

**SUPPORTING STATEMENT
FOR THE PAPERWORK REDUCTION ACT
INFORMATION COLLECTION SUBMISSION**

**“Contract Standard for Contractor Workforce Inclusion”
OMB Control No. 3235-0725**

A. JUSTIFICATION

1. Legal and Administrative Requirements

Section 342(a)(1)(A) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) provides for certain agencies, including the Securities and Exchange Commission (the Commission), to establish an Office of Minority and Women Inclusion (OMWI).¹ Section 342(c)(2) of the Dodd-Frank Act requires that the OMWI Director include in the procedures for evaluating contract proposals and hiring service providers a component that gives consideration to the diversity of an applicant, to the extent consistent with applicable laws. In addition, section 342(c)(2) requires that the contracting procedures include a written statement, in the form and content prescribed by the OMWI Director, that a contractor shall ensure, to the maximum extent possible, the fair inclusion of women and minorities in the workforce of the contractor and, as applicable, subcontractors.

Section 342(c)(3)(A) of the Dodd-Frank Act further requires the OMWI Director to establish standards and procedures for determining whether an agency contractor or subcontractor “has failed to make a good faith effort to include minorities and women” in its workforce. If the OMWI Director determines that a contractor has failed to make good faith efforts, section 342(c)(3)(B)(i) provides that the Director shall recommend to the agency administrator that the contract be terminated. Upon receipt of such a recommendation, section 342(c)(3)(B)(ii) provides that the agency administrator may terminate the contract, make a referral to the Office of Federal Contract Compliance Programs of the Department of Labor, or take other appropriate action.

To implement the acquisition-specific requirements of section 342(c) of the Dodd-Frank Act, the Commission adopted a Contract Standard for Contractor Workforce Inclusion (Contract Standard). The Contract Standard is included in the Commission’s solicitations and resulting contracts for services valued at \$100,000 or more. The Contract Standard requires the contractor to include the substance of the Contract Standard in all subcontracts for services with a dollar value of \$100,000 or more awarded under the contract. Accordingly, the requirements of the Contract Standard apply to covered subcontractors, as prescribed in section 342(c)(2) of the Dodd-Frank Act.

¹ 12 U.S.C. 5452.

The Contract Standard requires a contractor with 50 or more employees to provide specified documentation, upon the request of the Commission's OMWI Director, to demonstrate that it has made good faith efforts to ensure the fair inclusion of minorities and women in its workforce and, as applicable, to demonstrate that its covered subcontractors have made such good faith efforts. The request for specified documentation pursuant to the Contract Standard amounts to a "collection of information" within the meaning of the Paperwork Reduction Act of 1995 (PRA).²

2. Purpose and Use of the Information Collected

The purpose of the collection of information is to satisfy the requirements of section 342(c)(3)(B) of the Dodd-Frank Act. The collection of information allows the Commission's OMWI Director to determine whether the contractor has complied with its obligations under the Contract Standard to make good faith efforts to ensure the fair inclusion of minorities in its workforce, and as applicable, to determine whether the contractor's covered subcontractors have similarly complied with their obligations to make such good faith efforts.

3. Consideration Given to Information Technology

A respondent may use any available automated, electronic, mechanical, or other technological collection technique to submit the requested information to the SEC.

4. Duplication of Information

The collection of information avoids duplication by allowing respondents to fulfill the reporting requirement, where possible, by submitting information that already is available to, or compiled by, respondents for other purposes.

5. Reducing the Burden on Small Entities

To minimize the impact on smaller entities, only contractors with 50 or more employees will be required to demonstrate that it has made good faith efforts to ensure the fair inclusion of minorities and women in its workforce, and as applicable, its subcontractors.

6. Consequences of Not Conducting Collection

Without the implementation and use of the collection of information, the Commission would not be able to satisfy the requirement of section 342(c)(3)(B) of the Dodd-Frank Act that the OMWI Director determine whether the agency contractors have failed to make good faith efforts to ensure the fair inclusion of minorities and women in their workforces.

² 44 U.S.C. 3501 *et seq.*

7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)

The Contract Standard calls for contractors to provide the specified documentation to demonstrate its good faith efforts to comply with the provisions of the Contract Standard within ten (10) business days of a written request from the Commission's OMWI Director or designee, or such longer time as the OMWI Director or designee determines. The specified documentation should be readily available when the request is received from the OMWI Director. As explained in Item 12 of this Supporting Statement, we estimate that it will take all contractors on average approximately one hour to retrieve and submit the documentation specified in the Contract Standard. Although shorter than the 30-day guideline in 5 CFR 1320.5(d)(2)(ii), we believe that the ten days provided under the Contract Standard is a reasonable amount of time to respond a request from the OMWI Director to submit the specified documentation.

Section 342(c) and the Contract Standard require contractors to engage in good faith efforts at all times during the term of a contract and not merely in the 30 days preceding the OMWI Director's review. Because each covered contractor should have a workforce inclusion plan in place at all times during the term of the contract, 10 days should normally be sufficient time to submit a copy of the plan to the OMWI Director. The other data that may be required to be submitted under the Contract Standard are factual in nature, and it is reasonable for contractors to be prepared to provide them. Moreover, the Contractor Standard requires that information be provided within 10 business days of a written request or such longer time as the OMWI Director or designee determines. In addition, because most respondents may fulfill the reporting requirement by submitting information that has already been prepared for other purposes, the specified documentation should in most cases be readily available when the request is received. As explained in Item 12 of this Supporting Statement, we estimate that it will take contractors on average approximately one hour to retrieve and submit the documentation specified in the Contract Standard.

8. Consultations Outside the Agency

The Commission published a notice in the Federal Register (89 FR 57451) soliciting comments on its intention to request an extension of this currently approved information collection and allowed the public 60 days to submit comments. The Commission received no comments.

9. Payment of Gift to Respondents

Not applicable.

10. Assurance of Confidentiality

The Commission makes no express assurance of confidentiality in relation to this information collection. However, contractors submitting information in response to a request from the OMWI Director that is considered sensitive and confidential are advised to follow the procedures under the Commission's regulations implementing the Freedom of Information Act (FOIA) for designating information as confidential business information or seeking confidential treatment.³

11. Sensitive Questions

Not applicable.

12. Estimate of Information Collection Burden

The following estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act of 1995⁴ and are not derived from a comprehensive or even representative survey or study of the cost.

The collection of information imposes no new recordkeeping burdens as eligible contractors will provide information already required under Title VII of the Civil Rights Act⁵ and Executive Order 11246.⁶

The Commission estimates it will take respondents approximately 1 hour to retrieve and submit the documentation specified in the Contract Standard.⁷

³ 17 CFR 200.83.

⁴ 44 U.S.C. 3501 *et seq.*

⁵ 42 U.S.C. 2000e *et seq.*

⁶ Similar to the information required under Executive Order 11246 and implementing regulations, the documentation requested to demonstrate good faith efforts to ensure the fair inclusion of minorities in the contractor's workforce may include, but is not limited to: 1) the total number of employees in the contractor's workforce, and the number of employees by race, ethnicity, gender, and job title or EEO-1 job category (e.g., EEO-1 Report(s)); 2) a list of covered subcontract awards under the contract that includes the dollar amount of each subcontract, date of award, and the subcontractor's race, ethnicity, and/or gender ownership status; 3) the contractor's plan to ensure the fair inclusion of minorities and women in its workforce, including outreach efforts; and 4) for each covered subcontractor, the information requested in items 1 and 3 above.

⁷ In some instances, the respondent may be required to request eligible subcontractors to provide the required documentation specified in the Contract Standard. Eligible subcontractors are obligated to keep workforce demographic data and maintain workforce inclusion plans because the substance of the Contract Standard is

Documentation will be requested from approximately 50 contractors each year, and therefore, the estimated total annual reporting burden is 50 hours.

13. Estimate of Total Annualized Cost Burden

The estimated aggregate burden hours and monetary equivalent for the information collection are summarized in the table below.

Paperwork Activity	Number of Respondents	Burden Hours Per Respondent	Annual Burden Hours	Cost of Burden Hours Per Respondent ⁸	Annualized Burden Hour Monetary Equivalent
Retrieving and Submitting Documentation of Good Faith Efforts to OMWI Director	50	1	50	\$45	\$2,250

14. Estimate of Cost to Federal Government

The estimated annual cost to the government for this collection of information is approximately \$44,100. This amount reflects an estimate of the amount of time staff that would be needed to review and analyze documentation submitted by an estimated 50 contractors each year pursuant to the Contract Standard.⁹

15. Explanation of Changes in Burden

The change in the estimated annual burden hours from 925 to 50 is due to a change in eligibility criteria for requesting documentation to only those contractors with 50 or more employees. This change in eligibility criteria eliminated any new recordkeeping burden since contractors with 50 or more employees are generally subject to the recordkeeping and reporting requirements

included in their subcontracts. However, based on recent Commission subcontractor activity data, we believe that very few subcontractors will have subcontracts with a dollar value of \$100,000 or more under Commission service contracts. Moreover, these subcontractors may already be subject to similar recordkeeping requirements as principal contractors. Consequently, any additional requirements imposed on subcontractors should not significantly add to the burden estimates.

⁸ The estimated annualized cost to contractors associated with the recordkeeping and reporting burden resulting from this collection of information is based on Bureau of Labor Statistics data in the publication “Employer Costs for Employee Compensation” (March 2024), which lists total compensation for management, professional, and related occupations as \$73 per hour and administrative support as \$35 per hour. We estimate that 25 percent of the burden hours for retrieving and submitting documentation to the OMWI Director would be professional, management, and related occupations and 75 percent would be administrative support.

⁹ We estimate that it would take OMWI staff approximately six hours to review documentation submitted by each contractor. Thus, we estimate that it will take approximately 300 total hours each year to review and analyze the documentation submitted by contractors at an average OMWI rate of \$147 per hour.

under the regulations implementing Title VII of the Civil Rights Act and Executive Order 11246.

16. Information Collections Planned for Statistical Purposes

Not applicable.

17. Display of OMB Expiration Date

Not applicable.

18. Exceptions to Certification

The SEC certifies that this collection of information is consistent with the requirements of 5 C.F.R. 1320.9 and the related provisions of 5 C.F.R. 1320.8(b)(3), and the SEC is not seeking an exemption to these certification requirements.

B. COLLECTION OF INFORMATION EMPLOYMENT STATISTICAL METHODS

Not applicable. This collection of information does not involve the use of statistical methods.