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DEPARTMENT OF LABOR

Office of Federal Contract

Compliance Programs

Agency Information Collection

Activities; Announcement of OMB

Approval

**AGENCY:** Office of Federal

Contract Compliance Programs,

Labor.

**ACTION:** Notice.

**SUMMARY:** This notice announces

the Office of Management and

Budget's (OMB) approval of the

supply and service recordkeeping

requirements for the Office of

Federal Contract Compliance

Programs (OFCCP). This also

includes approval of a revised

Scheduling Letter, Itemized Listing, and

Compliance Check Letter covering the

Executive Order (EO) 11246 non-

construction, supply and service, aspects of

the agency's program that is subject to the

Paperwork Reduction Act of 1995 (PRA).

This notice announces OMB approval of

control number 1250-0003.

**FOR FURTHER INFORMATION**

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0104. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:**

OFCCP first announced its intent to seek

renewal of its OMB approved recordkeeping

requirements, including the Scheduling

Letter, Itemized Listing, and Compliance

Check Letter, in a notice published in the Federal Register on May 12, 2011 (76 FR 27670). OFCCP published a second notice on September 28, 2011 (76 FR 60083). In the information collection request (ICR), OFCCP proposed revisions to the Scheduling Letter and Itemized Listing that had been approved by OMB on September 30, 2008, for a three-year period (hereinafter “2008 Letter” or “2008 Itemized Listing”).<sup>1</sup> OMB renewed its approval of the ICR under OMB control number 1250-0003. The approval expires 03/31/2016. The Scheduling Letter and Itemized Listing OMB approved reflect OFCCP’s review and consideration of the public comments submitted in response to 2011 Federal Register notices.

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<sup>1</sup> The 2008 Letter originally was scheduled to expire on September 30, 2011. The 2008 Letter and Itemized Listing received month-to-month extensions while the ICR was under OMB review.

The nonsubstantive changes proposed in 2011, and incorporated in the OMB approved renewal, update or correct legal citations, change language used in the text to better reflect the regulatory structure of compliance evaluations, and revise the writing style to improve the readability and clarity of the documents. The limited number of substantive changes that OFCCP incorporated in the OMB approved renewal reduce the cost and burden imposed on contractors; maintain contractor flexibility when submitting employment activity data; support effective and efficient agency enforcement in the area of pay discrimination; and incorporate changes required by OFCCP’s recent regulatory activity. An overview of the substantive changes to the Scheduling Letter, Itemized Listing, and Compliance Check Letter is below.

#### I. Scheduling Letter

In 2013, new regulations

implementing the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended, eliminated 41 CFR part 60-250, Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans, Veterans of the Vietnam Era, Recently Separated Veterans, and Other Protected Veterans. The ICR incorporates this change.

## II. Itemized Listing

The Itemized Listing, used in conjunction with the Scheduling Letter, identifies for contractors the documents and information that they must provide for the desk audit phase of an OFCCP compliance evaluation. During the public comment period on the revisions proposed to the Itemized Listing in 2011, OFCCP received several valuable comments

from a variety of stakeholders. This OMB approved renewal reflects these comments whereby OFCCP substantially reverts to the 2008 Itemized Listing, including continuing to allow contractors to submit employment activity data by either job group or job title. Maintaining the option of reporting employment activity by either job group or job title eliminates the burden that some commenters associated with collecting, analyzing and reporting data in two different ways as OFCCP proposed in 2011.

Contractors will continue to provide this data by sex; however, they will submit race and ethnicity information using five specified categories instead of two broad categories (i.e., minority and nonminority).

To reduce the potential cost and burden that some commenters associated with the Itemized Listing even further, OFCCP made changes to aspects of its compensation data requirements. OFCCP changed the 2008 Itemized Listing so that it

no longer requires that contractors submit annualized aggregate compensation data. Instead, contractors will submit individualized employee compensation data as of the date of the workforce analysis in their Affirmative Action Programs, also noting the job title, job group and EEO-1 category. By adopting this approach, OFCCP opted to modify its 2011 proposal. This change is expected to reduce the cost and burden that some commenters associated with collecting, tabulating, and analyzing data to submit in aggregate form. OFCCP also refined its definition of compensation, as proposed in 2011, to include consideration of hours worked, incentive pay, merit increases, locality pay, and overtime.

In the 2008 Letter, OFCCP

encouraged the use of electronic submission of the data. In the OMB approved renewal, the agency is requiring contractors to provide the data electronically but only if they maintain it in an electronic format that is useable and readable. This provides contractors with more flexibility when compared to what OFCCP proposed in 2011, and the provision may contribute to faster and more efficient compliance evaluations.

Finally, OFCCP was required to make several changes to the 2008 Itemized Listing based on recent regulatory changes. The Section 503 of the Rehabilitation Act of 1973 and VEVRAA final rules, published in September 2013, changed the data collection, recordkeeping and reporting requirements of these two regulations. The VEVRAA rulemaking also eliminated 41 CFR part 60-250, and OFCCP rescinded the Voluntary Guidelines and Compensation Standards in February 2013 (78 FR 13508).

Therefore, OFCCP had no discretion and incorporated these regulatory changes into the renewal of this ICR.

III. The Compliance Check Letter

In 2011, OFCCP proposed changes to the 2008 Compliance Check Letter. However, none of the changes the agency proposed was substantive.

As provided in 5 CFR 1320.5(b) and 1320.6(a), an agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number. The agency must inform individuals who are to respond to the collection that they are not required to respond to the collection of information unless it displays a currently valid OMB control

number.

Dated: September 24, 2014.

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