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July 11, 2011

Ms. Debra A. Carr

Director, Division of Policy, Planning and Program Development

Office of Federal Contract Compliance Programs (OFCCP), Room C-3325

200 Constitution Avenue, NW

Washington, DC 20210

Re: Comments on Proposed Extension of the Approval of Information Collection Requirements - Control Number 1250-0003

Dear Ms. Carr:

I am writing to provide comments on the Notice of Proposed Extension of the Approval of Information Collection that was published in the Federal Register on May 12, 2011.

Glenn Barlett Consulting Services, LLC provides a full range of Affirmative Action and Equal Employment Opportunity professional services. Most of our clients are Federal Contractors. We prepare hundreds of Affirmative Actions Plans and assist in dozens of OFCCP Compliance Evaluations each year. I am the President of the firm and I have intimate knowledge of the Office of Federal Contract Compliance Programs (OFCCP) US Department of Labor, where I was employed as an Equal Opportunity Specialist, Quality Auditor, and Regional Director of Planning and Support in New York.

I am a member of the faculty of the Cornell University School of Industrial and Labor Relations, the American Association for Affirmative Action Professional Development and Training Institute, and the Rutgers University Institute of Management and Labor Relations. I teach seminars on a number of Equal Employment Opportunity and Affirmative Action topics, including the preparation of Affirmative Action Plans.

I have numerous concerns regarding the proposed revisions that are set forth below. My comments are related to proposed changes to the Itemized Listing that is attached to the Compliance Evaluation Scheduling Letter.

7. Copies of EEO-1 Reports - Academic institutions that are federal contractors do not file EEO-1 Reports. This often causes conflict during Compliance Reviews when Compliance Officers demand copies of EEO-1 Reports from Academic institutions. This section of the Itemized Listing should be revised to include IPEDS reports which replaced EEO-6 reports for Academic Institutions in 1993.

11. Data on Employment Activity by Job Group and Job Title - While the addition of the submission of data by Job Title does not significantly add to the burden of the submission of data for desk audit, the OFCCP must realize that conscientious contractors analyze their activity data as required by the regulations. Typically data will be analyzed by Job Title if there is statistically significant adverse impact in a Job Group. Analysis of all data by Job Title will add a significant burden to contractors. OFCCP should provide guidance regarding the analysis of data by Job Title.

11. Data on Employment Activity by Individual Race/Ethnic Groups - The OFCCP has chosen not to change the race/ethnic groups in its regulations to conform to the revised race/ethnic groups adopted by the EEOC and the Department of Education. OFCCP has issued a Directive (283) indicating that the agency will accept data by either the categories in the OFCCP regulations or the categories used in the revised EEO-1 Report. The proposed change in the Itemized Listing only notes the categories in the OFCCP regulations.

11. Data on Employment Activity by Individual Race/Ethnic Groups - While the addition of the submission of data by individual race/ethnic groups does not significantly add to the burden of the submission of data for desk audit, the OFCCP must realize that conscientious contractors analyze their activity data as required by the regulations. Clearly analysis of data by individual race/ethnic group is supported by the Uniform Guidelines on Employee Selection Procedures that require a comparison of the selection rate of the group with the highest rate to the selection rate of the group being analyzed. OFCCP Compliance Officers and District Offices are not, however, consistent in the analysis of data by individual race/ethnic groups. In addition, some Compliance Officers compare

the selection rate of a particular group to the selections rate of all others. This in essence changes the regulatory word “group” to “groups.” Analysis of all data by individual race/ethnic groups will add a significant burden to contractors. OFCCP should provide guidance regarding the analysis of data by individual race/ethnic group.

11. a. Applicants and Hires - The third paragraph in this section appears to include a requirement to submit data on individuals beyond those who meet the definition of an Internet Applicant. The Scheduling Letter should not conflict with the regulations.

11. b. Promotions - The inclusion of the words “as well as the actual pool of candidates who applied or were considered for promotion” fails to consider that there are what are commonly referred to as career ladder promotions where there are no other employees considered for promotion. The proposed changes do not address this.

11. c. Terminations - The inclusion of the words “as well as the actual pool of candidates who applied or were considered for termination” fails to consider that there are employees who resign, retire, and die. How can contractors be expected to report the “actual pool of candidates” for these types of terminations? The OFCCP should also define voluntary and involuntary. For analysis purposes it would appear that terminations because of death are voluntary, but other than suicide, death is not voluntary.

12. Compensation for Contractors - This proposed change would require contractors to report on individuals who are not the contractor’s employees. Contractors are not included in Affirmative Action Plans.

12. Compensation as of February 1 - This proposed change appears to require contractors to analyze compensation data as of February 1, regardless of the AAP year. Compensation data submitted for desk audit should be as of the first day of the AAP year.

12. Other Compensation - This section of the Itemized Listing fails to acknowledge that other forms of compensation listed are not as of a point in time, but over a period of time. Although this has always been a part of the Itemized

Listing, OFCCP has ignored it, until recently when it requests this data during the course of the desk audit.

12. Compensation by race/ethnicity - This section of the Itemized Listing also adds considerable complexity to the analysis that contractors should conduct. OFCCP should publish revised compensation guidelines prior to making a change such as this.

The OMB approval of the current Scheduling Letter expires on September 30, 2011. In light of the significant changes that OFCCP is proposing, the agency should seek an extension of three to six months of the current letter while it is able to consider the implications of the changes it is proposing and provide guidance to the contractor community.

Respectfully submitted,

Glenn Barlett