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October 28, 2011

Office of Information and Regulatory Affairs
Attn: OMB Desk Officer for the Department of Labor, OFCCP
Office of Management and Budget, Room 10235
Washington, DC 20503

RE: OMB Control Number 1250-0003; Proposed Extension of the Approval of Information Collection Requirements—Non-construction Supply and Service Information Collection

To Whom It May Concern:

On behalf of the U.S. Chamber of Commerce, we are pleased to submit these comments in response to the request for comments concerning the Office of Federal Contract Compliance Programs' (OFCCP) proposal to extend the Office of Management and Budget (OMB) approval of the Non-construction Supply and Service Information Collections (Scheduling Letter and Itemized Listing), as published in the *Federal Register* on September 28, 2011.[1]

The U.S. Chamber of Commerce (Chamber) is the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region. Chamber members include a large number of federal contractors and subcontractors covered by Executive Order 11246 or otherwise within the OFCCP's jurisdiction. In addition, the Chamber represents many trade associations and state and local chambers of commerce that, in turn, represent a significant number of federal contractors and subcontractors. The proposed changes to the scheduling letter and itemized listing will have a significant impact on these members.

Preliminary Statement

This is not a routine paperwork clearance request, and the OMB should not treat it as such. The OFCCP is seeking to make major policy changes through the relatively obscure

[1] 76 Fed. Reg. 60,083.

paperwork clearance process. These comments will demonstrate that the proposed changes will impose significant new costs that cannot be justified and that the agency is attempting to make them without addressing important stakeholder concerns. What's more, the agency's Supporting Statement is, at best, careless and at worst demonstrates a fundamental misunderstanding of the laws the OFCCP is charged with enforcing. For these reasons, it is incumbent upon the OMB to reject the OFCCP's request.

By its own admission, one single change requested by the OFCCP to the Itemized Listing will force federal contractors to redesign human resource information systems at a cost of nearly $130,000,000.[2] Were these costs imposed through rulemaking, this single change alone would be considered economically significant under Executive Order 12866 and would have triggered cost-benefit assessments. Likewise, it would have been considered a major rule under the Congressional Review Act, requiring the agency to notify Congress. Other statutes and processes designed to protect the regulated community would also have come into play. The OFCCP should not be allowed to impose such significant burdens upon contractors through the paperwork clearance process.

For these and other reasons, it is incumbent upon OMB to reject the OFCCP's submission.

Privacy Concerns

The OFCCP has correctly noted that much of the employment data that it seeks contractors to submit is viewed as extremely sensitive.[3] Indeed, the data that is currently collected is viewed as proprietary and confidential by many contractors and its disclosure to competitors could decrease a contractor's competitive advantage or even threaten its business model. Further expansion of the types of data collected, especially individualized compensation and benefits, will greatly exacerbate this concern.

The OFCCP provides no guarantee that this type of data will be protected from disclosure to competitors or others. It is true that the September Supporting Statement states that OFCCP will give contractors an opportunity to object to the release of such information pursuant to a request under the Freedom of Information Act. OFCCP has also stated that it will not release any data it obtains during a compliance evaluation until "agency actions are completed."[4] Rather than provide assurances, these statements instead demonstrate that the OFCCP anticipates releasing sensitive information to the public. Instead of merely informing employers of FOIA requests, the

[2] September 2011 Supporting Statement, Supply and Service Program, OMB No. 1250-0003 (formerly 1215-0072) (*hereinafter* September Supporting Statement) at 47-48.
[3] *Id*. at 37.
[4] *Id*.

agency should affirmatively seek to protect disclosure of sensitive information. In the alternative, the OFCCP should establish the protocol of returning the data to the contractor upon the conclusion of the audit. In this way, the FOIA issue will be avoided.

In addition, even if the OFCCP were to guarantee non-disclosure, privacy concerns would still remain. Reports are replete with sensitive government data that is lost, stolen, or deliberately leaked. For example, one GAO analysis from 2007 found that "17 agencies reported that they experienced at least one breach and, collectively, the agencies reported … more than 788 separate incidents."[5]

The inherent risks of disclosure argue against the OFCCP's collection of individualized data at the initial steps of compliance. This is not to say OFCCP is never entitled to this information. Clearly such information may be relevant and necessary to help determine whether contractors have complied with their obligations in particular cases. However, the Chamber cannot support collecting of such information in every case. OFCCP must demonstrate some appropriate foundation before collecting such sensitive information.

In addition, it must be emphasized that the OFCCP did not adequately respond to privacy concerns raised during the comment period, limiting its summary of these serious concerns to a mere two paragraphs in the September Supporting Statement. Unfortunately, these paragraphs largely restated information already in the record and only addressed problems raised in comments in a relatively minor way.[6] We strongly urge OFCCP not to request such sensitive information in every instance. However, failing that it is incumbent upon the agency to significantly enhance protection of this sensitive data.

Unrealistic Assumptions About Burdens

A comprehensive response to the OFCCP's estimates of the burden the changes that would impose on contractors is beyond the scope of these comments. These comments focus on the estimates associated with the OFCCP's initial burden estimates, failure to account for additional costs for large firms, new Items 11 and 12, and the OFCCP's mischaracterization of current law under Item 13.

[5] U.S. Government Accountability Office, *Personal Information: Data Breaches Are Frequent, but Evidence of Resulting Identity Theft Is Limited; However, the Full Extent Is Unknown*, at 13 (Jun. 2007).

[6] We appreciate the language included in the Itemized Listing and September Supporting Statement regarding a contractor's ability to use coding or an index of pay and pay ranges, Proposed Itemized Listing at 4 n.8, September Supporting Statement at 33, but remain concerned that this will not provide sufficient protection to keep third parties from acquiring sensitive information.

Initial Burden Estimates

To calculate revised total hours for the Scheduling Letter and Itemized Listing, OFCCP assumed that the 28.35 hours burden per respondent estimated for the previous renewal of the ICR was correct and only estimated increments or decrements of time associated with revisions to the Itemized List to compute an adjusted total from the 28.35 hour base. OFCCP has presented no empirical evidence to support the implicit claim that the previously estimated 28.35 hours per respondent burden is accurate. OFCCP could readily have provided an empirical basis for the baseline burden by surveying previous scheduling letter respondents to determine what time, labor costs and other costs were incurred to respond.

OFCCP estimates that its own employees will require 32 hours on average to review each scheduling letter submission. This is significantly (18.5 percent) more than the 27.01 hours that OFCCP estimates that it will take for respondents to assemble and submit the data. This is puzzling to us given the importance and potential liabilities that may result from the data submission. It therefore seems highly likely that employers will require more time to assemble, verify and review the data before submission that the OFCCP will require to review each submission.

OFCCP should take into consideration the time necessary for senior management, human resource management specialists and attorneys to review and verify the material prior to submission, in addition to the initial time needed to compile, tabulate and format the information required on the Itemized Listing. OFCCP's time burden estimates are naïve to ignore the fact that the importance of these information submissions will necessitate extensive hours of high-level professional effort to review and verify the data. If respondent time were limited to the time estimates asserted by OFCCP, the risk would be great that the data would be erroneous, incomplete, misleading and useless for the intended purpose. If OFCCP is serious about its need for compete and reliable data to inform its affirmative action enforcement responsibilities, then OFCCP should be realistic in its estimation of the time and effort that respondents are expected to devote to providing that data.

Among the options OFCCP could consider to more accurately assess the burdens might be an option for respondents to provide a tabulation of the labor categories, time, hourly compensation and other costs involved in preparing and submitting the response to the Scheduling Letter and Itemized Listing. OFCCP could then annually publish a summary report of the actual time burden and costs of scheduling letter responses and use the data as the basis for future revisions and renewals of the ICR.

Costs for Larger Firms

The OFCCP recognizes that the costs of developing and updating an AAP can be greater for larger firms.[7] In the September Supporting Statement the OFCCP has made one curious change regarding costs for larger firms as compared to the Supporting Statement issued by the OFCCP in May. In the May Supporting Statement, burdens associated with creating and updating an AAP were calculated differently for firms of the following sizes: 0-100; 101-149; 150-500; 501-1000; 1000+.[8] In contrast, in the September Supporting Statement used groups of the following sizes: 1-100; 101-150; 151-500; 501+.[9] As justification for eliminating the 1000+ category and instead using a single category for all firms with 501 or more employees, the OFCCP noted "Due to increased efficiencies in technology, we believe that a contractor of 1001 or more employees will expend no more hours than a contractor of 501 employees.[10]

We question this change since it is not at all clear what technology has been developed and put into place in the last six months that will lead to these supposed efficiencies. At a minimum, it is incumbent upon the OFCCP to identify the technologies in question or articulate the efficiencies with specificity as this would be information that the contractor community might find extremely useful.

Nevertheless, it is important to note that the OFCCP acknowledges that costs associated with developing and updating an AAP will be greater for larger firms. However, it does not appear that OFCCP accounted for the likelihood of greater costs for large firms in other sections of its burden estimates, such as the support data required in the Itemized Listing.

The time and effort required to produce the information required by the Itemized Listing varies significantly with the number of employees of the responding firm. For a small firm with only 10 employees, the numbers of applications, hires, promotions, terminations, and compensation records may be feasible to compile, tabulate and analyze for the required submission in a few hours of labor. For a large firm with thousands of employees, the time needed to respond may increase exponentially. Nowhere in the supporting documentation for the ICR does OFCCP define the employment size of the "typical" firm to which its time burden estimates apply. Furthermore, an analysis of time burden based on a simple arithmetic average of firm employment size would be erroneous because the variation in time burden across the full range of firm sizes is not likely to be a linear relationship. The time burden is likely to rise exponentially with firm size in reflection of the greater turnover, greater numbers of applicants

[7] *See, e.g.,* September Supporting Statement at 39-41.
[8] May 2011 Supporting Statement, Supply and Service Program, OMB No. 1250-0003 (formerly 1215-0072) (*hereinafter* May Supporting Statement) at 12-15.
[9] September Supporting Statement at 39-41.
[10] *Id*. at 40 n.14.

per position, and increased complexity of staffing pattern of larger firms. To accommodate this feature of the respondent population, OFCCP should develop separate response burden estimates for various size cohorts of responding firms and estimate the number of respondents annually for each size cohort, just as it did with the estimates for creating and updating AAPs. Only by summing the separately computed time burdens across the various cohorts can OFCCP arrive at an accurate estimate of the aggregate time burden associated with the scheduling letter and itemized list.

For larger firms, the time and cost burden of responding to the proposed information submissions will be increased because critical functions and information resources are fragmented within the organizational structure. This means that compliance with the new requirements will require firms to restructure information systems and work process flows and to coordinate information from disparate units. The comment previously submitted to the OFCCP docket for this matter by Littler Mendelson (July 11, 2011) illustrates this point in the context of the Rehabilitation Act and VEVRAA accommodation request reporting. On page 4 of their comments, Littler Mendelson notes that "contractors are not poised to be able to retrieve requests for accommodation and the contractors' responses within 30 days after receiving a scheduling letter. The departments that tend to be involved in accommodations are not necessarily the same departments that are preparing the AAP audit submissions, and we are confident that our client base could benefit from some additional time in which to implement some record keeping changes."

The OMB should require the OFCCP to revisit its burden estimates to properly account for these increased costs.

Item 11

OFCCP has proposed altering Item 11 to require the submission of summary applicant, hire, promotion, and termination by individual racial and ethnic categories. It is also proposing to report such data by job group *and* job title (instead of job group *or* job title).

This is no small change and we are left to wonder whether the OFCCP intends another major policy change by focusing on job titles as opposed to job groups. The new data that contractors will be required to produce should this proposal be enacted is considerable as a single employer may have hundreds of job titles, now multiplied by the number of individual racial and ethnic categories.

OFCCP assumes that this new data request will not impose more than one additional hour per year on contractors, but this estimate is not based on any empirical data and appears to be a

guess. Further, the OFCCP does not provide any explanation of how this level of information will help it in its enforcement duties. Indeed, it is our understanding that much of the data that would be created should the proposal be finalized is too small for valid statistical analysis.

In the September Supporting Statement, the OFCCP responded to such concerns by stating that even if insufficient data existed for statistical significance, "there may be enough data to suggest potential discrimination."[11] This statement, coupled with the statement that the OFCCP is requesting vast new amounts of data to provide "maximum flexibility"[12] are concerning to contractors. They fear that rather than rely on valid and robust statistical analyses, that instead the agency will utilize methods likely to result in a high number of false positive hits. In other words, contractors who are fulfilling their responsibilities under the Executive Orders and laws the OFCCP enforces could be singled out for enforcement action based on unscientific or sloppy statistical analyses. This is no small concern as contractors report that it can be extremely costly to conduct robust self-analyses of such information in its own defense. This will also disconnect the OFCCP analysis from any recognized methodology used to analyze employment data. An agency of the federal government should not be able to guess or create fictional theories to compel contractors to expend significant resources and time responding to phantom guesses about discrimination.

It is important to acknowledge one modest improvement in Item 11, the provision in the September Supporting Statement that indicates the OFCCP would accept a candidate pool of one for promotion and termination decisions.[13] If this proposal moves forward, we would encourage the statement to be included, perhaps as a footnote, on the Itemized Listing.

Item 12

<u>Supporting Statement Conflicts</u>

In our comments filed in response to OFCCP's initial request for public comments on this matter, submitted in July, we pointed out that the May Supporting Statement appeared to offer contradictory estimates of the decrease in burden on the contracting community. We noted that the OFCCP said:

> 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

[11] *Id*. at 25.
[12] *Id*. at 24.
[13] *Id*. at 29.

> 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).[14]

We argued that the statement was puzzling because while the above passage claims that a "contractor's burden would decrease on average *to* 3.36 hours" another passage in the May Supporting Statement noted that OFCCP expects the contractor's burden hours under item 12 to decrease *by* 3.36 hours. We noted that the additional discussion accompanying item 12 would make it appear that the later approach is what OFCCP intends. However, we pointed out that it is not clear and it is incumbent upon OFCCP to more clearly state its intent so that appropriate evaluation can be made by stakeholders.

This concern was not addressed in the September Supporting Statement and the confusion still remains.[15] While we strongly disagree with the OFCCP's assertion that the new Item 12 will reduce burdens, stakeholders are at a minimum entitled to some clarity to understand the OFCCP's position.

Faulty Burden Analysis

OFCCP claims that the change regarding Item 12 (compensation data) from a report of data summarized and grouped by job categories to a listing of each individual employee information will reduce the time and cost burden on employers. This claim is false because the revised specification for Item 12 also requires the employer to list for each employee record the group category with which that employee is associated. Therefore, the employer will have to conduct the same grouping analysis as previously required plus take the time to compile and transmit the individual data. OFCCP used results from the 2003 Compensation Questionnaire to assert that the revision of item 12 would reduce the time burden for Item 12 from 5.23 hours to 1.87 hours, but, if one could rely on the 2003 Compensation Questionnaire data, the correct result would be that the revision raises the burden to 5.23 + 1.87 = 7.1 hours. However, the correct result is likely significantly higher because the revised Item 12 requirement includes additional items not included in the 2003 Compensation Questionnaire, e.g., wage rate, hours worked, bonuses, incentives, commissions, merit increases, locality pay, overtime and factors used to determine employee compensation such as education, pat experience, duty location, performance ratings, department, function and salary band/grade.

The conclusion that the revision to item 12 will likely result in significantly increased compliance time and cost burden is supported by comments previously submitted to the OFCCP docket for this matter by Littler Mendelson. Drawing on their extensive practical experience in

[14] May Supporting Statement at 18.
[15] September Supporting Statement at 44-45.

assisting contractors in these matters, this firm notes with respect to the expanded list of compensation elements that are being added to the item 12 requirement that

> While an employee's annualized salary or wage rate is often maintained in the contractor's HRIS system that is used to prepare the Affirmative Action Plan, the additional information pieces that OFCCP proposes to have contractors provide – bonuses, incentives, commissions, merit increases, hours worked, overtime, and locality pay – are often not maintained in the same system. Instead, they typically are maintained in the payroll system (which tends not to have race, ethnicity, or gender information in it) and thus, contractors are going to be required to run additional reports on all employees and not just, for example, those employees who have a comparator in the same job title or salary grade. These additional burden hours were not appropriately considered in the OFCCP's estimate of time required to respond to New Item 12. Moreover, in the dozens of audits in which OFCCP requested and our clients supplied this non-base pay information, we have yet to see any evidence that OFCCP actually is analyzing this information. Indeed, we are highly skeptical that OFCCP, or anyone else, has the ability to analyze non-base pay compensation data in a way that ensures it is comparing 'apples to apples.'[16]

These comments demonstrate OFCCP's extreme naiveté regarding the structure and operations of the contractors under its regulatory authority. OFCCP needs to understand fully the structure and operations of the contractor community in order to accurately assess the burdens that its regulations and information collection requests place upon employers. To improve its knowledge and understanding of the regulated community, we encourage OFCCP to undertake retrospective evaluations of its regulations and information collection requests using surveys, field interviews and case studies to assess the actual processes, resources, information systems, labor components, time requirements, and costs for compliance by the regulated community. We have not found in the OFCCP's support documentation, provided for OMB review, any notation of or response to this critical comment.

Arbitrary Snapshot Date

It Item 12, the OFCCP is requesting compensation data for all employees as of February 1. In the September Supporting Statement, OFCCP acknowledges that it received many comments critical of this choice as being arbitrary.[17] OFCCP defended its decision by stating that

[16] Comments by Littler Mendelson, PC (July 11, 2011) at 8.
[17] September Supporting Statement at 30-31.

February 1 was chosen "because it is the date by which contractors would have completed their W-2's and other compensation data analysis for their employees pursuant to Internal Revienue Service deadlines.

However, the fact is that there is no relationship between the data included on a W-2 form and the detailed compensation and demographic data the OFCCP requests in the Scheduling Letter and Itemized Listing. There is great concern among contractors that if this requirement stands, it will force employers to take snapshots on both their AAP calendar dates and February 1 and would double burdens without a logical reason for such a change.

Contract Workers

There is some confusion about whether the OFCCP is seeking data on employees of contractors that a federal contractor may use. This is generated by the OFCCP's request of data for "employees (including but not limited to full-time, part-time, *contract*, per diem or day labor, temporary)."[18] In the September Supporting Statement, states "Item 12 does, however, seek compensation data for '*contract*, per diem, or day laborers' as categories of temporary employees *on the contractor's payroll*."[19] This clarification provided in the Supporting Statement is helpful. It would help clear up confusion on the Itemized Listing considerably if the OFCCP either delete "contract" from the parenthetical of item 12 or instead inserted the phrase "on the contractor's payroll" as done in the September Supporting Statement.

Item 13

The proposed Itemized Listing requests "Copies of accommodation policies and records of accommodations granted under Section 503 and Section 4212."[20] In the September Supporting Statement, OFCCP notes that one commenter stated that "contractors are not legally required to record afforded accommodations and as a result, most do not have a process in place to track this information."[21] OFCCP responded by stating:

> OFCCP emphasizes that it currently requires federal contractors to maintain records of requests for reasonable accommodations. Pursuant to 41 CFR 60-741.80, a federal contractor is required to preserve, for one or two years, any personnel or employment record, including requests related to reasonable accommodations. Therefore, contrary to what these commenters assert, no additional burden is imposed upon them to supply data

[18] Proposed Itemized Listing at 3 (emphasis added).
[19] September Supporting Statement at 32 (emphasis added).
[20] Proposed Itemized Listing at 4.
[21] September Supporting Statement at 34.

in response to this item. Contractors should have an existing process in place to track the requested data.[22]

This assertion by OFCCP is inaccurate as a matter of law. In fact, OFCCP has no requirement mandating that records be made of requests for accommodation and we submit that imposing such a mandate would be extremely burdensome for the reasons described below. OFCCP's reliance on 41 CFR 60-741.80 is inapposite. This regulation mandates that contractors keep personnel or employment records for a certain period of time. It does not mandate that the records be created in the first place.

Consider the following hypothetical situations:

Hypothetical A

An employee asks his supervisor if he may report to work late tomorrow so that he can go to a doctor's appointment. The supervisor agrees. No notation of the conversation or the accommodation is ever made.

Hypothetical B

An employee asks her supervisor if she may regularly schedule physical therapy appointments on Wednesday mornings, that would result in her to arriving at work 30 minutes late each Wednesday. Her supervisor agrees. No notation of the conversation or the accommodation is ever made.

Hypothetical C

An employee asks her supervisor if she may regularly schedule physical therapy appointments on Wednesday mornings, that would result in her to arriving at work 30 minutes late each Wednesday. Her supervisor notes that Wednesday mornings are critical to the employer's production schedule and asks whether she could schedule the physical therapy on another day. The employee schedules regular physical therapy schedules for Thursdays instead. No notation of the conversation or the accommodation is ever made.

Has the employee made a request for accommodation under Section 503 in any of these hypotheticals? Perhaps. It is impossible to answer without knowing more about the reasons for the request. No law requires an employer to ask why its employee wants time off or what the reason is for a doctor's appointment or physical therapy. Nor does any law require an employer

[22] *Id*. at 34-35.

to create a record of the request. Supervisors make these kinds of informal accommodations every day in the workplace. Supervisors also regularly enter into the interactive process informally, as shown in Hypothetical C, without first establishing whether Section 503 or another law applies.

The statement by the OFCCP in the September Supporting Statement demonstrates that the agency now somehow believes that contractors must make records of such routine accommodation requests. We are shocked by this gross misstatement of law and very troubled by the dramatic new recordkeeping burdens that would be imposed—not to mention the intrusion into employee privacy that would be the result of such a requirement.

This egregious error is either sloppy or represents a fundamental misunderstanding of the law that OFCCP is charged with enforcing. Either should be of serious concern for OMB. We urge OMB to carefully scrutinize the details of this request as well as other submissions by OFCCP to ensure that the agency is acting within both the letter and spirit of the authority under which it operates.

Reasonable Response Time

Currently, the OFCCP seeks a response to the Scheduling Letter within 30 days. Chamber members do not believe it is feasible to respond to the vast new requirements that would be imposed by the Scheduling Letter and Itemized Listing within the same time frame. If OFCCP is to move forward with the dramatic expansion of information sought, then we believe it would be appropriate to extend the initial response time to 90 days.

End Run Around Congress

Finally, we wish to address our concerns that the expansion of the Scheduling Letter and Itemized Listing is being pursued not merely to implement and enforce the laws and Executive Orders from which the OFCCP derives its mandate. Instead, it appears that the proposed changes are a backdoor attempt for the government to begin creating a massive database of private sector compensation data. Such a provision was a component of the Paycheck Fairness Act (PFA),[23] legislation that was rejected by Congress as recently as last year. The provision of the PFA would have charged the Equal Employment Opportunity Commission (EEOC) with responsibilities for creating the massive database, but the purpose is still the same.

[23] Many substantially similar versions of the bill have been introduced in recent years. S. 3772 failed a cloture vote on November 17, 2010.

The connection between the current proposal and the rejected PFA is further evidenced by a report by the National Equal Pay Enforcement Task Force.[24] The Report explicitly states as one of its goals:

> **2. Collect data on the private workforce to better understand the scope of the pay gap and target enforcement efforts.** Private sector employers are not required to systematically report gender-identified wage data to the federal government. This lack of data makes identifying wage discrimination difficult and undercuts enforcement efforts. We must identify ways to collect wage data from employers that are useful to enforcement agencies but do not create unnecessary burdens on employers.[25]

The Report, though making no reference to the scheduling letter and itemized listing, does explicitly reference the how the PFA would have helped the government collect such information and that OFCCP may be one agency that could collect such data.[26]

The PFA's compensation data requirements were among the many reasons employers opposed the legislation and were among the reasons Congress rejected the bill.[27] Disregarding Congressional rejection of this proposal, OFCCP is now seeking to implement it. It is bad enough for an agency to propose an end-run around Congress through regulation, but the OFCCP is not seeking to make this radical policy change in an up-front manner, but is instead seeking to sneak it through in the Paperwork Reduction Act clearance process. Furthermore, even the National Equal Pay Task Force recognized that wage data should not create unnecessary burdens on employers. As detailed above, this proposal will create unnecessary burdens on federal contractors that cannot be justified.

Conclusion

The Chamber has serious concerns with the proposed changes in the Scheduling Letter and Itemized Listing. We are concerned that the agency is seeking to develop a vast database of private sector compensation, a major policy change, without Congressional approval or even the protections afforded through the traditional notice and comment rulemaking process. Further, the proposed changes and additions to the Scheduling Letter and Itemized Listing represent an opaque effort to dramatically change policy and place significant burden on contractors without

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[24] Available at: http://www.whitehouse.gov/sites/default/files/rss_viewer/equal_pay_task_force.pdf.
[25] *Id*. at 5 (emphasis in original)
[26] *Id.*
[27] For example, see the HR Policy Association's Policy Brief, available at: http://www.hrpolicy.org/documents/positions/10-55%20Paycheck%20Fairness%20Policy%20Brief%204%2025%2010.pdf; See Statement by Sen. Michael B. Enzi, 156 Cong. Rec. S7926 (daily ed. Nov. 17, 2010).

the benefit of a proper public notice and comment period. If adopted, the proposal will dramatically increase compliance costs for contractors and will threaten proprietary and confidential information. We are also deeply troubled by the agency's mischaracterization of the law with respect to creating records of reasonable accommodation requests. For these reasons, we strongly urge OMB to reject OFCCP's request.

Thank you very much for your consideration of these concerns. Please do not hesitate to contact us if the Chamber may be of assistance as you consider these important issues.

Sincerely,

Randel K. Johnson
Senior Vice President
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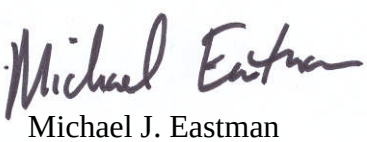

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