole or in part to the performance of a nonconstruction contract or subcontract. 41 CFR 60-4.1.

- Maintaining a file of minority and female walk-in applicants;
- Notifying OFCCP if a union is not referring minority or female applicants or is otherwise impeding the contractor's efforts to meet its obligations;
- Developing on-the-job training programs or participating in training programs which include minorities and women;
- Disseminating the equal employment opportunity policy both externally and internally;
- Reviewing EEO policy and affirmative action obligations with all employees who have personnel responsibilities;
- Directing recruitment efforts to minority and female schools and organizations;
- Encouraging minority and female employees to recruit minority and female applicants;
- Validating all tests and other selection requirements;
- Conducting annual assessments and inventories of current minority and female employees for promotional opportunities;
- Ensuring that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect;
- Ensuring that all facilities are nonsegregated;¹²
- Documenting and maintaining records of solicitation; and
- Conducting an annual review of supervisory performance and adherence to affirmative action obligations.

Section 60-4.6 explains the goals and timetables set by OFCCP and their application to a contractor's workforce.

Section 60-4.7 explains the effect of the regulations in part 60-4 on the requirements of parts 60-1, 60-3, 60-20, and 60-50.

VEVRAA, 41 CFR part 60-300

41 CFR part 60-300 establishes the nondiscrimination and affirmative action requirements pertaining to protected veterans. This part defines coverage, specifies clauses to be included in contracts, provides procedures to ensure compliance by covered contractors, specifies certain recordkeeping and reporting requirements, establishes an annual benchmark for veteran hiring, and specifies the basic requirements for AAPs under VEVRAA. The paragraphs that follow describe the requirements of the applicable sections at this part, though the recordkeeping burden under VEVRAA is already authorized under OMB No. 1250-0004.

Section 60-300.5 contains the VEVRAA equal opportunity clause that is incorporated in direct federal construction contracts and federally assisted construction contracts.

Section 60-300.40 requires contractors with 50 or more employees and contracts of \$150,000 or more to implement the requirements of subpart C of the regulation, including inviting applicants to self-identify and developing an AAP. A construction contractor may develop and maintain an AAP in one of two ways: company-wide, provided that the AAP can be disaggregated by trade and economic area (with the benchmark reported by trade and economic area); or by economic

¹² This requirement includes an exception for separate or single-user toilet and necessary changing facilities.

area, provided that the data is collected at the project level by trade and aggregated for the economic area.

Section 60-300.42 requires contractors to invite applicants to voluntarily self-identify their protected veteran status at the pre-offer and post-offer stages.

Section 60-300.44 identifies required elements of an AAP,¹³ which include:

- Developing and including an equal opportunity policy statement in the AAP;
- Reviewing personnel processes to ensure that qualified protected veterans are provided equal opportunity;
- Reviewing all physical and mental job qualification standards to ensure that those that screen out or tend to screen out qualified disabled veterans are job-related and are based on business necessity;
- Providing reasonable accommodations for physical and mental limitations of an applicant or employee who is a qualified disabled veteran;
- Developing procedures to ensure that employees are not harassed because of their veteran status;
- Undertaking appropriate outreach and positive recruitment activities reasonably designed to effectively recruit protected veterans, documenting and assessing these activities on an annual basis, and disseminating the contractor's affirmative action policy to all subcontractors;
- Developing procedures and practices to disseminate affirmative action policies internally;
- Establishing an audit and reporting system to measure the effectiveness of the AAP and determining progress and compliance;
- Collecting and maintaining certain applicant and hiring data for three years;
- Designating a responsible official to implement and oversee the AAP; and
- Training all employees involved in personnel actions.

Section 60-300.45 requires contractors to either adopt the national hiring benchmark published on OFCCP's website, or establish their own hiring benchmark at each establishment for protected veterans using five factors: (1) the average percentage of veterans in the civilian labor force of the contractor's state; (2) the number of veterans who participated in the contractor's state's employment service delivery system; (3) applicant and hiring ratios; (4) recent assessments of external outreach and recruitment efforts; and (5) any other factors that may affect the availability of qualified protected veterans.

Section 60-300.60 identifies OFCCP's methods to assess contractors' compliance with the agency's regulations during a compliance evaluation. These methods range from an in-depth comprehensive evaluation of the contractor's employment practices (*e.g.*, a compliance review), to a determination of whether the contractor maintained records consistent with Section 60-300.80 (*e.g.* a compliance check).

Section 60-300.80 requires contractors to preserve any personnel or employment record made or kept for a period of not less than two years. However, if the contractor has fewer than 150

¹³ Detailed instructions for the development of a VEVRAA AAP are in subpart C of 41 CFR part 60-300.

employees or does not have a contract of at least \$150,000, this retention period is one year. It also mandates 3-year record retention for records required under Sections 41 CFR 60-300.44(f) (4), 60-300.44(k), and 60-300.45(c).

Section 503, 41 CFR part 60-741

41 CFR part 60-741 establishes the nondiscrimination and affirmative action obligations of contractors pertaining to individuals with disabilities. This part defines coverage, specifies clauses to be included in contracts, provides a procedure to ensure compliance by covered contractors, specifies certain recordkeeping and reporting requirements, establishes an aspirational utilization goal of 7 percent, and specifies the basic requirements for AAPs under Section 503. The paragraphs that follow describe the requirements of the applicable sections at this part, though the recordkeeping burden under Section 503 is already authorized under OMB No. 1250-0005.

Section 60-741.5 contains the Section 503 equal opportunity clause that is incorporated in direct federal construction contracts and federally assisted construction contracts.

Section 60-741.40 requires the development and maintenance of a Section 503 AAP. This Section requires each contractor and subcontractor that has 50 or more employees, and a contract of \$50,000 or more, to implement the requirements of subpart C of these regulations, including inviting applicants and employees to self-identify and developing an AAP for each establishment. A construction contractor may develop and maintain an AAP in one of two ways: company-wide, provided that the AAP can be disaggregated by trade and economic area (with the goal reported by trade and economic area); or by economic area, provided that the data is collected at the project level by trade and aggregated for the economic area.

Section 60-741.42 requires contractors to invite applicants to voluntarily self-identify as an individual with a disability at the pre-offer and post-offer stages of the employment process. Additionally, it requires contractors to invite employees in the first year of becoming subject to these requirements and at five year intervals thereafter to invite employees to voluntarily inform the contractor whether the employee believes that he or she is an individual with a disability.

Section 60-741.44 identifies required elements of an AAP,¹⁴ which include:

- Developing and including an equal opportunity policy statement in the AAP;
- Reviewing personnel processes to ensure that qualified individuals with disabilities are provided equal opportunity;
- Reviewing all physical and mental job qualification standards to ensure that those that screen out qualified individuals with disabilities on the basis of disability are job-related and based on business necessity;
- Providing reasonable accommodations for physical and mental limitations;
- Developing procedures to ensure that employees are not harassed because of their disability;

¹⁴ Detailed instructions for the development of a Section 503 AAP are in subpart C of 41 CFR part 60-741.

- Undertaking appropriate outreach and positive recruitment activities reasonably designed to effectively recruit individuals with disabilities, documenting and assessing these activities on an annual basis, and disseminating its affirmative action policy to all subcontractors;
- Developing procedures and practices to disseminate affirmative action policies internally;
- Establishing an audit and reporting system to measure the effectiveness of the AAP;
- Collecting and maintaining certain applicant and hiring data for three years;
- Designating a responsible official to implement and oversee the AAP; and
- Training employees involved in personnel actions.

Section 60-741.45 requires contractors to apply a 7 percent utilization goal to each of their job groups, or to their entire workforce if the contractor has 100 or fewer employees.

Section 60-741.60 identifies the methods OFCCP uses to assess contractors' compliance with the agency's regulations during compliance evaluations. These methods range from an in-depth comprehensive evaluation of contractors' employment practices (*e.g.*, a compliance review), to a determination of whether the contractor maintained records consistent with Section 60-741.80 (*e.g.*, a compliance check).

Section 60-741.80 requires contractors to preserve any personnel or employment record made or kept for a period of not less than two years. However, if the contractor has fewer than 150 employees or does not have a contract of at least \$150,000, this retention period is one year. It also mandates 3-year record retention for records required under Sections 41 CFR 60-741.44(f) (4), 60-741.44(k), and 60-741.45(c).

Construction Contract Award Notification Form (Form CC-314)

OFCCP seeks the reauthorization of the Construction Contract Award Notification Form, which contracting officers, applicants, and contractors use to submit written notifications to OFCCP. This form is currently approved in paper and electronic format. The electronic form will eventually be accessible via an online portal, the Notification of Construction Contract Award Portal (NCAP), and the agency will include a batch upload feature for the portal that will allow contractors to submit information for multiple notices simultaneously. OFCCP seeks to request new, additional information in the form, such as the contractor's email address and whether they are a prime or subcontractor.

Compliance Review Scheduling Letter and Itemized Listing

OFCCP seeks authorization of the construction scheduling letter and itemized listing. If approved, federal and federally assisted construction contractors would receive the scheduling letter and itemized listing to notify them that they have been selected to undergo a compliance review. Under the current construction program, every selected construction contractor undergoes a full on-site review. During the review, OFCCP requests documentation specific to that contractor of its compliance with all applicable equal employment opportunity laws, meets with contractor officials, and conducts employee interviews. Under the new proposal, OFCCP will obtain documentation of compliance during a desk audit before determining whether to

conduct an on-site review. OFCCP would base the on-site determination on whether the agency identifies indicators of potential discrimination or other potential compliance problems during a desk audit. The on-site review will then be specifically focused on the indicators of potential discrimination or other compliance problems identified. This way of evaluating construction contractors will be similar to the one currently contained in the Supply and Service ICR (OMB Control No. 1250-0003), which will provide a degree of consistency between the two programs. OFCCP published a 60-day Federal Register Notice for the Construction Compliance Review Scheduling Letter and Itemized Listing as a separate, new collection (*see* 85 FR 84002) but is merging the requirements and burden here to consolidate its reporting burden for construction contractors.

Compliance Check Letters

OFCCP seeks reauthorization of the compliance check letters. A compliance check is a compliance evaluation that is more limited in scope than a compliance review as it is used only to determine whether the contractor has maintained required records. Contractors receive a compliance check letter to notify them that they have been selected to undergo a limited check on AAPs and other related documentation. OFCCP previously had authorization for these letters under OMB Control No. 1250-0011 but is seeking to combine them with OMB Control No. 1250-0001 to consolidate its reporting burden for construction contractors.

2. Use of Collected Material

OFCCP will use the material to ensure contractor compliance with the agency's regulations related to creation and maintenance of AAPs, and other recordkeeping requirements. During a compliance evaluation, OFCCP may review the contractor's AAPs under EO 11246, Section 503, and VEVRAA, along with supporting documentation, personnel data, and other documents to determine whether the contractor is complying with its obligations to ensure nondiscrimination and take affirmative action. Additionally, OFCCP will use the information submitted to the agency in the NCAP to verify contracts awarded to construction contractors and subcontractors.

3. Use of Information Technology

As stated above, construction contractors, contracting officers, applicants for construction contracts, and covered nonconstruction contractors are required to give written notice to OFCCP within 10 working days of awarding a federal or federally assisted construction contract or subcontract in excess of \$10,000, as required by 41 CFR 60-4.2. Written notices are currently submitted to OFCCP's regional, district, and area offices by fax, mail, email, or eventually through NCAP. The information requested in the form that will eventually be incorporated into NCAP reflects the requirements of 60-4.2(c). The reporting of this information is covered by this collection and respondents currently submit it to OFCCP in one of the methods listed above. The portal is convenient, cost-effective, and provides respondents with confirmation that their notices were successfully transmitted – confirmation that is currently not available when submitting by fax, mail, or email. In addition to making the process easier, the NCAP will eliminate the mailing costs for respondents and reduces the burden on federal staff because it

decreases the number of notices that they have to manually enter into a database. Respondents who choose not to use the portal maintain the option to submit the construction contract award notification via one of the other methods. NCAP will be further enhanced with a new “batch upload” feature that will allow contractors to upload multiple notices simultaneously. OFCCP anticipates that this will create no substantial change in burden.

Generally, contractors are able to develop and use any method that best suits their needs for collecting and maintaining information, as long as they can retrieve and provide to OFCCP the data required by its regulations. Since the majority of federal contractors are repeat contractors, they have developed their information technology systems to generate the required data. Information technology systems used to comply with regulatory requirements should be capable of:

- Monitoring hours worked on construction projects;
- Facilitating calculations of utilization;
- Collecting employment activity data (for example, applicants, hires, promotions, and terminations) related to EO 11246, and if applicable, Section 503 and VEVRAA;
- Conducting Section 503 utilization analysis,
- Analyzing outreach and recruitment;
- Tracking self-identification;
- Disseminating EO policies;
- Providing notice to subcontractors and vendors; and
- Facilitating calculations of the annual VEVRAA hiring benchmark.

OFCCP provides compliance assistance to all contractors by utilizing information technology. For example, OFCCP’s website¹⁵ provides access to a plethora of compliance resources and information, including:

- Webinar trainings on a variety of compliance related topics;
- Customer relations management tool that allows stakeholders to use the online self-service function to submit a question to OFCCP;
- The Federal Contracts Compliance Advisor;
- Construction Contractors Technical Assistance Guide;
- Small Federal Contractors Technical Assistance Guide;
- Posting and Notices Requirements Guide and Checklist;
- Executive Order 11246 Recordkeeping Guide;
- Section 503 Recordkeeping Guide;
- VEVRAA Recordkeeping Guide;
- The 2006-2010 EEO Tabulation;
- The Contractors’ VEVRAA Hiring Benchmark Database; and
- Employment Resource Referral Directory.

Pursuant to the Government Paperwork Elimination Act, Government agencies must provide the option of using and accepting electronic documents and signatures, and electronic recordkeeping,

¹⁵ OFCCP’s homepage can be found at <https://www.dol.gov/agencies/ofccp> (last accessed on March 5, 2021).

where practicable.¹⁶ OFCCP fulfills its GPEA requirements by permitting electronic transmission of contractors' documentation.

4. Description of Efforts to Identify Duplication

The recordkeeping and reporting requirements in this request result exclusively from the implementation of EO 11246, Section 503, and VEVRAA. These authorities empower the Secretary of Labor, and by a Secretary's Order, OFCCP, to require the collection, analysis, and reporting of data and other information in connection with the enforcement of the laws and regulations requiring Government contractors to take affirmative action to ensure equal employment opportunity. No duplication of effort exists because no other Government agencies have these specific data collection requirements. Where possible, OFCCP participates in information sharing and standardized requirements. Examples include use of the EEO-1 Report and UGESP.

5. Impact on Small Businesses

Generally, OFCCP minimizes the impact of information collections on small businesses by exempting contractors with fewer than 50 employees from the requirement to create and maintain AAPs.

6. Consequences of a Less Frequent Collection

Contractors are obligated to comply with all applicable regulations enforced by OFCCP. In order to carry out its mission, OFCCP must verify that contractors maintain records and documentation as prescribed in its regulations. OFCCP initiates compliance evaluations on an ongoing basis in order to review contractors' activity and records to confirm that they comply with their obligations.

Less frequent collection of the information contained in the Construction Contract Award Notification Form would lead to outdated contractor employment data and could negatively affect civil rights enforcement activities. Current information is imperative if OFCCP is to accurately assess contractors' compliance with the agency's regulations. Likewise, less frequent collection could undermine the success of contractors' affirmative action activities and undermine OFCCP's ability to provide the appropriate compliance assistance. As a result, construction contractors' would fail to meet their obligations and their efforts to recruit, hire, and retain minority and female employees could be inadequate or misdirected.

7. Special Circumstances

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

8. Consultation Outside the Agency

¹⁶ Government Paperwork Elimination Act (Public Law 105-277, 1998), <https://www.gpo.gov/fdsys/pkg/PLAW-105publ277/pdf/PLAW-105publ277.pdf> (last accessed March 5, 2021).

On October 30, 2020, OFCCP published a 60-day notice in the Federal Register (85 FR 68933) soliciting comments from the public concerning its proposal to renew its construction recordkeeping and reporting authorization (OMB Control No. 1250-0001) and merge the requirements and burden from the Construction Compliance Check authorization (OMB Control No. 1250-0011). OFCCP received no comments on the 60-day notice. Separately, on December 23, 2020, OFCCP published a 60-day notice in the Federal Register (85 FR 84002) soliciting comments from the public concerning its proposal to obtain authorization for a new collection: the Construction Scheduling Letter and Itemized Listing. OFCCP received one comment on that proposal. OFCCP provides a summary of the comment and the agency’s response below.

Matching Itemized Listing to On-site Review Notice

The commenter asserted that the proposed Construction Scheduling Letter and Itemized Listing will increase burden on both contractors and OFCCP because contractors would be required to submit more information to OFCCP than the agency would request during an on-site review. Thus, the commenter recommended that OFCCP revise the proposed Construction Scheduling Letter and Itemized Listing to request only the information that is currently included in the Construction Compliance Evaluation Notice. However, the proposed Construction Scheduling Letter and Itemized Listing does not include anything beyond what would currently be requested during a construction on-site review. The Construction Compliance Evaluation Notice cited by the commenter is a sample letter included in the agency’s Federal Contract Compliance Manual that provides “a *nonexhaustive list of some of the documents* OFCCP could request during the on-site portion of the compliance evaluation” (emphasis added). OFCCP carefully identified items from the Construction Compliance Evaluation Notice to include in the Construction Scheduling Letter and Itemized Listing to enable the agency to use its resources on reviewing and analyzing that information during desk audits, so it can focus its on-site reviews on issues identified during the desk audits.

Communications with Unions on Recruitment for People with Disabilities and Veterans

The commenter claimed that OFCCP has not made the case for why construction contractors should supply communications with unions/community organizations, and recruitment efforts to individuals with disabilities and veterans in a desk audit, when federal contractors do not submit such communications to OFCCP for a supply and service desk audit. The commenter proposed that OFCCP request from construction contractors the same Section 503 and VEVRAA items it requests for a supply and service desk audit. OFCCP considered the comment, and determined that requesting this information is consistent with the agency’s practice for construction compliance reviews, as the Construction Compliance Evaluation Notice being replaced by the Construction Scheduling Letter also requested this information. With the new scheduling letter, OFCCP would be able to obtain this information to review during the desk audit stage, for a fuller understanding of training programs, recruitment efforts, employment selection processes, and compensation policies, informing the agency’s evaluation prior to going on site. Requesting the records for a desk audit enables OFCCP to conduct construction reviews more efficiently, allocating its resources for conducting onsite reviews only in reviews where the desk audit results reveal indicators that warrant further investigation. Thus, OFCCP will retain this item.

Contract Data

The commenter stated that OFCCP will now mandate contractors to submit information that is considered discretionary in a compliance review under item 1 of the Executive Order 11246 Itemized Listing proposed in December 2020 (*e.g.* funding agency, contract amount, date of award, estimated completion date, *etc.*). The commenter asserted that the federal government has the responsibility of maintaining this information, and shifting this responsibility to contractors will add to their overall burden. The commenter recommended removing the requirement for submitting detailed contract information from the Itemized Listing. The information in item 1 is currently included in the Construction Compliance Evaluation Notice that the agency has used in the absence of a Scheduling Letter and Itemized Listing. Because OFCCP is now planning to issue the Construction Scheduling Letter and conduct a desk audit in every case, it needs some of the Item 1 information on the type of construction work to complete the agency's analyses of employment activity and compensation. Other portions of the information would be relevant for OFCCP when determining how to allocate its resources when determining which construction project sites to visit, such as estimated completion date or percent of project completed. After careful consideration of the comment, OFCCP will retain a portion of this item as part of the desk audit, asking only whether each project is federal or nonfederal, and commercial or residential. Removing a portion of this item will reduce contractor burden while still allowing OFCCP to complete its analyses. The information being removed from the Itemized Listing may still be requested if OFCCP determines to conduct an on-site review based on desk audit results.

Additionally, the commenter claimed that requiring a list of all federal subcontracts and relevant information is unnecessary (item 4 of the Executive Order 11246 Itemized Listing proposed in December 2020). The commenter asserted that OFCCP already has the means for obtaining this information, because prime contractors are already required to submit directly to OFCCP a construction subcontract notification letter within 10 working days after any construction subcontract has been awarded in excess of \$10,000, as required by 41 CFR 60-4.2(d)(3). OFCCP agrees with the recommendation to remove this subcontract information from the itemized listing, as this requirement is met through the submission of the construction subcontract notification letter. OFCCP reserves the right to request a list of all current federal and federally assisted contracts and subcontracts after the desk audit, if specific information obtained at the desk audit suggests that the list of contracts would assist OFCCP in evaluating the contractor's compliance.

Record Submission Format

The commenter requests that OFCCP's proposed letter clarify that contractors are permitted to provide their data and documents to OFCCP in the original format that they are maintained. It claims that without this clarification, contractors may believe that they need to convert their paper documentation into an electronic format, which would be inefficient and burdensome.

In response, OFCCP clarifies that documents submitted to the agency under EO 11246 will be accepted in the format they are maintained by the contractor. For submissions made under Section 503 and VEVRAA, OFCCP reserves the right to request information in any of the

formats in which it is maintained, including specific electronic formats, pursuant to 41 CFR 60-741.81 and 41 CFR 60-300.81. Contractors must ensure that any hyperlinks provided to OFCCP are accurate, up-to-date and operational, and that the material submitted are readily identifiable, available for review, and capable of being copied. If OFCCP is unable to access, inspect or duplicate a contractor's records for any reason (*e.g.*, the server housing the records has been disabled or the link has moved or changed), this will not satisfy the contractor's records access requirements and OFCCP will request the contractor to provide other means of access to the requested records.

9. Gift or Payments

OFCCP does not provide payments or gifts to respondents.

10. Confidentiality of Information

Some of the information contractors submit to OFCCP during a compliance evaluation may be considered business confidential information or personally identifiable 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 USC 552. OFCCP will evaluate all information requests pursuant to the public inspection and disclosure provisions of FOIA and DOL's implementing regulations at 29 CFR part 70.

OFCCP safeguards and protects personally identifiable information it receives from contractors to the maximum extent allowable under the law in accordance with the Privacy Act of 1974, as amended (5 USC 552a). In addition, the regulation at 41 CFR 60-1.20(f) allows a contractor that is concerned with the confidentiality of personally identifiable information such as lists of employee names, reasons for termination, or pay data, to use alphabetic or numeric coding or an index. The coding or index for pay and pay ranges must be consistent with the ranges assigned to each job group for purposes of the compliance evaluation.

11. Questions of Sensitive Nature

Generally, OFCCP does not collect information of a personal nature, such as marital status, religious beliefs, or most other matters commonly considered private during the course of its compliance evaluations, though OFCCP does request information from contractors on workplace accommodations received, such as reasonable accommodation for disability or religious accommodations. Where allegations of employment discrimination are present, evidence of a personal nature may become relevant. Under such circumstances, OFCCP may seek evidence concerning race, sex, color, religion, sexual orientation, gender identity, national origin, disability, or veteran status, as appropriate. In general, the gathering of such data is unique to each investigation though OFCCP requests documentation of accommodations requests received and their resolution as a matter of routine during compliance evaluations.

As outlined above, OFCCP's regulations require contractors to list employees and applicants by sex and by race or ethnicity in their employment activity data to evaluate contractors' nondiscrimination and affirmative action efforts. Similarly, contractors invite applicants to self-

identify whether they are a protected veteran or have a disability. Contractors also regularly survey their employees whether they have a disability under OFCCP’s regulations. Contractors inform their employees that they collect and maintain such data for purposes of meeting their nondiscrimination and affirmative action obligations.

12. Information Collection Hour Burden

The following outlines the methodology used by OFCCP for the calculation of the recordkeeping, reporting, and third party disclosure burden requirements for this ICR. OFCCP bases its calculations on the 12,609 construction contractor establishments subject to its regulatory requirements.¹⁷

Recordkeeping Burden

OFCCP’s regulations impose a recordkeeping burden for developing, updating, and maintaining documentation and records related to contractors’ efforts to comply with the regulations. The paragraphs that follow break down the calculations for each construction recordkeeping requirement under Executive Order 11246. The recordkeeping burdens under Section 503 and VEVRAA are already authorized under OMB Nos. 1250-0004 and 1250-0005.

(1) Equal Opportunity Clause

Section 60-1.4(a)(8) requires contractors to include the equal opportunity (EO) clause in all nonexempt subcontracts. The federal government supplies the contract clause verbatim and it may be incorporated by reference or operation¹⁸ into subcontracts. OFCCP estimates that one percent of its contractor universe will be new contractors annually. The agency further estimates that new contractors will take 15 minutes (.25 hours) to incorporate the equal opportunity clause into their contracts. Therefore, the burden for this provision is 32 hours (126 new construction contractors x .25 hours).

(2) Uniform Guidelines on Employee Selection Procedures

In addition to OFCCP, the EEOC, DOJ, and OPM use UGESP. The EEOC, under OMB Control No. 3046-0017, accounts for the burden associated with all employers with 15 or more employees. Federal construction contractors with 1 to 14 employees are subject to OFCCP’s recordkeeping requirements and are included in this ICR. Based on FY 2016 information from USAspending.gov, OFCCP estimates that there are 8,018 construction contractors that employ 1 to 14 employees.¹⁹ OFCCP estimates that, on average, contractors expend 2.18 hours meeting the UGESP obligations, as described above. Therefore, the burden for this provision is 17,479 hours (8,018 construction contractors x 2.18 hours = 17,479 hours).

¹⁷ OFCCP obtained the total number of construction contractor establishments from the FY 2019 USAspending data, available at https://www.usaspending.gov/#/download_center/award_data_archive (last accessed March 5, 2021). This number includes all construction contractors with contracts greater than \$10,000.

¹⁸ 41 CFR 60-1.4(d) and 1.4(e).

¹⁹ In FY 2016, USAspending.gov included a column in its data set for number of employees. In FY 2019, the column for number of employees was removed from the data set. OFCCP does not have an alternative data source to use to determine the number of construction contractors with 1 to 14 employees. The agency continues to use the FY 2016 number as a proxy for the number of construction contractors that employ 1 to 14 employees.

(3) Solicitations

Section 60-4.2 requires all contracting officers, applicants for construction contracts, and covered nonconstruction contractors to include the “Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity” set forth in this Section in all solicitations for offers and bids on all federal and federally assisted construction contracts or subcontracts. This clause is information originally supplied by the Government and incorporated by operation of the order.²⁰ OFCCP estimates that one percent of its contractor universe will be new contractors annually. The agency further estimates that new contractors will take 15 minutes (.25 hours) to incorporate the “Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity” in all solicitations. Therefore, the burden for this provision is 32 hours (126 new construction contractors x .25 hours).

(4) Maintenance of Documentation

Section 60-4.3(a)7 requires construction contractors to maintain records and documentation demonstrating efforts to comply with the 16 affirmative action specifications. The requirements and estimated hours of burden are detailed in numbers (5) through (20) below.

(5) Ensure Work Environment Free of Harassment

Section 60-4.3(a)7.a requires construction contractors to maintain a work environment free of harassment, intimidation, and coercion. In doing this, contractors are required to ensure that supervisory staff are aware of and carry out contractors’ obligations. Burden hours associated with supervisor training and evaluation are included in numbers (11) and (20) below. Thus, there is no burden associated with this requirement.

(6) Develop, Maintain, and Use a List of Recruitment Resources

Section 60-4.3(a)7.b requires construction contractors to develop and maintain current lists of minority and female recruitment sources, provide written notification to these sources when a contractor or its unions have employment opportunities, and maintain records of the notification. OFCCP estimates that for first-time contractors it takes 0.33 hours (20 minutes) to identify and establish a list of sources. OFCCP also estimates that it takes 0.17 hours (10 minutes) for existing contractors to maintain their list. Thus, the burden for developing and maintaining a current list of sources is estimated at 2,164 hours ((0.33 hours x 126 first time contractors = 42 hours) + (0.17 hours x 12,483 existing contractors = 2,122)).

In addition, OFCCP estimates it takes contractors 0.25 hours (15 minutes) to notify the sources on the list when opportunities occur and 0.08 hours (5 minutes) to maintain records of the notifications. Thus, OFCCP estimates the burden for notification and maintaining documentation is 4,161 hours (0.33 hours x 12,609 construction contractors).

In sum, OFCCP estimates the total burden hours for complying with this requirement (including developing and maintaining the list of sources, contacting the sources, and maintaining copies of the notices sent) at 6,325 hours (2,164 hours + 4,161 hours).

(7) Maintain Current Files of Minority and Female Applicants

²⁰ 5 CFR 1320.3(b)(2) and -.3(c)(2); 41 CFR 60-4.9.

Section 60-4.3(a)7.c requires construction contractors to maintain a current file of minority and female applicants and referrals from all sources, and to document in the file the actions taken with respect to each individual. OFCCP estimates it takes 0.25 hours (15 minutes) to maintain the file. Therefore, OFCCP estimates this burden at 3,152 hours (0.25 hours x 12,609 construction contractors).

OFCCP estimates that, on average, contractors take no more than 0.17 hours (10 minutes) for each applicant and make no more than 10 decisions annually. Therefore, OFCCP estimates an additional 21,435 hours (0.17 hours x 10 decisions x 12,609 construction contractors) to comply with this requirement.

OFCCP estimates the total burden hours for complying with this requirement is 24,587 hours (3,152 hours + 21,435 hours).

(8) Notify OFCCP's Director

Section 60-4.3(a)7.d requires construction contractors to notify OFCCP's Director in writing when the union or unions with which any contractor has a collective bargaining agreement has not referred a minority or female applicant that was sent by the contractor. Similarly, contractors must notify OFCCP's Director if any contractor has information that the union is impeding its efforts to meet the obligations of these requirements. OFCCP has received no notifications during the last three years, thus it estimates the total burden to be negligible.

(9) Develop On-the-Job Training

Section 60-4.3(a)7.e requires construction contractors to develop on-the-job training opportunities or participate in training programs for the job areas which expressly include minorities and women. In addition, contractors must provide notice of these opportunities and job programs to its recruitment sources, state employment offices, and other referral sources that have been compiled under 41 CFR 60-4.3(a)7.b. OFCCP estimates the burden hours associated with documenting the development of training programs or enrolling minorities and women in existing training programs is 0.75 hours (45 minutes). OFCCP estimates the burden associated with maintaining records of employees' participation in training is 0.25 hours (15 minutes). Additionally, OFCCP estimates that maintaining records of contributions to training programs takes 0.25 hours (15 minutes). Therefore, OFCCP estimates the hours associated with this burden at 15,761 hours (1.25 hours x 12,609 construction contractors).

(10) Disseminate EEO Policy Statement to Unions and Training Programs

Section 60-4.3(a)7.f requires construction contractors to broadly disseminate its EEO policy statement, including, but not limited to: sending it to unions and training programs; publishing it in policy manuals; and including it in collective bargaining agreements. It also requires contractors to review the EEO policy with all management and minority and female employees, and to post it for all employees.

As stated previously, OFCCP estimates that first-time contractors make up 1 percent of the construction contractor universe (126 construction contractors). OFCCP estimates it would take 0.33 hours (20 minutes) for a first time contractor to develop an EEO policy statement and 0.17 hours (10 minutes) to review and update their existing EEO policy statement. Thus, OFCCP

estimates 2,164 burden hours for construction contractors to either update or develop an EEO policy statement ((0.33 hours x 126 first time contractors) + (0.17 hours x 12,483 existing construction contractors)).

OFCCP estimates it will take 0.25 hours (15 minutes) for first-time contractors to incorporate the policy statement into employee handbooks and policy manuals. Therefore, it estimates the burden of this requirement at 32 hours (0.25 hours x 126 first-time construction contractors). In addition, OFCCP estimates it will take 0.25 hours for all contractors to provide notification to unions and other recruitment sources. Thus, the burden of notification is 3,152 hours (0.25 hours x 12,609 construction contractors).

OFCCP estimates it will take 0.5 hours (30 minutes) for all contractors to document the discussion of the policy with employees and its internal posting. Thus, OFCCP estimates the burden of this requirement to be 6,305 hours (0.5 hours x 12,609 construction contractors).

In sum, OFCCP estimates the total burden for this provision to be 11,653 hours (2,164 + 32 + 3,152 + 6,305).

(11) Review EEO Policy Annually with Employees Having Hiring Responsibilities

Section 60-4.3(a)7.g requires construction contractors annually to review the EEO policy with all employees having hiring responsibilities for personnel activities (*e.g.*, hiring, promotion, termination, lay-off, etc.). OFCCP estimates it will take first-time contractors an average of 4 hours to develop, deliver, and document the annual training. OFCCP estimates it will take existing contractors an average of 1 hour to deliver and document the annual training. Thus, OFCCP estimates the burden to be 12,987 hours (4 hours x 126 new construction contractors) + (1 hour x 12,483 existing construction contractors).

(12) Disseminate EEO Policy Externally

Section 60-4.3(a)7.h requires construction contractors to disseminate EEO policy statements in advertisements in the news media and to other contractor and subcontractors. OFCCP estimates it will take all contractors 0.5 hours (30 minutes) to develop correspondence and send it. Thus, OFCCP estimates the burden for this requirement to be 6,305 hours (0.5 hours x 12,609 construction contractors).

(13) Direct Recruitment Efforts to Community Organizations and Schools

Section 60-4.3(a)7.i requires construction contractors to direct their recruitment efforts to community organizations and schools with minority and female participants and students. Actions associated with this requirement are accounted for in the burden assessment for Section 41 CFR 60-4.3(a)7.b. Therefore, OFCCP estimates no additional burden for this requirement.

(14) Encourage Employee Referrals

Section 60-4.3(a)7.j requires construction contractors to encourage current minority and female employees to recruit other minority and female employees. It also requires contractors, where reasonable, to provide summer and afterschool employment to minorities and females. OFCCP estimates that it takes contractors 0.25 hours (15 minutes) to comply with this requirement. Thus, the burden estimate is 3,152 hours (0.25 hours x 12,609 construction contractors).

(15) Validate Tests

Section 60-4.3(a)7.k requires construction contractors to comply with the UGESP requirements. As explained above, the burden associated with complying with UGESP is assumed under OMB Control No. 3046-0017 for contractors with 15 or more employees and OFCCP accounts for contractors with 1 to 14 employees in its calculation of UGESP burden, which is found in item number 12.a.(2) above.

(16) Conduct an Annual Inventory of Employees

Section 60-4.3(a)7.l requires construction contractors to conduct an annual inventory of minority and female employees for promotional and developmental opportunities. OFCCP estimates it takes 0.5 hours (30 minutes) to conduct the assessment and maintain documentation. Thus, the burden estimate for this requirement is 6,305 hours (0.5 hours x 12,609 construction contractors).

(17) Ensure Personnel Practices Do Not Have a Discriminatory Effect

Section 60-4.3(a)7.m requires construction contractors to ensure that its personnel practices (*e.g.*, seniority, job classifications, work assignments, etc.) do not have a discriminatory effect. OFCCP estimates that on average contractors spend 0.5 hours (30 minutes) documenting their activities that comply with this requirement. Thus, the burden estimate for this requirement is 6,305 hours (0.5 hours x 12,609 construction contractors).

(18) Ensure Facilities are Not Segregated

Section 60-4.3(a)7.n requires construction contractors to ensure that its facilities are nonsegregated. The exception is the provision for separate or single user toilet and changing facilities to provide privacy between the sexes.²¹ OFCCP estimates it takes contractors 0.25 hours (15 minutes) to maintain material evidence of compliance with this requirement. Thus, OFCCP estimates the burden at 3,152 hours (0.25 hours x 12,609 construction contractors).

(19) Document and Maintain a Record of All Solicitations of Offers for Subcontracts

Section 60-4.3(a)7.o requires construction contractors to maintain documentation of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers. OFCCP estimates that it takes 0.5 hours (30 minutes) to maintain a file of documentation that includes all solicitation and offers as required. Thus, OFCCP estimates the burden at 6,305 hours (0.5 hours x 12,609 construction contractors).

(20) Evaluate Supervisor Performance

Section 60-4.3(a)7.p requires construction contractors to evaluate annually the performance of its supervisory personnel on their adherence to the EEO and affirmative action requirements of these specifications. OFCCP estimates that, on average, it takes contractors 0.75 hours (45 minutes) to compile written evidence that supervisory personnel have been notified regarding their performance with regard to each contractor's EEO and affirmative action obligations. Thus, OFCCP estimates the burden at 9,457 hours (0.75 hours x 12,609 construction contractors).

²¹ The Sex Discrimination Guidelines at 41 CFR part 60-20 further clarify that, "if the contractor provides restrooms, changing rooms, showers, or similar facilities, the contractor must provide same sex or single-use facilities".

Total Recordkeeping Burden

Activity	Hours
Equal Opportunity Clause	32
Uniform Guidelines on Employee Selection Procedures	17,479
Solicitations	32
Develop, Maintain, and Use a List of Recruitment Resources	6,325
Maintain Current Files of Minority and Female Applicants	24,587
Develop On-the-Job Training	15,761
Disseminate EEO Policy Statement to Unions and Training Programs	11,653
Review EEO Policy Annually with Employees Having Hiring Responsibilities	12,987
Disseminate EEO Policy Externally	6,305
Encourage Employee Referrals	3,152
Conduct an Annual Inventory of Employees	6,305
Ensure Personnel Practices Do Not Have a Discriminatory Effect	6,305
Ensure Facilities are Not Segregated	3,152
Document and Maintain a Record of All Solicitations of Offers for Subcontracts	6,305
Evaluate Supervisor Performance	9,457
Total	129,837

Reporting Burden

OFCCP's reporting burden for construction contractors, as detailed below, includes providing notification of subcontract awards, filing EEO-1 Reports, reporting foreign visa denials, notifying the OFCCP Director as prescribed at 41 CFR 60-4.3(a)7.d, providing documentation in response to a construction scheduling letter, and providing documentation in response to a compliance check letter.

(1) Notification of Subcontract Awards

Section 60-4.2(c) requires applicants for construction contracts, covered nonconstruction contractors, and federal construction contractors to notify OFCCP within 10 working days of awards of covered contracts and subcontract in excess of \$10,000.²² OFCCP estimates it would take 0.5 hours (30 minutes) to identify the needed information and send the notification to OFCCP. Using data collected from OFCCP's Construction Contract Award Notification Form, the agency determined that it receives 6,348 notifications of federal construction contracts awarded annually. Therefore, OFCCP estimates this burden at 3,174 hours (6,348 awards x 0.5 hours).

(2) EEO-1 Reports

Construction contractors with 50 or more employees and a contract of \$50,000 or more are required to file EEO-1 Reports with the Joint Reporting Committee. The burden associated with this information collection is sponsored by the EEOC and approved under OMB Control No. 3046-0007. Therefore, OFCCP includes no additional burden for this requirement.

(3) Notifying OFCCP's Director

Section 4.3(a)7.d requires contractors to notify OFCCP's Director in writing if a union with which a contractor has a collective bargaining agreement impedes a contractor's efforts to comply with EEO and affirmative action requirements. OFCCP has received no notifications during the last three years, thus it estimates the total burden to be negligible.

(4) Section 60-1.10 requires contractors to report to the Department of State and OFCCP if an employee or prospective employee is denied a visa of entry to a country in which or with which it is doing business, and the contractor believes the denial is due to a basis covered by EO 11246. To date, OFCCP has not received any visa denial notifications related to the existing protected categories.²³

(5) OFCCP anticipates that it will conduct approximately 500 annual full compliance reviews of construction contractors. The following estimate breaks down the reporting burden for both direct contracts and federally assisted contracts.

Letter version: Contractor has a direct federal contract and meets the jurisdiction dollar thresholds for all three programs.

OFCCP estimates that it will take 30 minutes (.5 hour) to read the letter and instructions and 26.5 hours to retrieve and submit the required documentation. Therefore, the burden is calculated at 8,100 hours (27 hours x 300 contractors).

²² This requirement includes construction contractors, as explicitly prescribed at 41 CFR 60-4.2(d)3.

²³ This reporting burden was previously covered under OMB Control No. 1250-0008.

Letter version: Contractors whose sole coverage comes only from federally assisted construction projects.

OFCCP estimates that it will take 30 minutes (.5 hour) to read the letter and instructions and 13.5 hours to retrieve and submit the required documentation. Therefore, the burden is calculated at 2,800 hours (14 hours x 200 contractors).

(6) OFCCP anticipates that it will conduct approximately 250 annual compliance checks of construction contractors. The following estimate breaks down the reporting burden for both direct contracts and federally assisted contracts.

Letter version: Contractor has a direct federal contract and meets the jurisdiction dollar thresholds for all three programs.

OFCCP estimates that the construction contractors in this category will take 30 minutes to read the letter and instructions and 4.5 hours to retrieve and submit the required documentation. Therefore, the burden is calculated at 750 hours (5 hours x 150 contractors).

Letter version: Contractors whose sole coverage comes only from federally assisted construction projects.

OFCCP estimates that the construction contractors in this category will take 30 minutes to read the letter and instructions and 2.5 hours to retrieve and submit the required documentation. Therefore, the burden is calculated at 300 hours (3 hours x 100 contractors).

Total Reporting Burden

Activity	Hours
Notification of Subcontract Awards	3,174
Compliance Review: Direct	8,100
Compliance Review: Federally Assisted	2,800
Compliance Check: Direct	750
Compliance Check: Federally Assisted	300
Total	15,124

Third Party Disclosure to Labor Unions

OFCCP’s third party disclosure burden hours are based on 41 CFR 60-1.4(a)(4), 60-300.5(a)10, and 60-741.5(a)5, which require contractors to notify its labor organizations that it must comply with EO 11246, VEVRAA, and Section 503, respectively. Contractors may notify the organizations by mail, telephone, facsimile, or email. Assuming it takes 30 minutes to compose and 30 minutes to distribute written notification by mail to its labor organizations, OFCCP estimates an average of 1 hour per contractor, or 12,609 hours, for notifying labor organizations. This is an overestimation because it assumes that all contractors are party to collective bargaining agreements and that they would use mail distribution, which takes longer than electronic distribution.

Total Recordkeeping, Reporting, and Third Party Disclosure Burden Hours

Recordkeeping burden hours	129,837
Reporting burden hours	15,124
Third party disclosure burden hours	12,609
Total hours	157,570

Estimated Annualized Respondent Hour Burden

Activity	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)
Recordkeeping	12,609	1	12,609	10.3	129,837
Construction Contract Award Notification Form	6,348	1	6,348	.5	3,174
Scheduling Letter and Itemized Listing	500	1	500	21.8	10,900
Compliance Check – Direct	150	1	150	5	750
Compliance Check – Federally Assisted	100	1	100	3	300
Third Party Disclosure	12,609	1	12,609	1	12,609
Unduplicated Totals	12,609		32,316		157,570

Monetized Burden Cost

OFCCP estimates that the total burden hours translate to approximately \$11,321,405 in burden costs to contractors using data from the Bureau of Labor Statistics for employee compensation (157,570 hours x \$71.85).²⁴

13. Information Collection Cost Burden

OFCCP estimates that contractors will have operations and maintenance costs associated with this collection. Those costs are associated with the notifications of subcontract awards, responses to compliance review scheduling letters, responses to compliance check letters, and notifications to labor organizations, as outlined above.

OFCCP estimates that approximately 50 percent of the notifications of construction subcontract awards will be received through the electronic portal (NCAP) and that the other 50 percent will be divided among fax, mail, and email. For calculating the cost, OFCCP determines that approximately 10 percent of the notifications will be mailed using the United States Postal Service (USPS). OFCCP also estimates that 50 percent of responses to compliance review scheduling letters, responses to compliance check letters, and notifications to labor organizations will be submitted through the mail.²⁵

OFCCP estimates an average mailing cost for notifications of subcontract awards and notifications to labor organizations at \$0.55 per contractor.²⁶ Therefore OFCCP estimates that the cost of mailing the required documentation is \$3,817 (((10% x 6,348 = 635 notifications of subcontract awards) + (50% x 12,609 = 6,305 notifications to labor organizations)) x \$0.55).

OFCCP assesses a cost for the 50 percent of contractors that may send paper copies of the compliance reviews through the mail. OFCCP estimates a cost of \$.09 per page²⁷ and calculates that the total copying cost is \$2,520 ((140 pages x 150 direct federal contractors x \$.09 per page = \$1,890) + (70 pages x 100 federally assisted contractors x \$.09 per page = \$630)).

OFCCP assesses a cost for the 50 percent of contractors that may send paper copies of the compliance checks through the mail. OFCCP estimates a cost of \$.09 per page and calculates that the total copying cost is \$900 ((100 pages x 75 direct federal contractors x \$.09 per page = \$675) + (50 pages x 50 federally assisted contractors x \$.09 per page = \$225)).

24 Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2019, https://www.bls.gov/oes/current/oes_nat.htm (last accessed March 5, 2021). \$45.94 per hour for Management Analysts and \$62.29 per hour for Human Resource Managers. The calculation uses an 80/20 split between Management Analysts and Human Resource Managers, which equals \$49.21. BLS, Employer Costs for Employee Compensation, <https://www.bls.gov/news.release/ecec.toc.htm> (last accessed March 5, 2021). Fringe benefit and overhead costs are 46 percent of wages. \$49.21 x 1.46 = \$71.85.

25 OFCCP does not have exact data on the number of paper submissions, but estimates that 50 percent of contractors may send paper copies through the mail. This likely represents an overestimation since the agency prefers that documentation be sent electronically.

26 The estimated mailing cost for notifications of subcontract awards and notifications to labor unions is based on the standard cost for USPS letters, found at <https://www.usps.com/business/prices.htm> (last accessed March 5, 2021).

27 Based on the average copying cost at major paper supply stores as of March 5, 2021.

In addition, OFCCP estimates an average mailing cost for compliance checks and compliance reviews of \$7.70 per contractor.²⁸ Therefore OFCCP estimates that the cost of mailing the required documentation to OFCCP is \$2,888 ((250 compliance reviews + 125 compliance checks) x \$7.70).

The total estimated operating and maintenance cost for all contractors is an estimated \$10,125 (\$3,817 + \$2,520 + \$900 + \$2,888).

14. Cost to the Federal Government

OFCCP estimates the annual cost to the Federal Government as follows:

- OFCCP staff on the GS scale will spend approximately 1 hour per week reviewing notifications of construction subcontract awards. The burden is calculated as 52 hours (1 hour x 52 weeks). Using an average hourly salary of \$61.16, the cost is \$3,180 (52 hours x \$61.16).²⁹
- Federal contracting officers on the GS scale will spend approximately 0.5 hours (30 minutes) to identify the needed information and send construction subcontract award notifications to OFCCP. The burden is calculated as 1,428 hours (0.5 hours x 2,856 contracting officers). Using an average hourly salary of \$72.27, the cost is \$103,202 (1,428 hours x \$72.27).³⁰
- OFCCP staff on the Senior Executive Services (SES) scale³¹ and the General Service (GS) scale³² spent approximately 10 hours creating the construction scheduling letter and itemized listing. Using an average hourly salary of \$69.47³³ of staff from various levels that were involved in the creation of the letter, the cost is \$695 (10 hours x \$69.47).
- OFCCP staff on the GS scale will spend approximately 18 hours reviewing documentation received in response to each direct construction scheduling letter and itemized listing. The

²⁸ The estimated mailing cost for compliance reviews and compliance checks is based on the standard cost for USPS Priority Mail, found at <https://www.usps.com/ship/priority-mail.htm> (last accessed March 5, 2021).

²⁹ “Salary Table 2021-GS Incorporating the 1% General Schedule Increase,” available at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/21Tables/html/GS_h.aspx (last accessed March 5, 2021). Hourly rate based on Grade 13, Step 4, plus an additional 46% of wages for fringe benefit and overhead costs. $\$41.89 \times 1.46 = \61.16 .

³⁰ “Salary Table 2021-GS Incorporating the 1% General Schedule Increase,” available at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/21Tables/html/GS_h.aspx (last accessed March 5, 2021). Hourly rate based on Grade 14, Step 4, which represents an average salary for federal contracting officers plus an additional 46% of wages for fringe benefit and overhead costs. $\$49.50 \times 1.46 = \72.27 .

³¹ Senior Executive Service, Compensation, available at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/ES.pdf> (last accessed March 5, 2021).

³² 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 5, 2021).

³³ OFCCP adds an additional 46% of wages for fringe benefit and overhead costs. $\$47.58 \times 1.46 = \69.47 .

burden is calculated as 5,400 hours (18 hours x 300 contractors). Using an average hourly salary of \$51.42³⁴ the cost is \$277,668 (5,400 hours x \$51.42).

- OFCCP staff on the GS scale will spend approximately 10 hours reviewing documentation received in response to each federally assisted construction scheduling letter and itemized listing. The burden is calculated as 2,000 hours (10 hours x 200 contractors). Using an average hourly salary of \$51.42, the cost is \$102,840 (2,000 hours x \$51.42).
- OFCCP staff on the GS scale will spend approximately 4 hours reviewing documentation received in response to each direct contract compliance check letter. The burden is calculated as 600 hours (4 hours x 150 contractors). Using an average hourly salary of \$51.42, the cost is \$30,852 (600 hours x \$51.42).³⁵
- OFCCP staff on the GS scale will spend approximately 2 hours reviewing documentation received in response to each federally assisted compliance check letter. The burden is calculated as 200 hours (2 hours x 100 contractors). Using an average hourly salary of \$51.42, the cost is \$10,284 (200 hours x \$51.42).³⁶

The total cost to the federal government for the first year is \$528,721 (\$3,180 + \$103,202 + \$695 + \$277,668 + 102,840 + \$30,852 + \$10,284) and \$528,026 in subsequent years (\$3,180 + \$103,202 + \$277,668 + 102,840 + \$30,852 + \$10,284). Therefore, the average annual cost is \$528,258 (((\$528,721 + \$528,026 + \$528,026) / 3).

15. Program Changes or Burden Adjustments

OFCCP added the requirements and burden from the Construction Compliance Check ICR (OMB Control No. 1250-0011) and the 60-day Construction Scheduling Letter ICR into this collection in order to consolidate the recordkeeping and reporting requirements for its construction program. The additional reporting burden associated with the Construction Scheduling Letter was added to OMB Control No. 1250-0001 prior to the 30-day comment period. The addition of the Construction Compliance Checks adds 250 responses and a total burden of 1,050 hours. The addition of the Construction Scheduling Letter adds 500 responses and a total burden of 10,900 hours. Despite the addition of these new requirements, the overall reporting burden has decreased since the previous submission of 1250-0001, as detailed below.

a. Recordkeeping Burden Hours

The previous submission in 2018 included 171,366 recordkeeping burden hours. The current ICR requests 129,837 hours. This decrease of 41,529 hours in the burden is due primarily to the decrease in OFCCP's construction contractor universe.

³⁴ Hourly rate based on grade 12, step 4 on the General Schedule, which represents an average salary for an OFCCP compliance officer plus an additional 46% of wages for fringe benefit and overhead costs. $\$35.22 \times 1.46 = \51.42 .

³⁵ "Salary Table 2021-GS Incorporating the 1% General Schedule Increase," available at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/21Tables/html/GS_h.aspx (last accessed March 5, 2021). Hourly rate based on Grade 12, Step 4, which represents an average salary for an OFCCP compliance officer plus an additional 46% of wages for fringe benefit and overhead costs. $\$35.22 \times 1.46 = \51.42 .

³⁶ *Ibid.*

b. Reporting Burden Hours

The previous submission in 2018 included 798,502 hours for reporting. The current request is for 15,124 hours. This decrease of 783,378 hours in the reporting burden is due to the change of data source which resulted in a significant decrease in the number of federal construction contracts awarded. In this ICR, OFCCP used data it received from contractors, as required in the OMB-authorized Construction Contract Award Notification Form, as opposed to data from USAspending.gov. As previously mentioned, Section 60-4.2(c) requires applicants for construction contracts, covered nonconstruction contractors, and federal construction contractors to notify OFCCP within 10 working days of awards of covered contracts and subcontract in excess of \$10,000. OFCCP utilized the data provided to the agency to determine the number of notifications of awards in excess of \$10,000 that it receives annually.

c. Third Party Disclosure to Employee Burden Hours

The previous submission in 2018 included 15,582 hours for third party disclosures to employees. The current request is for 12,609 hours. This decrease of 2,973 hours in the burden is due to the decrease in OFCCP's construction contractor universe.

16. Publication of Data for Statistical Use

OFCCP will not publish the data it collects under this information request.

17. Approval Not to Display the Expiration Date

OFCCP is not seeking such approval. OFCCP will display the expiration date and OMB number on the Construction Contract Award Notification Form, Construction Compliance Review Scheduling Letter and Itemized Listing, and the construction compliance check letters.

18. Exceptions to the Certification Statement

OFCCP is not seeking exemptions to the certification statement.

B. STATISTICAL METHODS

This information collection does not employ statistical methods.