

NOTE TO REVIEWER

OFCCP is requesting OMB approval of 11,174,641 hours in combined recordkeeping, reporting, and third party disclosure burden hours for compliance with Executive Order 11246, as amended by non-construction (supply and service) Federal contractors. This compares with 10,045,984 hours for the last clearance request, an increase of 1,128,657 hours. This change is due to an increase in the number of supply and service contractors from 99,028 to 108,288 (an addition of 9,260 contractors). OFCCP used data from its Equal Employment Data System to calculate the number of Federal contractors for this Information Collection Request.

The authorization for this ICR OMB Control No. 1250-0003 expires September 30, 2011.

After OMB review of this information collection, OFCCP will publish a 60-day Federal Register Notice seeking public comment.

## SUPPORTING STATEMENT

### SUPPLY AND SERVICE PROGRAM

OMB NO. 1250-0003 (formerly 1215-0072)

#### A. JUSTIFICATION:

The Office of Federal Contractor Compliance Programs (OFCCP) is responsible for administering three equal opportunity mandates that prohibit employment discrimination based on race, sex, color, national origin, religion, or status as a qualified individual with a disability or protected veteran by Federal contractors and require affirmative action to provide equal employment opportunities:

- Executive Order 11246, as amended (referred to as EO 11246);<sup>1</sup>
- Section 503 of the Rehabilitation Act of 1973, as amended (referred to as Section 503),<sup>2</sup> and
- The Vietnam Era Veterans' Readjustment Assistance Act of 1974,<sup>3</sup> as amended, (referred to as VEVRAA).

For purposes of this clearance, OFCCP is dividing its obligations under these authorities into two functional areas: construction and non-construction (supply and service) contractors. This clearance request covers the non-construction supply and service aspects of our authority. To view the current supply and service Information Collection, go to [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=200804-1215-003](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=200804-1215-003). A separate Information Collection Request (ICR), approved by the Office of Management and Budget (OMB) under OMB No. 1250-0001 (formerly 1215-0163), covers the construction aspects of these programs.

EO 11246 prohibits Federal contractors from discriminating against applicants and employees based on race, color, religion, sex, or national origin. The EO 11246 applies to Federal contractors and subcontractors, and federally assisted construction contractors holding a Government contract of \$10,000 or more, or Government contracts, that have, or can reasonably expect to have, an aggregate total value exceeding

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1 41 CFR 60-2.

2 41 CFR 60-741.

3 41 CFR 60-250 and 60-300.

\$10,000 in a 12-month period. The EO 11246 also applies to government bills of lading, depositories of Federal funds in any amount, and to financial institutions that are issuing and paying agents for U.S. Savings Bonds.

Section 503 prohibits employment discrimination against qualified individuals with disabilities, and requires contractors to take affirmative actions to hire and promote qualified individuals with disabilities. The Section 503 requirements apply to federal contractors and subcontractors with a Government contract in excess of \$10,000.

The affirmative action provisions of VEVRAA prohibit employment discrimination against protected veterans. For contracts of \$25,000 or more entered into or modified prior to December 1, 2003, the affirmative action provisions of VEVRAA prohibit employment discrimination against qualified special disabled veterans, Vietnam era veterans, recently separated veterans, and other protected veterans. For contracts of \$100,000 or more entered into or modified on or after December 1, 2003, the affirmative action provisions of VEVRAA prohibit employment discrimination against qualified disabled veterans, recently separated veterans, Armed Forces Service Medal Veterans, and other protected veterans. An NPRM, published on April 26, 2011, proposes to strengthen the affirmative action provisions of VEVRAA. The anticipated burden hours are incorporated into a separate Information Collection Request (ICR) in that NPRM (Control No. 1250-AA00).

The ICR discussed below addresses changes to the Supply and Service program under EO 11246, VEVRAA, and Section 503, which are subject to the Paperwork Reduction Act of 1995 (PRA). In this ICR, VEVRAA and Section 503 are addressed in the Scheduling Letter.

## **1. Legal and Administrative Requirements**

### **Executive Order Regulations**

#### **41 CFR Part 60-1 -- Obligations of Contractors and Subcontractors.**

This regulation sets out the basic nondiscrimination and affirmative action requirements of the EO 11246 enforcement program. 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 specifies basic contents of Affirmative Action Programs (AAPs) required under the EO 11246. The following regulatory sections are those in Part 60-1 that contain recordkeeping, reporting, and/or third party disclosure requirements for the supply and service program.

Section 60-1.4 describes the equal opportunity clause in government contracts. Section 60-1.4 (a)(3) requires a contractor to notify labor organizations of its obligations under the EO 11246 and any implementing regulations. This notification is a third party disclosure requirement, explained in #12c below.

Section 60-1.7 requires specified federal prime contractors and subcontractors to file the Employer Information Report EEO-1 (EEO-1 Report) annually. The U.S. Equal Employment Opportunity Commission (EEOC) and OFCCP use the EEO-1 Report data to analyze patterns of employment of women and minorities and to support civil rights enforcement.

OMB under OMB No. approves the 2007 EEO-1 Report information collection 3046-0007. The 2007 EEO-1 Report requires reporting in seven racial and ethnic categories: Hispanic or Latino, White not Hispanic or Latino, Black or African-American not Hispanic or Latino, Native Hawaiian or Other Pacific Islander not Hispanic or Latino, Asian not Hispanic or Latino, American Indian or Alaska Native not Hispanic or Latino, and Two or More Races not Hispanic or Latino. The 2007 EEO-1 Report also divides the Officials and Managers job category into two subcategories: Executive/Senior Level Officials and Managers and First/Mid Level Officials and Managers. To view the information collection, go to [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=200511-3046-001](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=200511-3046-001).

Section 60-1.12 specifies that contractors must 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, the minimum record retention period is one year.

Section 60-1.20 identifies the investigative methods OFCCP uses to evaluate a contractor's compliance with the agency's regulations. These methods range from an in-depth comprehensive evaluation of the contractor's employment

practices (e.g., a "compliance evaluation") to a narrowly focused analysis of a very limited aspect of a selected employment practice or policy (e.g., a "compliance check," which is an analysis of the OFCCP record retention requirement). OFCCP identifies approximately 4% of the 108,288 contractor establishments for a compliance evaluation each year.<sup>4</sup>

This section also requires contractors to submit their Affirmative Action Programs (AAPs) and supporting documentation to OFCCP within 30 days of request. OFCCP requests these documents using a "Scheduling Letter". OFCCP schedules Compliance Evaluations using the same letter. Because of the nature of its use, OMB considers the Scheduling Letter a reporting requirement. Therefore, we include the time contractors spend responding to the Scheduling Letter in the reporting burden hour calculation. In addition, this document includes a burden hour calculation for the time contractors spend finding records for OFCCP's compliance check.

Section 60-1.40 requires the development and maintenance of an EO 11246 AAP. This regulation requires each contractor and subcontractor that meets the following criteria to develop an AAP for each establishment:

- (a) The contractor has 50 or more employees and
  - 1) has a contract of \$50,000 or more; or
  - 2) has Government bills of lading which in any 12-month period total or can reasonably be expected to total \$50,000 or more; or
  - 3) serves as a depository of Government funds in any amount; or
  - 4) is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any amount.

The detailed instructions for the development of an AAP are contained in 41 CFR 60-2 and described below.

#### **41 CFR Part 60-2**

Part 60-2 sets out the scope of the EO 11246 AAP requirements, including the purpose and contents of an AAP, and coverage requirements (also set forth in 60-1.40

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<sup>4</sup> This number based on the total number of compliance evaluations conducted during FY 2010 (4,260), divided by the total number of contractors (108,288).

described above). Required contents of the AAP include the following:

Section 60-2.11 requires that contractors use either an organizational display or workforce analysis as their organizational profile. An organizational display is a detailed graphical, tabular chart, text, spreadsheet, or similar presentation of the contractor's organizational structure. The organizational display must contain the total number of employees for each organizational unit by race and sex. A workforce analysis is a listing of each job title as it appears in applicable collective bargaining agreements or payroll records ranked from the lowest to highest paid within each department or other similar organizational unit, including departmental or unit supervision. An organizational profile provides a depiction of an establishments staffing pattern. Contractors use this method to determine if barriers to equal employment opportunity exist in their organizations. The profile also provides an overview of the workforce at the establishment that may assist in identifying organizational units where women and minorities are underrepresented or concentrated.

Section 60-2.12 describes the requirements of a job group analysis. A job group analysis is a method of combining job titles within a contractor's establishment. Contractors with 150 or more employees must group jobs by similarity of content, wage rates, and opportunities. Contractors with fewer than 150 employees have the option of using the nine occupational groups used in the EEO-1 Report as job groups.

Section 60-2.13: Placement of incumbents in job groups requires the contractor to record separately the percentage of minorities and women it employs within each job group.

Section 60-2.14: Determining availability, requires the contractor to estimate the number of qualified minorities or women available for employment in a given job group, expressed as a percentage of all qualified persons available for employment in that job group.

Section 60-2.15: Comparing incumbency to availability requires the contractor to compare the representation of minorities and women in each job group with their representation among those available for employment in the group. Placement goals, requires the contractor to

establish placement goals for any job group with fewer women or minorities than would reasonably be expected by their availability.

Section 60-2.16: Contains the parameters and criteria for setting placement goals.

Section 60-2.17: Sets forth the additional required elements of the AAP. These elements are as follows: designation of responsibility; identification of problem areas; action-oriented programs; and internal audit and reporting system.

Taken together, Sections 60-2.11 - 2.17 describe the required recordkeeping elements of developing, maintaining, and updating an AAP. The recordkeeping burden of developing, maintaining, and updating an AAP is explained in #12a below.

#### **41 CFR Part 60-3 -- Uniform Guidelines on Employee Selection Procedures**

The EEOC, the Civil Service Commission (now the U.S. Office of Personnel Management), the Department of Labor, and the Department of Justice adopted the Uniform Guidelines on Employee Selection Procedures (Guidelines) in 1978. The Guidelines apply to tests and other selection procedures used as a basis for employment related decisions. The Guidelines require each contractor to maintain records on the impact of its selection procedures upon employment opportunities of persons by race, sex, and ethnic group. The results of the selections are evaluated for adverse impact.

Where a test or other selection procedure has adverse impact, the Guidelines require the contractor to validate the test or procedure (41 CFR 60-3.4). The contractor must maintain its validation study documentation when a test or selection process is validated.

Section 41 CFR 60-3.15 sets out the required evidence for validation. It contains simplified recordkeeping for contractors with fewer than 100 employees.

The EEOC cleared the Uniform Guidelines with OMB (OMB No. 3046-0017).

## 2. USE OF MATERIALS

### 41 CFR 60-1.7 - Reports and other required information.

The Joint Reporting Committee, comprised of OFCCP and EEOC, promulgates the EEO-1 Report. The EEO-1 Report data is used by OFCCP to identify and select Federal contractors for compliance evaluations. OFCCP uses EEO-1 Report data to assess a contractor's equal employment opportunity status by comparing utilization patterns over time, between contractors within similar industries, and among contractors in a given geographical area.

Additionally, since the evaluation of utilization patterns is a vital part of any compliance evaluation or complaint investigation, OFCCP would have to obtain alternative records from contractors if this report were not available.

### 41 CFR Part 60-2--Affirmative Action Programs.

The AAP is the contractor's plan for ensuring nondiscrimination and equal employment opportunity. Section 60-2.11(b) outlines the contents of an AAP as following:

- An organizational profile;
- Job group analysis;
- Placement of incumbents in job groups;
- Determining availability;
- Comparing incumbency to availability;
- Placement goals;
- Designation of responsibility for implementation;
- Identification of problem areas;
- Action-oriented programs; and
- Periodic internal audits.

The AAP helps ensure that the contractor takes action to fulfill its affirmative action and nondiscrimination obligations.

## 3. IMPROVED INFORMATION TECHNOLOGY

OFCCP does not impose a detailed master format for AAPs. This approach allows each contractor to design a format that suits its particular business circumstances. The

structure and complexity of an AAP may vary considerably depending on the size and complexity of the contractor's organization. Contractors are thus free to utilize information technology of their choosing when designing their particular methods for developing an AAP, as long as they can retrieve and provide OFCCP with the data required by the agency's regulations.

OFCCP provides compliance assistance for smaller contractors, that is, those with fewer than 150 employees, by using improved information technology. Examples of this use of technology to provide resources are below.

- Small Business Guide at <http://www.dol.gov/ofccp/TAGuides/sbguide.htm>
- New Contractors' Guide at [http://www.dol.gov/ofccp/TAGuides/new\\_contractors\\_guide.htm](http://www.dol.gov/ofccp/TAGuides/new_contractors_guide.htm)
- Supply and Service Technical Assistance Guide at [http://www.dol.gov/ofccp/TAGuides/ss\\_technical\\_assistance\\_guide.htm](http://www.dol.gov/ofccp/TAGuides/ss_technical_assistance_guide.htm)
- 2000 Census data at <http://www.census.gov/main/www/cen2000.html> and
- Sample AAP for Small Employers at <http://www.dol.gov/ofccp/regs/compliance/pdf/sampleaap.htm>

We assume that technological advances make complying with OFCCP's recordkeeping and reporting requirements easier and less burdensome. However, in the absence of empirical data, OFCCP is unable to quantify the impact of improved information technology and thus, it is not included in our burden hours calculation.

According to the Government Paperwork Elimination Act (GPEA, P.L. 105-277, 1998), government agencies must generally provide for the optional use and acceptance of electronic documents and signatures, and electronic recordkeeping, where practicable, by October 2003. OFCCP has fulfilled its GPEA requirements by permitting electronic transmission, via e-mail or computer disk, of a contractor's AAP and supporting documentation.

#### **4. DESCRIPTION OF EFFORTS TO IDENTIFY DUPLICATION**

The reporting and recordkeeping requirements contained in this request result exclusively from the implementation of

EO 11246 which uniquely empower the Secretary of Labor, and by Secretary's Order, the OFCCP, to collect information on government contractors' affirmative action requirements. Therefore, no duplication of effort exists because there are no other government agencies with these specific data collection requirements.

Where possible, OFCCP participates in information sharing (e.g., the EEO-1 Report) and standardized requirements (e.g., Uniform Guidelines on Employee Selection Procedures, Part 60-3). Contractors maintain other employment data as a normal course of business. AAPs are unique in that contractors create them for OFCCP. AAPs are not available from any other source.

**5. COLLECTION BY SMALL ORGANIZATIONS**

This information collection does not have a significant economic impact on a substantial number of small entities. OFCCP minimizes the information collection/recordkeeping burden on small businesses. Contractors with fewer than 50 employees are exempt from the AAP requirement. They are also exempt from filing the EEO-1 Report.

**6. CONSEQUENCES TO FEDERAL PROGRAMS IF THIS INFORMATION WERE COLLECTED LESS FREQUENTLY**

The only periodic reporting that OFCCP requires of contractors is the EEO-1 Report. Contractors and subcontractors file these reports annually. Less frequent collection could negatively affect civil rights enforcement activities where the currentness of the data is important. Presently, data resulting from annual filing of the EEO-1 Report is one year old by the time OFCCP receives it; it is 2 years old by the time OFCCP obtains new data. If the EEO-1 Report was filed on alternate years, the data would be at least one a year old and often between 2 to 4 years old.

**7. SPECIAL CIRCUMSTANCES FOR THE COLLECTION OF INFORMATION**

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

**8. CONSULTATION OUTSIDE THE AGENCY**

All OFCCP regulations containing recordkeeping or reporting requirements are published in the Federal Register for public comment before agency adoption. In addition, OFCCP maintains an ongoing dialogue, through compliance assistance, with contractor groups on a number of compliance issues, among them reporting and recordkeeping.

Comments received from the general public will be addressed under this paragraph at the end of the 60-day comment period.

**9. GIFT GIVING**

OFCCP provides neither payments nor gifts to respondents.

**10. ASSURANCE OF CONFIDENTIALITY**

Much of the employment data that OFCCP collects as a result of the requirements within this activity is viewed by the contractors who submit it as extremely sensitive. The disclosure of information obtained from a contractor will be evaluated pursuant to the public inspection and copying provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552, and the Department of Labor's implementing regulations at 29 CFR Part 70. OFCCP requires that impacted contractors be notified in writing when a FOIA request has been made for contractor data. OFCCP makes no decision to disclose such documents until the contractor has had an opportunity to submit objections to the release of the document.

Furthermore, it is OFCCP's position that the agency will not release any data obtained during the course of a compliance evaluation until the agency actions are completed.

**11. SENSITIVE QUESTIONS**

Generally, OFCCP does not collect information of a personal nature, such as marital status, religious beliefs, or other matters commonly considered private during the course of a compliance evaluation. Where allegations of employment discrimination are present, such evidence may become relevant. Under such circumstances, OFCCP may seek evidence concerning the attitudes or biases of selecting officials regarding race, sex, color, religion, national origin, disability or veteran status, as appropriate.

OFCCP has no set of standardized questions, and the gathering of such data is unique to each investigation.

OFCCP regulations require contractors to list employees by sex and minority group in their EO 11246 AAPs (see 41 CFR 60-2.11, 2.12, and 2.16). The contractor and the government require Race, sex, and ethnicity data to evaluate the results of the contractor's affirmative action efforts. The data are also required to investigate for indicators of potential employment discrimination. No equal employment opportunity program could operate without such data. Generally, a contractor informs its employees that it collects and maintains race, sex, and ethnicity data strictly for purposes of meeting its nondiscrimination and affirmative action obligations.

A separate ICR covers employee complaint investigations approved by the OMB under OMB No. 1215-0131 - "Complaint of Discrimination in Employment Under Federal Government Contracts" form (Form CC-4). The Form CC-4 requires a description of an individual's disability, and therefore, may be considered a sensitive question. The disability information is necessary to establish jurisdiction under Section 503 of the Rehabilitation Act of 1973, as amended. As noted in number 10, assures compliance with the Privacy Act.

## **12. ESTIMATE OF INFORMATION COLLECTION BURDEN**

The estimate of the information collection burden is broken down into recordkeeping and reporting. The following is a summary of the methodology for the calculation of the recordkeeping and reporting requirements and changes based on the revisions to the Scheduling Letter.

### **a. Recordkeeping Burden**

OFCCP regulations impose a recordkeeping burden to develop, update, and maintain AAPs for minorities and women. OFCCP has no program changes in recordkeeping burden for this ICR. Using contractor estimates of the hours required to update an AAP annually and information provided by OFCCP Field Staff, we have calculated recordkeeping hours for Professionals (Prof.) and Support Staff (Cler.) for these three functions as follows:

#### **1) Initial Development of an AAP**

OFCCP estimates that only 1% of contractors in OFCCP's contractor universe of 108,288 are first-time contractors developing their initial AAPs. However, for that 1% or 1,083 contractors, we estimate that the development time is more than 2 1/2 times greater than the time required for the annual update. OFCCP bases the contractor universe on the EEO-1 Report of Government contractors. To calculate the burden hours for 1% of total contractors, we first calculate the hours for all contractors, and then take 1% of the total.

We calculate the burden hours as follows:

| <u>Size Group</u>                     | <u>Prof. Hours</u> | <u>Cler. Hours</u> | <u>Total Hours</u> | <u>Contractor Sites**</u> | <u>Total Hours</u> |
|---------------------------------------|--------------------|--------------------|--------------------|---------------------------|--------------------|
| 0-100                                 | 49                 | 24                 | 73                 | 45,911                    | 3,351,503          |
| 101-149                               | 59                 | 32                 | 91                 | 19,407                    | 1,766,037          |
| 150-500                               | 95                 | 49                 | 144                | 30,754                    | 4,428,576          |
| 501-1000                              | 128                | 58                 | 186                | 6,434                     | 1,196,724          |
| 1000+                                 | 168                | 70                 | 238                | 5,525                     | 1,314,950          |
| (Average 111.61 hours per contractor) |                    |                    |                    | 108,031                   | 12,057,790         |

\*\*Data from FY 2009 Equal Employment Data System.

University campus data is compiled from the Federal Procurement Data System. We are using the same 2005 PRA estimate of 257 post-secondary institutions under OFCCP's jurisdiction.

$$257 \times 111.61 = 28,684$$

|               |                               |
|---------------|-------------------------------|
| 12,057,790    | EEO-1 Report Contractor Hours |
| <u>28,684</u> | University hours              |
| 12,316,474    | Total Supply & Service Hours  |

|            |                                    |
|------------|------------------------------------|
| 108,031    | EEO-1 Report Contractor Sites      |
| <u>257</u> | University Contractors             |
| 108,288    | Total Supply & Service Contractors |

Since OFCCP estimates that only 1% of contractors (1,083) are first-time developers of AAPs annually, we calculate the total burden hours as:

$$111.61 \quad X \quad 1083 \quad = \quad 120,884$$

**2) Annual Update of an AAP**

The following table shows the estimate of professional and clerical time required for contractors to accomplish the annual update of their AAPs. The hours vary by size of the contractor's workforce, with the larger workforce requiring significantly more time to perform this task.

| <u>Size Group</u>                   | <u>Prof. Hours</u> | <u>Cler. Hours</u> | <u>Total Hours</u> | <u>Contractor Sites**</u> | <u>Total Hours</u> |
|-------------------------------------|--------------------|--------------------|--------------------|---------------------------|--------------------|
| 1 - 100                             | 10                 | 8                  | 18                 | 45,911                    | 826,398            |
| 101 - 149                           | 21                 | 14                 | 35                 | 19,407                    | 679,245            |
| 150 - 500                           | 52                 | 26                 | 78                 | 30,754                    | 2,398,812          |
| 501 - 1000                          | 61                 | 44                 | 105                | 6,434                     | 675,570            |
| 1000+                               | 89                 | 64                 | 153                | 5,525                     | 845,325            |
| (Average 50.22 hrs. per contractor) |                    |                    |                    | 108,031                   | 5,425,350          |

\*\*Data from FY 2009 Equal Employment Data System.

University campus data is compiled from the Federal Procurement Data System. We are using the same 2005 PRA estimate of 257 post-secondary institutions under OFCCP's jurisdiction.

$$257 \quad X \quad 50.22 \quad = \quad 12,907$$

|               |                                    |
|---------------|------------------------------------|
| 5,425,350     | EEO-1 Report contractor hours data |
| <u>12,907</u> | University hours data              |
| 5,438,257     | Total Supply & Service hours       |

|            |                                    |
|------------|------------------------------------|
| 108,031    | EEO-1 Report Contractors           |
| <u>257</u> | University contractors             |
| 108,288    | Total Supply & Service contractors |

The above is the basic calculation for the annual update. However, the total annual update figure is reduced somewhat because 1% of the contractors developing their initial AAP should not also be counted as having update time. Therefore, we have calculated the recordkeeping burden imposed by the annual update as follows:

|                |             |         |                     |
|----------------|-------------|---------|---------------------|
| 5,438,257      | Total hours | 108,288 | Total contractors   |
| <u>-54,383</u> | One percent | -1,083  | Initial contractors |

5,383,874 99% hours for 107,205 updating contractors  
updating  
contractors

Total annual update burden hours: 5,383,874

**3) Maintenance of an AAP**

OFCCP estimates that the time required for maintenance of an AAP is the same as the amount necessary to accomplish the annual update, 5,438,257 hours (without subtracting the 1% for new contractors) (see #12a(2) above).

**4) Uniform Guidelines on Employee Selection Procedures**

The Uniform Guidelines on Employer Selection Procedures are used by four agencies other than the OFCCP. However, nearly all of the burden hours are associated with three agencies: OFCCP, EEOC, and the Department of Justice. The EEOC, under OMB Number 3046-0017, accounts for all employers with 15 or more employees. Federal contractors with 1 - 14 employees are subject to OFCCP's recordkeeping requirements. Based on the figures used by EEOC, OFCCP estimates that, on average, contractors expend 2.18 hours in meeting this obligation. OFCCP estimates that approximately 5,750 employers are contractors with 1 - 14 employees. This recordkeeping requirement is  $5,750 \times 2.18 = 12,535$  hours.

**Recordkeeping Total**

|               |   |
|---------------|---|
|               | (initial development of AAP by one percent of |
| 120,884       | contractors)                                  |
| 5,383,874     | (annual update by 99% of contractors)         |
| 5,438,257     | (maintenance by 100% of contractors)          |
| <u>12,535</u> | (Uniform Guidelines)                          |
| 10,955,550    | (Total recordkeeping burden hours)            |

**b. Reporting Burden**

OFCCP's reporting of burden hours are Compliance Evaluation Letters (Scheduling Letter and Compliance Check Letter). Although OFCCP previously included an estimate of burden hours for the filing of the EEO-1 Report by contractors with 50 or more employees, the Information Collection submitted by EEOC and approved under OMB No. 3046-0007

accounts for all burden hours associated with the filing of the EEO-1 Report. Therefore, OFCCP will no longer include EEO-1 Report hours as part of its reporting burden.

### **1) Scheduling Letter**

The Scheduling Letter provides the contractor with notice of its selection for a compliance evaluation and requests the submission of its AAPs and supporting personnel activity and compensation data.

OMB considers the assembling of the requested material and its submission to be a reporting requirement subject to the burden hour calculation required by the Paperwork Reduction Act. To determine burden hours reported, OFCCP gathered information from its 2003 Compensation Questionnaire and submitted this data to OMB in the 2004 ICR documentation. OFCCP sent the Compensation Questionnaire to contractors and measured the executive and administrative hours used to respond to data requested on the OFCCP Itemized Listing.

Based on the Compensation Questionnaire data, OFCCP estimated that, on average, a contractor expends 28.35 hours on data assembly and submission activity. Changes to the revised scheduling letter reduce contractor burden hours to 26.01 primarily due to changes in compensation data requirements outlined in item 12.

OFCCP has revised the Scheduling Letter and its Itemized Listing. These revisions will reduce overall burden hours on contractors and enhance OFCCP's desk audit and data analysis abilities. The revisions in the body of the Scheduling Letter were made for clarity and do not affect overall burden hours. The changes to the Itemized listing are the following:

1. A new item 8: submission of employment policies covering the Family and Medical Leave Act (FMLA), pregnancy leave, and accommodations for religious observances and practices. Receipt of these policies would assist OFCCP in better determining the existence of sex or religious discrimination indicators within contractor organizations. Additionally, the policy requirements would enhance OFCCP's broad authority under Executive Order 11246 to prohibit sex and religious discrimination in employment and its share

enforcement responsibilities with the EEOC under Title VII. Burden hours for FMLA and pregnancy leave are covered under OMB Control Number: 1235-0003, the Department of Labor's Wage and Hour Division. OFCCP estimates that 1% of contractors will have no religious accommodation policy in place. For those 1% of contractors we estimate 2 hours to prepare a religious accommodation policy, or .02 hours overall increase per contractor.

2. Changes to new item 9 (current item 8) -- OFCCP further defined "other information" in contractor collective bargaining agreements to clarify for contractors the specific information requested during compliance evaluations. No change in burden hours for this item.

3. Changes to new item 10 (current item 9) -- AAP reporting requirements changed from preceding year to immediate preceding year to clarify specific AAP reporting timelines for contractors. No change in burden hours for this item.

4. Changes to new item 11 (current item 10) -- OFCCP included more specific demographic information related to Applicants, Hires, Promotions, and Terminations to eliminate ambiguous minority and non-minority terminology. In addition, contractors would now be required to submit data by job group and job title, instead of job group or job title in the current Scheduling Letter. This revised submission would result in OFCCP obtaining more accurate reporting data for its analyses related to identifying sex and race discrimination indicators. Given the widespread use of computer technology for Human Resources data entry and management, we estimate 1 hour increased burden per contractor.

5. Changes to new item 12 (current item 11) -- The changes would require a contractor to submit more precise data for OFCCP's compensation analysis. The more precise data is aggregate data rather than the disaggregate data requested in the current Scheduling Letter. A submission of aggregated data would allow OFCCP to perform more specific analyses, and pinpoint possible discrimination based on race or sex. We will no longer ask for disaggregate compensation data, which required contractors to aggregate the data

themselves, thereby increasing their burden. In addition, the disaggregate data was less effective in allowing OFCCP to analyze compensation. The Compensation Questionnaire indicated that contractors spend an average of 5.23 hours to submit compensation data, and an average of 1.87 hours to submit additional compensation data (after the initial request and prior to an onsite review). The new compensation submission replaces the initial request with the follow up request, meaning that a contractor's burden would decrease on average to 3.36 hours (5.23 - 1.87 = 3.36).

6. New item 13 -- A copy of the Veterans' Employment Report VETS-100 and/or VETS-100A for the last three years. These documents are required reporting for federal contractors and include information on their hiring on disabled and other protected veterans under VEVRAA. This information supports OFCCP's efforts to prohibit discrimination based on an individual's status as a protected veteran. The burden for complying with the VETS-100/100A reports is covered under OMB Control Number 1293-0005 under the Department of Labor's Veterans' Employment Training Service. Therefore, there is no increased burden for this item.

The overall burden hour changes per contractor are as follows:

|                      |                |
|----------------------|----------------|
| Hours per contractor |                |
| 28.35                | Current Burden |
| .02                  | New Item 8     |
| 1.00                 | New Item 11    |
| <u>(3.36)</u>        | New Item 12    |
| 26.01                | New Burden     |

Therefore, OFCCP estimates that contractors will expend an average of 26.01 hours responding to the Scheduling Letter.

OFCCP completed 4,260 compliance evaluations in FY10, and we estimate the same number for FY11. The reporting burden therefore is 4,260 x 26.01 = 110,803 hours.

**2) Compliance Check Letter**

The Compliance Check Letter is a limited purpose evaluation of the contractor's establishment to determine whether the contractor has maintained records consistent with Section 60-1.12. At the contractor's option, the documents may be provided either on-site or off-site.

OFCCP has not scheduled any Compliance Checks for FY 2011; therefore, the burden hours will be zero.

**Reporting Total**

|                |                              |
|----------------|------------------------------|
| 0              | SF-100/EEO-1 Report          |
| 110,803        | Scheduling Letter            |
| 0              | Compliance Check             |
| <u>110,803</u> | Total Reporting burden hours |

**c. Third Party Disclosure Burden**

OFCCP's third party disclosure burden hours are composed of the following contractor requirements:

- Section 60-1.4(a)(3), which specifies the required notification to labor organizations, provides that a contractor may notify labor organizations by any one of several methods, such as mail, telephone, facsimile, or e-mail. Assuming it takes 30 minutes to compose and 30 minutes to distribute written notification to unions, OFCCP estimates an average of 1 hour per contractor or 108,288 hours for notifying labor organizations.

**Third Party Disclosure Total**

|                |   |
|----------------|---|
| <u>108,288</u> | Annual total                              |
| 108,288        | Total Third Party Disclosure burden hours |

The sum of the recordkeeping, reporting, and third party disclosure burden in the Burden Change Summary is 11,174,641 hours.

|                |   |
|----------------|---|
| 10,955,550     | Total Recordkeeping burden hours  |
| 110,803        | Total Reporting burden hours  |
|                | Total Third Party Disclosure burden hours                               |
| <u>108,288</u> |   |
| 11,174,641     | Total Recordkeeping, Reporting, and Third Party Disclosure burden hours |

**d. Annualized Cost of the Burden Hours to Respondents**

The estimated annualized cost to respondents is based on Bureau of Labor Statistics data in the publication, "Employer Costs for Employee Compensation - December 2010, which lists total compensation for management, professional, and related occupations as \$49.30 per hour and administrative support as \$22.27 per hour. OFCCP estimates that 52% percent of the burden hours will be management, professional, and related occupations and 48% percent will be administrative support. We have calculated the total estimated annualized cost as follows:

Mgmt. Prof. 11,174,641 hours x .52 x \$49.30 = \$286,473,097

Adm. Supp. 11,174,641 hours x .48 x \$ 22.27 = \$119,452,442

Total annualized cost estimate = \$405,925,539

Estimated average cost per establishment is: \$405,925,539/  
108,288 = \$3,749

**13. ANNUAL OPERATION AND MAINTENANCE COST BURDEN TO RESPONDENTS**

To the best of our knowledge, there are no capital or start-up costs associated with this collection of information. The information that contractors provide OFCCP is generally maintained in the normal course of their businesses.

OFCCP estimates that contractors will have some operations and maintenance costs associated with this collection. For Supply & Service compliance evaluations, contractors copy their AAPs and mail the AAPs to OFCCP. We estimate an average copying cost of \$.07 per page.

We estimate the average size of an AAP and supporting documentation to be 37 pages, an increase in 4 pages from the prior submission. This increase is due to the changes in the Scheduling Letter. The estimated total copying cost to contractors will be: 37 pages x \$.08 x 4,260 = \$12,610. In addition, we estimate an average mailing cost of \$11.00 per contractor. The total mailing cost for contractors will be \$11.00 x 4,260 = \$46,860. Moreover, we estimate an average mailing cost of \$.70 per contractor for notifying labor organizations. The total mailing cost to labor organizations would be \$.70 x 108,288 = \$75,802.

The total estimated costs would be \$12,610 + \$46,860 + \$75,802 = \$135,272.

**14. ESTIMATE OF COST TO FEDERAL GOVERNMENT**

We have estimated the cost to the Government as follows:

|                               |   |       |                        |   |                |       |
|-------------------------------|---|-------|------------------------|---|----------------|-------|
| 12 Hours per compliance check | X | 0     | Compliance checks      | = | 0              | Hours |
| 32 Hours per desk audit       | X | 4,260 | Compliance evaluations | = | 136,320        | Hours |
|                               |   |       | <b>TOTAL HOURS</b>     | = | <u>136,320</u> |       |

We estimate the hourly rate at \$32.97 (GS-12, step 1, annual salary of \$68,809, based on the Office of Personnel Management's 2011 Salary Table (rates frozen at 2010 levels) for the Rest of the U.S consisting of the portions of the lower 48 United States not located within another locality pay area as defined by the Office of Personnel Management. The total cost would be \$32.97 per hour x 136,320 hours = \$4,494,470. This dollar amount is part of the normal cost of OFCCP's enforcement work at the field level.

**15. CHANGES IN BURDEN HOURS**

We are requesting OMB approval of 11,174,641 burden hours. The present clearance contains approval of 10,045,984 hours. The new estimate represents a net increase of 1,128,657 hours due to an adjustment increase in the number of contractor establishments from 99,028 to 108,288, and a program decrease in hours due to changes in the Scheduling Letter. The sum of the recordkeeping, reporting and third party disclosure burden is 11,174,641. This change is analyzed below.

**a. Recordkeeping Burden Hours**

**1) Initial Development of AAP:**

The previous submission included 109,098 hours. The current request is 120,884, for an adjustment increase of 11,786 hours.

**2) Annual Updating of AAP:**

The previous submission included 4,818,517 hours. The current request is 5,383,874, for an adjustment increase of 565,357 hours.

**3) Maintenance of AAP:**

The previous submission included 4,867,189 hours. The current request is 5,438,257, for an adjustment increase of 571,068 hours.

**4) Uniform Guidelines on Employee Selection Procedures:**

The previous submission included 12,535 hours. We have no changes to this entry.

**b. Reporting Burden Hours**

**1) Standard Form 100**

The number of report filers chargeable to OFCCP was zero in the previous submission and remains at zero. Therefore, we have no changes in this category.

**2) Scheduling Letter**

The burden hours estimate decreased from 139,567 hours to 110,803 hours for two reasons. First, the number of compliance evaluations requiring the use of the Scheduling Letter decreased from 4,923 to 4,260. Second, the burden hours per contractor decreased from 28.35 hours to 26.01 hours due to submission requirement changes in the Scheduling Letter. The adjustment decrease is 18,796 hours and the programming decrease is 9,968 hours. The total decrease is 28,764 hours.

**3) Compliance Check Letter**

The previous submission included 50 hours. This submission requests 0 hours, for an adjustment decrease of 50 hours.

**c. Third Party Disclosure Burden Hours**

The burden hours estimate increased from 99,028 hours to 108,288 hours. The adjustment increase is 9,260 hours.

**BURDEN CHANGE SUMMARY**

|                                     | <u>CURRENT</u><br><u>INVENTORY</u> | <u>CURRENT</u><br><u>REQUEST</u> | <u>ADJUSTMENT</u><br><u>CHANGES</u> | <u>PROGRAM</u><br><u>CHANGES</u> |
|-------------------------------------|------------------------------------|----------------------------------|-------------------------------------|----------------------------------|
| AAP Development                     | 109,098                            | 120,884                          | 11,786                              | 0                                |
| AAP Updating                        | 4,818,517                          | 5,383,874                        | 565,357                             | 0                                |
| AAP Maintenance                     | 4,867,189                          | 5,438,257                        | 571,068                             | 0                                |
| Uniform Guidelines                  | <u>12,535</u>                      | <u>12,535</u>                    | <u>0</u>                            | <u>0</u>                         |
| Total Recordkeeping Burden          | 9,807,339                          | 10,955,550                       | 1,148,211                           | 0                                |
| SF-100 Compliance Evaluation        | 0                                  | 0                                | 0                                   | 0                                |
| Scheduling Letter                   | 139,567                            | 110,803                          | (18,796)                            | (9,968)                          |
| Compliance Check Letter             | <u>50</u>                          | <u>0</u>                         | <u>(50)</u>                         | <u>0</u>                         |
| Total Reporting Burden              | 139,617                            | 110,803                          | (18,846)                            | (9,968)                          |
| Total Third Party Disclosure Burden | 99,028                             | 108,288                          | 9,260                               | 0                                |
| <b>TOTAL ANNUAL BURDEN</b>          | <b>10,045,984</b>                  | <b>11,174,641</b>                | <b>1,138,625</b>                    | <b>(9,968)</b>                   |
| <b>ADJUSTMENT INCREASE</b>          | <b>1,138,625</b>                   |                                  |                                     |                                  |
| <b>PROGRAM CHANGE</b>               | <b>(9,968)</b>                     |                                  |                                     |                                  |
| <b>NET INCREASE</b>                 | <b>1,128,657</b>                   |                                  |                                     |                                  |

|   |           |
|---|-----------|
| Current Operations and Maintenance Costs (approx) | \$120,019 |
| Total Annualized cost requested (approx)          | \$135,272 |
| Net Adjustment Change (approx)                    | \$15,253  |

**16. STATISTICAL USES AND PUBLICATION OF DATA**

OFCCP will not publish the data collected as a result of the items contained in this request as statistical tables.

**17. APPROVAL TO NOT DISPLAY THE EXPIRATION DATE**

OFCCP does not seek approval to not display the expiration date.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

OFCCP is able to certify compliance with all provisions.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This information collection does not employ statistical methods.