

National Organization for Women Foundation



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October 11, 2011

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

Re: RIN 1250 - AA03, Comments in Response to OFCCP's Advance Notice of Proposed Rulemaking Regarding a Compensation Data Collection Tool (Document ID OFCCP-2011-0005-1555)

Dear Director Carr:

The National Organization for Women (NOW) Foundation welcomes this opportunity to submit our comments relating to the Department of Labor, Office of Federal Contract Compliance Program's efforts to create a new compensation data collection survey that would improve enforcement of laws that prohibit pay discrimination. NOW Foundation is dedicated to furthering women's rights through education and litigation and is affiliated with the National Organization for Women, the grassroots arm of the women's movement with hundreds chapters in every state and the District of Columbia. NOW and NOW Foundation have worked for many decades to advance equal pay for women and to more effectively prohibit sex-based discrimination in employment.

That sex-based pay discrimination exists and is widespread throughout nearly all employment sectors and job categories is well documented. It is obvious that stronger laws and better enforcement mechanisms are critically needed to close a stubborn wage gap that ranges from 23 cents to 46 cents compared to the dollar paid to men. The barriers that have been erected to keep women from determining if they are unfairly being paid less than their male counterparts remain in place. Company policies to keep pay information secret, including threats of retaliation for employees who share that information are still a serious problem.

We understand that the federal government has not had an effective means to monitor federal contractor compliance with non-discrimination laws since 2006. Without the ability to routinely collect data on employer pay scales and wages paid to categories of employees, with detail on employees races, national origin and gender, any effort to assess whether employers are meeting the mandates of discrimination law is impossible.

Therefore, NOW Foundation supports the application of a new survey to gather pertinent information that will help determine whether federal contractors are engaging in illegal

discrimination. Because 25 percent of the workforce is employed by federal contractors, the implications of an accurate measure of employee compensation could have broad and beneficial impacts to the workforce as a whole. We do not anticipate that responsiveness by employers to the new compensation survey to be limited because federal law currently requires that most of that data be collected and maintained. The new survey tool may possibly encourage voluntary compliance as it would provide informative measures for employer to gauge their pay policies. It will also assist the Department in determining when certain employers' practices deserve closer scrutiny.

We agree with pay equity allies who suggest the following actions for the Department:

- Require that federal contractors submit wage information for all workers and in a wide range of categories. Information about part-time, temporary, and seasonal workers is important to identify wage disparities. In addition, compensation comes in many forms and information beyond base salary is important in identifying pay disparities, especially given the large number of women who hold these positions. We therefore recommend that the Department include wage information such as bonuses, stock options, and commissions in its tool.
- Require that the Department conduct compensation reviews for companies that have more than one location. These “multi-establishment” compensation reviews are especially important for large companies where the data reveal common patterns of pay disparities in various locations. It is important that the Department be able to detect and address companywide discrimination.
- Require that businesses bidding on federal contracts submit compensation data as a part of the bidding process. It is a great privilege to contract with the federal government and federal tax dollars should not be wasted on companies that unlawfully discriminate against its workers.
- Include comprehensive data that highlights gender, racial and ethnic disparities not only in pay, but also in hiring, terminations, promotions and tenure. Pay discrimination is often inextricably intertwined with other practices prohibited by employment discrimination laws. To ensure that the Department may effectively redress the full range of discrimination, including in pay, contractors should be surveyed on this important data.

We look forward to working with the Department and the Office of Federal Contract Compliance Programs to assure that the new data collection effort is a success.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry O'Neill", written in a cursive style.

Terry O'Neill, President