

National Employment Law Project

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Debra A. Carr, Director
Division of Policy, Planning and Program Development
Office of Federal Contract Compliance Programs
200 Constitution Avenue, NW, Room C-3325
Washington, DC 20210

Re: Comments on Proposed Extension of the Approval of Information Collection Requirements (Control No. 1250-0003)

Dear Ms. Carr:

The National Employment Law Project (NELP) submits these comments to the U.S. Department of Labor, Office of Federal Contract Compliance (OFCCP) regarding changes to the information collection request, issued for comment on May 12, 2011. ***We support the proposed changes to the information collection request itemized listing because they improve on the current list and give OFCCP information necessary to better evaluate compliance with Executive Order 11246.***

NELP was founded over 40 years ago to promote the employment rights of the working poor and unemployed. Responding to the post-9/11 expansion of criminal background checks for employment, NELP launched a major initiative to protect the rights of millions of workers subject to the new employment screening mandates. The Project enforces the federal civil rights and consumer protection laws that apply to criminal background checks for employment, promotes model policies and supports reform of federal, state and local laws to ensure more fair and accurate criminal background checks.

Of special significance to our work, the proposed changes to the itemized listing will require federal contractors to provide race/ethnicity data on all applicants and hires, promotions, terminations, and compensation. This important change gives OFCCP data necessary to make initial evaluations about the impacts contractors' policies have on workers of color.

Workers are facing escalating barriers to employment as more employers rely on criminal records and credit history information in employment hiring and firing decisions. These decisions are often made with little protections to ensure that the process is fair and based on accurate information. In addition, these screening procedures have a disparate impact on people of color, in violation of federal anti-discrimination laws and policies, including Title VII of the Civil Rights Act of 1964 and Executive Order 11246.

Frequently, employers impose blanket prohibitions on hiring people with criminal records, a clear violation of the Equal Employment Opportunity Commission's (EEOC) guidances on employer use of arrest and conviction records.¹ Unfortunately, employers frequently do not maintain the race and ethnicity of job applicants and hires, making it difficult to determine the impact these policies have on communities of color.

Given the increasing use of such policies and the impact these screening procedures have on workers of color, it is imperative that OFCCP have access to race and ethnicity data of applicants and hires, promotions, terminations, and compensation. The proposed changes to the information collection request itemized listing give OFCCP data necessary to make an initial investigation into a contractor's hiring policies, an important first step in evaluating compliance with federal anti-discrimination laws.

We strongly support OFCCP's decision to require more specific race/ethnicity data from federal contractors. A comprehensive review of the hiring policies of federal contractors to ensure fair access to employment for all workers requires that OFCCP have access to the race/ethnicity information of applicants and hires, promotions, terminations, and compensation.

Thank you for your attention to these comments.

Very truly yours,



Madeline Neighly
Staff Attorney

¹ See The U.S. Equal Employment Opportunity Commission, EEOC Policy Statement on the Issue of Conviction Records under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., 1982, Feb. 4, 1987) available at www.eeoc.gov/policy/docs/convict1.html. See also The U.S. Equal Employment Opportunity Commission, Policy Guidance on the Consideration of Arrest Records in Employment Decisions under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., 1982, Sept. 7, 1990, available at www.eeoc.gov/policy/docs/arrest_records.html.