

July 1, 2021

Construction Recordkeeping and Reporting Requirements Information Collection
OMB Control No. 1250-0001
Response to OMB

The Office of Federal Contract Compliance Programs (OFCCP) acknowledges the comment received from the Center for Workplace Compliance (CWC) on the 30-day Federal Register Notice for the Construction Recordkeeping and Reporting Requirements Information Collection and appreciates the feedback. OFCCP responds to CWC's two requests below.

CWC Request

For construction contractors subject to Section 503 and VEVRAA, instead of requiring a contractor to provide OFCCP with *all* “communications with unions and community organizations regarding the company's EEO obligations and recruitment efforts to hire” individuals with disabilities or protected veterans during the last 12 months, clarify that *examples* (i.e., a sample subset) of such communications will suffice for purposes of the desk audit. In the rare cases where such examples are insufficient to determine a contractor's compliance posture, OFCCP of course retains the discretion to request additional information and records as needed.

OFCCP Response

In response to CWC's comment on the 60-day Federal Register Notice and in an effort to reduce the burden placed on contractors when responding to the Scheduling Letter and Itemized Listing, OFCCP already removed some of the items proposed, including submission of some of the detailed contract information (e.g. funding agency, contract amount, date of award, and estimated completion date) and a list of all federal subcontracts and relevant information. In response to the CWC comment on the 30-day Federal Register Notice, OFCCP will retain its requirement for providing communications with unions and community organizations regarding the company's EEO obligations and recruitment efforts to hire protected veterans and individuals with disabilities. Under the old program, OFCCP would have reviewed these communications during an on-site review. Including this category of data in the Scheduling Letter and Itemized Listing allows OFCCP to conduct the same level of review during a desk audit. The requirements of 60-300.44(g)2.ii and 60-741.44(g)2.ii are comprehensive and not limited to mere examples of such communications. OFCCP believes that the burden this item imposes (1 hour for Section 503 and 1 hour for VEVRAA) is not unreasonable, given the regulatory requirement. Understanding the full scope of contractors' interactions with unions assist the agency to understand training programs, recruitment efforts, employment selection processes, and compensation policies – and inform the agency's evaluation prior to conducting an on-site review about whether there are problem areas or concerns that warrant further investigation.

CWC Request

OFCCP states in its supporting statement that federal construction contractors and subcontractors may submit their documentation and data to the agency in the original format in which they are maintained, but does not state this in the letter itself. Accordingly,

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we would recommend that language to that effect be added to the proposed Scheduling Letter.

OFCCP Response

The Scheduling Letter clearly indicates that OFCCP is encouraging, not requiring, contractors to submit their information in an electronic format. Electronic submission is encouraged to reduce the amount of time it takes to complete OFCCP's evaluation. OFCCP maintains that encouraging electronic submission does not increase burden, as suggested by the CWC comment. The agency is moving toward electronic data management to increase efficiency. By encouraging contractors to submit documentation electronically, it supports the agency's ability to meet this goal. In addition, OFCCP reaches out to contractors soon after they receive the Scheduling Letter and Itemized Listing to discuss document submission and answer any questions the contractors might have. OFCCP believes that its open and frequent communication with contractors provides them with enough support and flexibility to submit their documentation electronically or to provide an alternative, paper submission method if a contractor does not maintain its records electronically. For submissions made under Section 503 and VEVRAA, OFCCP also 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. For these reasons, OFCCP will not add language to the proposed Scheduling Letter and Itemized Listing.