

June 12, 2024

Via www.reginfo.gov

Office of Information and Regulatory Affairs
Attn: OMB Desk Officer for DOL-OFCCP
Office of Management and Budget
725 17th Street NW
Washington, DC 20503

Re: Comments of the Center for Workplace Compliance on the Office of Federal Contract Compliance Programs' Proposed Reauthorization of the Contractor Portal (OMB Control Number 1250-0012)

Dear OMB Desk Officer:

The Center for Workplace Compliance (CWC) appreciates the opportunity to submit these comments regarding the Office of Federal Contract Compliance Programs' (OFCCP) proposed Information Collection Request (ICR), Contractor Portal, notice of which was published in the Federal Register on May 13, 2024.¹

OFCCP asks the White House Office of Management and Budget (OMB) for approval to renew the agency's "Contractor Portal," formerly known as the Affirmative Action Program Verification Interface (AAP-VI), an online tool that allows covered federal contractors and subcontractors to certify annually that they have developed and maintained affirmative action programs (AAPs) in accordance with OFCCP's regulations.

As discussed in more detail below, we disagree with OFCCP's estimate that contractors will spend just 0.13 hours (or 8 minutes) to "login into the system, input new information/verify previous information, and certify." We offer industry experience indicating that the burdens associated with the Contractor Portal are significantly higher than estimated.

Statement of Interest

CWC is the nation's leading nonprofit association of employers dedicated exclusively to helping its members develop practical and effective programs for ensuring workplace compliance, including full compliance with the nondiscrimination and affirmative action requirements applicable to federal contractors. Founded in 1976, CWC's membership includes approximately 200 major U.S. employers, collectively providing employment to millions of workers. CWC's directors and officers include many of industry's leading experts in the fields of fair employment, workplace compliance, and risk management. Their combined experience gives CWC a unique depth of understanding of the practical, as well as legal, considerations relevant to the proper interpretation and application of workplace rules and regulations.

Nearly all CWC members are federal contractors and subcontractors subject to the nondiscrimination and affirmative action requirements of Executive Order (E.O.) 11246, Section 503 of the Rehabilitation Act of 1973 (Section 503), Section 4212 of the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA), and their implementing regulations. As major federal contractors and subcontractors, CWC's members have a

¹ 89 Fed. Reg. 41,472 (May 13, 2024).

significant interest in ensuring that OFCCP's programs, policies, and initiatives efficiently and effectively accomplish their underlying policy objectives.

OFCCP Underestimates the Burdens Imposed by the Contractor Portal

CWC disagrees with OFCCP's assessment that existing contractors will need to spend, on average, *just 8 minutes* each filing cycle to "login into the system, input new information/verify previous information, and certify."

We respectfully submit that this estimate does not account for the numerous changes the agency has made to the Contractor Portal since it was launched in early 2022. When the Contractor Portal was launched, OFCCP pre-populated each contractor's establishment list with a subset of the organization's 2018 EEO-1 Reports. More specifically, the Portal contained each contractor's "Type 3" establishment, covering its principal or headquarters office, along with "Type 4" establishments, for each establishment employing 50 or more persons.

At the time, it was believed that users simply had to login, verify and/or update the establishment listing, and certify. However, this belief was quickly proven incorrect, as the task of inputting new information and/or verifying previous information became increasingly complex, due in no small part to an updated User Guide and a growing list of frequently asked questions (FAQs).

As it stands today, complying with the Contractor Portal requires reviewing changes to a 54-page User Guide and over sixty FAQs. CWC members report to us that they spend on average, *between 1 to 2 business days* (or 8 to 16 total hours) each year to "login into the system, input new information/verify previous information, and certify." This time is spent:

- Reading OFCCP's User Guide and FAQs and checking for changes or updates;
- Consulting with in-house staff and legal counsel on interpreting and implementing the FAQs;
- Manually adding establishments with fewer than 50 employees;
- Updating establishment names, addresses, headcounts, and EEO-1 Unit IDs;
- Contacting the Contractor Portal help desk to resolve technical issues;
- Emailing a "bulk upload" file to the Contractor Portal help desk (if appropriate);
- Selecting "Assign Closed Status" for establishments that have closed or no longer maintain an AAP; and
- Completing the certification by following the prompts on the certification page.

This number fluctuates, of course, based on the size and complexity of the organization. We respectfully submit, however, that there is not a single CWC member that can complete all of the above tasks in 8 minutes.

OMB Desk Officer for DOL-OFCCP

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Conclusion

CWC appreciates the opportunity to offer these comments regarding OFCCP's proposal to extend the Contractor Portal. Please do not hesitate to contact me if CWC can provide further assistance as you consider these important issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Danny Petrella". The signature is stylized with a large, looping "D" and a cursive "Petrella".

Danny Petrella

Senior Vice President, Compliance and Assistant General Counsel