

Utah from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Utah, through the Utah Department of Environmental Quality (UDEQ), have determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** Comments must be received by September 9, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-2000-0003, by one of the following methods:

- <http://www.regulations.gov>. Follow on-line instructions for submitting comments.

- *E-mail:* [waterman.erna@epa.gov](mailto:waterman.erna@epa.gov).
- *Fax:* 303 312-7151.
- *Mail:* Erna Waterman, Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, EPR-SR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

- *Hand delivery:* U.S. Environmental Protection Agency, Region 8, EPR-SR, 1595 Wynkoop. Denver, CO. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID no. EPA-HQ-SFUND-2000-0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment

that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at:

U.S. EPA, Region 8, Records Center,  
1595 Wynkoop Street, Denver,  
Colorado 80202-1129, (303) 312-6473  
Hours: M-F 8 a.m. to 4 p.m.  
Tooele City Library, 128 West Vine  
Street, Tooele, Utah 84074, (435) 882-2182.

**FOR FURTHER INFORMATION CONTACT:** Erna Waterman, Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, 8EPR-SR, 1595 Wynkoop Street, Denver, CO 80202-1129, (303) 312-6762 *e-mail:* [Waterman.Erna@epa.gov](mailto:Waterman.Erna@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the "Rules and Regulations" Section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of International Smelting and Refining Superfund Site without prior Notice of Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties

interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the *Rules* section of this **Federal Register**.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: July 8, 2011.

**James B. Martin,**

*Regional Administrator, Region 8.*

[FR Doc. 2011-20292 Filed 8-9-11; 8:45 am]

**BILLING CODE 6560-50-P**

---

## DEPARTMENT OF LABOR

### Office of Federal Contract Compliance Programs

#### 41 CFR Parts 60-1

RIN 1250-AA03

#### Non-Discrimination in Compensation; Compensation Data Collection Tool

**AGENCY:** Office of Federal Contract Compliance Programs.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Office of Federal Contract Compliance Programs (OFCCP) is issuing this Advance Notice of Proposed Rulemaking in order to invite the public to provide input on the development and implementation of a compensation data collection tool. Possible uses for the collected data include generating insight into potential problems of compensation discrimination at the establishment level that warrant further review or evaluation by OFCCP or contractor self-audit. OFCCP could use the data collected by the tool to conduct analyses at the establishment level, as well as to identify and analyze industry trends, Federal contractors' compensation practices and potential equal employment-related issues.

OFCCP is issuing this Advanced Notice of Proposed Rulemaking to solicit comments from interested parties as early as possible in the development process of this new data collection tool. There will, of course, be an additional opportunity to comment following the

publication of the Notice of Proposed Rulemaking. However, to maximize the opportunity to participate in the rulemaking process, OFCCP strongly encourages all interested parties to take this opportunity to submit any ideas, comments or concerns which OFCCP should consider in the course of designing this compensation data collection tool. OFCCP is especially interested in the nature of data that would be most useful for analysis, and any practical implementation issues.

**DATES:** All comments must be received on or before October 11, 2011.

**ADDRESSES:** You may submit comments, identified by RIN number 1250-AA03, by any of the following methods:

- *Federal eRulemaking Portal:*

[www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments.

- *Mail and Hand delivery/Courier:*

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

Receipt of submissions will not be acknowledged; however, the sender may request confirmation that a submission has been received by telephoning OFCCP at (202) 693-0103 (voice) or (202) 693-1337 (TTY) (these are not toll-free numbers).

All comments received, including any personal information provided, will be available online at <http://www.regulations.gov> and for public inspection during normal business hours at Room C-3325, 200 Constitution Avenue, NW., Washington, DC 20210. People who require assistance to review comments will be provided with appropriate aids such as readers or print magnifiers. Copies of this Advance Notice of Proposed Rulemaking will be made available in the following formats: Large print, Braille, electronic file or computer disk, and audiotape. To schedule an appointment to review the comments or this Advance Notice of Proposed Rulemaking in an alternate format, contact OFCCP at the telephone numbers or address listed above.

**FOR FURTHER INFORMATION CONTACT:**

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. *Telephone:* (202) 693-0103 (voice) or (202) 693-1337 (TTY).

**SUPPLEMENTARY INFORMATION:** The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP or Agency) enforces Executive Order

11246 (Executive Order) which requires Federal Government contractors and subcontractors to provide equal employment opportunity through affirmative action and nondiscrimination based on race, color, national origin, religion, and sex.<sup>1</sup> Compensation discrimination is one form of discrimination prohibited by the Executive Order.

Identifying and remedying compensation discrimination remains an important part of OFCCP's compliance efforts. In 2000, concerns about compensation discrimination led OFCCP to require contractors to proactively conduct in-depth analyses of their compensation systems to ensure that those systems were not discriminatory.<sup>2</sup> That same year, OFCCP began requiring contractors to submit compensation data requested in the scheduling letter at the outset of a compliance evaluation to permit the agency to evaluate compensation practices as a matter of course in reviews.

In 2000, OFCCP also initiated a reporting requirement, the Equal Opportunity Survey (EO Survey), which required a subset of contractors to submit information to OFCCP independent of OFCCP compliance evaluations. 65 FR 68022, 68046 (November 13, 2000). The EO Survey required contractors to submit information about personnel activities, compensation and tenure, and certain information about the contractor's affirmative action program. The EO Survey had three major objectives:

(1) To increase compliance with equal opportunity requirements by improving contractor self-awareness and encouraging self-evaluations;

(2) To improve the deployment of scarce federal government resources to those contractors that were most likely to be out of compliance;

(3) To increase agency efficiency by building on the tiered-review process already accomplished by OFCCP's regulatory reform efforts, resulting in better resource allocation.

65 FR 68039.

From its inception, OFCCP was concerned about verifying the utility and efficiency of the EO Survey. The development of the EO Survey began in March 1998, with initial field testing beginning in August 1999. In April 2000, a pilot EO Survey was sent to

approximately 7,000 contractors. After receipt of the pilot EO Survey responses, OFCCP commissioned a study to determine whether the pilot EO Survey results could be used to predict whether a contractor would have findings of non-compliance. Bendick & Egan Economic Consultants, Inc., *The Equal Opportunity Survey: Analysis of a First Wave of Survey Responses* (Sept. 2000) (Bendick Report). The report concluded that the potential increases in OFCCP efficiency and effectiveness through use of the EO Survey could be substantial and recommended that use of the survey be expanded and refined. Bendick Report at 31.

OFCCP mailed 53,000 EO Surveys between December 2000 and March 2001, and 10,000 per year from 2001-2004. OFCCP commissioned another study to determine whether the EO Survey could be used to develop a model that more effectively targets contractors who engage in systemic discrimination. The report, issued in 2005, concluded that the EO Survey had little predictive value as a tool for indicating discrimination or non-compliance.<sup>3</sup> All of these studies have data limitations that undermine drawing firm conclusions about the true predictive power of the EO Survey. However, based primarily on this 2005 report, OFCCP rescinded the EO Survey in 2006.<sup>4</sup>

The purpose of the proposed new tool is to provide insight into potential problems of pay discrimination by contractors that warrant further review or evaluation by OFCCP or contractor self-audit. Accordingly, it is envisioned primarily as a screening tool, although it may also have research value. The tool would allow OFCCP to effectively and efficiently identify supply and service contractors whose compensation data indicates that further investigation is necessary to ensure compliance with the non-discrimination requirements of the Executive Order and would provide contractors with a self-assessment tool that may be used periodically to evaluate the effects of their employee compensation decisions. The data collected through this tool may be used to identify contractors for compensation focused reviews as well as full compliance reviews. Women still earn only 77 cents for each dollar earned by a man.<sup>5</sup> The wage gap is even greater for

<sup>3</sup> Abt Associates Inc., *An Evaluation of OFCCP's Equal Opportunity Survey*, p. 39, (Feb. 2005).

<sup>4</sup> See 71 FR 53032 (Sept. 8, 2006).

<sup>5</sup> Calculations from U.S. Census Bureau, *Current Population Survey, 2010 Annual Social and Economic Supplement, Table PINC-05: Work Experience in 2009—People 15 Years Old and Over*

<sup>1</sup> OFCCP also enforces Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212.

<sup>2</sup> See 41 CFR 60-2.17(b)(3).

women of color: non-Hispanic white women make 75 cents for every dollar earned by a non-Hispanic white man, while African-American women make 62 cents and Latinas make 53 cents for every dollar earned by a non-Hispanic white man.<sup>6</sup> Potentially non-discriminatory factors can explain some of these differences. Even so, after controlling for differences in skills and job characteristics, women still earn less than men.<sup>7</sup> Some scholars find that these differences can be explained, to some extent, by differences in education and prior labor market experience.<sup>8</sup> Others identify job segregation as an important cause of the pay gap.<sup>9</sup> Ultimately, the research literature still finds that an unexplained gap exists even after accounting for potential explanations.<sup>10</sup> Moreover, research literature finds that the narrowing of the pay gap has slowed since the 1980's.<sup>11</sup> To the extent that these factors, such as type of job or amount of continuous labor market experience, are also influenced by discrimination, the "unexplained" difference may understate the true effect of discrimination. In addition to the gender pay gap, scholars have found race and ethnicity-based pay gaps that put workers of color at a disadvantage.<sup>12</sup> As a result, eliminating compensation discrimination by Federal contractors has been, and continues to be, a priority issue for OFCCP.

Before developing a proposed regulation, OFCCP seeks comments from members of the public on issues relating to the scope, content and format of the data collection tool, as well as suggestions for ensuring that the tool will be an effective and efficient means of identifying contractors for review. In addition, OFCCP will conduct web-based and Town Hall listening sessions to provide an opportunity for stakeholders to offer suggestions and

by Total Money Earnings in 2009, Age, Race, Hispanic Origin, and Sex, available at <http://www.census.gov/hhes/www/cpstables/032010/perinc/toc.htm> (last visited Dec. 7, 2010).

<sup>6</sup> *Id.*

<sup>7</sup> *Explaining Trends in the Gender Wage Gap*, A Report by the Council of Economic Advisers (June 1998).

<sup>8</sup> See O'Neill, June E., "The Gender Gap in Wages, Circa 2000," *American Economic Review* (May 2003).

<sup>9</sup> Jacobsen, Joyce P., *The Economics of Gender* (2007).

<sup>10</sup> Jacobsen, supra; see also, e.g., Blau, Francine D. and Kahn, Lawrence M., "The U.S. Gender Pay Gap in the 1990s: Slowing Convergence," 60 *Industrial and Labor Relations Review* 45 (2006).

<sup>11</sup> *Id.*

<sup>12</sup> Altonji, Joseph G. and Blank, Rebecca M., "Race and Gender in the Labor Market," in Ashenfelter, Orley and Card, David, eds., *Handbook of Labor Economics* (1999).

recommendations related to the scope, content and format of the data collection tool in the months ahead. Notices will be placed on OFCCP's Web site and email alerts sent out in advance. In developing a Notice of Proposed Rulemaking and the data collection tool itself, OFCCP will take into consideration comments provided in response to this Advance Notice of Proposed Rulemaking ("ANPRM") and during the various listening sessions.

The purpose of this ANPRM, which is the first step toward publishing a Notice of Proposed Rulemaking, is to request comments and data from the public on the following issues.

### Request for Comments

OFCCP is seeking comments on a series of specific questions about the possible design of its new data collection tool, as well as comments on other aspects of the tool that would assist the agency in carrying out its mission. OFCCP could use the data collected by the tool to conduct analysis at the establishment level, as well as identify and analyze industry trends, Federal contractors' compensation practices and potential equal employment-related issues. The data collected could be instrumental to developing indicators for identifying potential noncompliance by contractors and executing OFCCP's authority related to compensation discrimination.

OFCCP seeks to maximize the potential value of this data collection tool while taking into account the reporting burden created for contractors and the technology and/or analytic burdens placed on the agency. Public comment on these larger questions would be helpful with regard to any of the more specific requests for comments on the categories of data or analyses described below.

1. What data or information should be collected in order for OFCCP to assess whether further investigation into the contractor's compensation decisions and policies is necessary? In developing your response, please consider whether any of the following categories of data, reported by gender and race/ethnic groups, singly or in combination, would effectively identify potential compensation discrimination:

- (a) Average starting or initial total compensation (including paid leave, health and retirement benefits, etc.);
- (b) Average pay raises;
- (c) Average bonuses;
- (d) Minimum and maximum salary;
- (e) Standard deviation or variance of salary;
- (f) The number of workers in each gender and race/ethnicity category;

(g) Average tenure;

(h) Average compensation data by job series (e.g., all engineers within a particular department or all secretaries throughout the establishment); and/or

(i) Any other categories of data?

2. By what set of job categories should the data referred to in question (1) be collected? Some job group options include *EEO-1 job categories*,<sup>13</sup> *OFCCP's Affirmative Action Program job groups*,<sup>14</sup> *2 or 3-digit Standard Occupational Classification Codes*,<sup>15</sup> *O\*Net Occupational Classification Codes*,<sup>16</sup> salary bands, salary bands within EEO-1 categories, individual job titles or individual job titles within EEO-1 job categories. Are there other options? What are the benefits and drawbacks of the various options?

3. What elements of compensation should be collected? In developing your response consider the following elements:

- (a) Total W-2 earnings;
- (b) Base salary;
- (c) Holiday pay;
- (d) Hourly wage;
- (e) Shift differential;
- (f) Commissions;
- (g) Stock options; and/or
- (h) Any other elements of compensation (e.g., paid leave, health or retirement benefits)?

4. Is there a set of questions that would capture information that would be helpful in understanding a contractor's compensation system, such as policies relating to promotion decisions, bonuses, shift pay, setting of initial pay, etc.?

5. OFCCP may use the data collected through the tool to conduct industry-wide compensation trend analyses.

(a) What type of compensation trend analyses would be appropriate to conduct on an industry-wide basis?

(b) For each type of analysis identified in subpart (a) above, identify the: (i) Categories of data that should be collected in order to compare compensation data across contractors in a particular industry and (ii) job groupings that should be used.

6. The data collected through the tool may be used to identify contractors in

<sup>13</sup> Employer Information Report EEO-1: EEO-1 Job Classification Guide, available at <http://www.eeoc.gov/employers/eeo1survey/upload/jobclassguide.pdf> (last visited July 13, 2011).

<sup>14</sup> See 41 CFR Part 60-2.

<sup>15</sup> Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification, available at <http://www.bls.gov/soc/> (last visited July 13, 2011).

<sup>16</sup> Department of Labor, Bureau of Labor Statistics, Occupational Outlook Handbook, 2010-11 Edition, available at <http://www.bls.gov/oco/oco2007.htm> (last visited July 13, 2011).

specific industries for industry-focused compensation reviews. What specific categories of data would be most useful for identifying contractors in specific industries for industry focused compensation reviews?

7. OFCCP is exploring the possibility of using the data collected through the tool to identify opportunities for nationwide multi-establishment compensation reviews.

(a) What specific categories of data would be most useful for conducting compensation analyses across a contractor's various establishments?

(b) What are the benefits and drawbacks of collecting contractor's compensation data on a nationwide basis rather than on an individual establishment basis?

(c) What are the benefits and drawbacks of collecting contractor's compensation data on a nationwide basis in addition to an individual establishment basis?

8. The data collection tool may require contractors to submit data on an establishment basis. Given the possible designs of the tool and its proposed uses, OFCCP is interested in learning of any practical concerns contractors may have regarding responding to the compensation data request and how contractors currently record and maintain compensation data. Specifically:

(a) What general tasks would be required by a contractor in order to provide the compensation data?

(b) What categories of compensation-related data are currently maintained in computer-based personnel or payroll systems?

(c) What specific costs and/or benefits would be associated with collecting this type of data?

9. OFCCP is considering designing the tool so that it may be used by contractors to conduct self-assessments of their compensation decisions. What specific categories of data would be most useful to contractors interested in using the tool in this manner?

10. What were the strengths and weaknesses of the compensation section of the 2000 EO Survey?<sup>17</sup>

11. OFCCP is considering requiring contractors to submit data electronically. What factors should OFCCP take into consideration when designing this data collection tool? Interested parties should suggest preferred formats—i.e., a web-based form (like the EEO-1), excel

spreadsheet, etc. What types of databases are currently used, if any, to maintain personnel and payroll data?

12. An option that OFCCP is considering is the possibility of requiring businesses that are bidding on future Federal contracts to submit compensation data as part of the Request for Proposal process. In such a case, the data collected may be used for trend analyses as well as targeting contractors for post-award compliance reviews. What are the benefits and drawbacks of administering the data collection tool in this manner?

13. Should OFCCP decide to expand the scope of the compensation data collection tool beyond supply and service contractors to include construction contractors, what factors or issues particularly relevant to such contractors should OFCCP keep in mind when designing and implementing the tool?

14. Are there other constructive suggestions for the design, content, analysis, and implementation of a compensation data collection tool?

15. Consistent with the Regulatory Flexibility Act, OFCCP must consider the impact of any proposed rule on small entities, including small businesses, small nonprofit organizations and small governmental jurisdictions with populations under 50,000. In response to this ANPRM, OFCCP encourages small entities to provide data on how they may be impacted by the requirement to provide the compensation data requested by the new data collection tool.

(a) The Department seeks public comment on the types of small entities and any estimates of the numbers of small entities that may be impacted by this rule.

(b) The Department seeks public comment on the potential identifiable costs of the data collection on small entities.

(c) The Department seeks public comment on any possible alternatives to the proposed measures that would allow OFCCP to achieve its objectives while minimizing any likely adverse impact to small businesses such as allowing smaller establishments to submit administrative data—for example, quarterly unemployment insurance tax payments that would include wage information—augmented by gender and race/ethnicity identification, but without other compensation details.

OFCCP encourages interested parties to comment on these questions and the related questions of how OFCCP can maximize the potential value of this data collection tool while taking into account the reporting burden created for

contractors and the technology and/or analytic burdens placed on the agency.

Dated: August 5, 2011

**Patricia A. Shiu,**

*Director, Office of Federal Contract Compliance Programs.*

[FR Doc. 2011-20299 Filed 8-9-11; 8:45 am]

**BILLING CODE 4510-45-P**

---

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 36, 54, 61, 64, and 69

[WC Docket No. 10-90; DA 11-1348]

#### Universal Service—Intercarrier Compensation Transformation

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) seeks targeted comment on certain issues in the Universal Service—Intercarrier Compensation Transformation proceeding. The Commission has received several proposals in the record in this proceeding to which we would like to receive comment from interested parties. This opportunity for additional, targeted comment will facilitate comprehensive universal service and intercarrier compensation reform.

**DATES:** Comments on the Public Notice are due on or before August 24, 2011, and reply comments are due on or before August 31, 2011.

**ADDRESSES:** You may submit comments, identified by WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web Site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: (202) 418-0530 or TTY: (202) 418-0432.

For detailed instructions for submitting comments and additional information on the notice process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Katie King, Telecommunications Access Policy Division, Wireline Competition

<sup>17</sup> A blank copy of the 2000 EO Survey will be posted in [www.regulations.gov](http://www.regulations.gov) as a supporting document to this ANPRM. To view the EO Survey in <http://www.regulations.gov> search by RIN number 1250-AA03.