

## SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT 1995 SUBMISSIONS

### **A. Justification**

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

Section 502(a) of the Employee Retirement Income Security Act of 1974 (ERISA) provides that, among other things, that a civil action may be brought by a participant or beneficiary to recover benefits due him under the terms of his employee benefit plan, to enforce his rights under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan. Sec. 502 (29 USC 1132) of ERISA also provides that the Secretary of Labor may bring a civil action to enjoin any act or practice which violates any provision of Title I of ERISA or to obtain other appropriate relief to redress such a violation or enforce any provision of Title I. Sec. 504 (29 USC 1134) of ERISA authorizes the Secretary of Labor to determine whether any person has violated or is about to violate any provision of Title I or any related regulation or order. Finally, Sec. 513 (29 USC 1143) of ERISA authorizes the Secretary of Labor to collect, compile, and analyze data collected in connection with research regarding employee benefit plans. These ERISA provisions support collection of the information in the intake form.

The Department of Labor's Employee Benefits Security Administration (EBSA) maintains a program designed to provide education and technical assistance to participants and beneficiaries as well as to employers, plan sponsors, and service providers related to their health and retirement plan benefits.

EBSA assists participants in understanding their rights, responsibilities, and benefits under employee benefit law and intervenes informally on their behalf with the plan sponsor in order to assist them in obtaining the health and retirement benefits to which they may have been inappropriately denied, which can avert the necessity for a formal investigation or a civil action. EBSA maintains a toll-free telephone number through which inquirers can reach Benefits Advisors in ten Regional Offices. EBSA has also made a request for assistance form available on its website for those wishing to obtain assistance in this manner. Contact with EBSA is entirely voluntary.

The collection of information is an intake form for assistance requests from the public. This information includes the plan type, broad categories of problem type, contact information for responsible parties, and a mechanism for the inquirer to attach relevant documents.

Summary data from the existing intake form has also been used, in accordance with Sec. 513 of ERISA, to respond to requests for information regarding employee benefit plans from members of Congress and governmental oversight entities, and to inform the policy formulation process.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information will be used by EBSA to make informed and efficient decisions when contacting inquirers who have requested EBSA's informal assistance with understanding their rights and with obtaining benefits that may have been inappropriately denied. EBSA also uses summary data to evaluate its service to inquirers, to support the development of a broader understanding of the nature of current issues in employee benefit plans, and to respond to requests for information regarding employee benefit plans from members of Congress and governmental oversight entities.

3. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration for using information technology to reduce burden.*

The Department is providing the capability for inquirers to initiate requests for assistance entirely electronically through a web version of the intake form, including the ability to provide relevant documents concurrently through a secure web portal. During the past three years all responses to this ICR have been electronic.

4. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

There is no duplication of information within the collection of information. The inquirer is required to provide only identifying information necessary to contact the inquirer and address the inquirer's request for assistance.

5. *If the collection of information impacts small businesses or other small entities describe any methods used to minimize burden.*

The collection of information does not have a significant impact on small businesses or other small entities because the vast majority of filers (85%) will be individuals filing the form on their own behalf. Moreover, the Department has designed the form to be as minimally burdensome to respondents as possible; it only requires identifying

information to be provided and filers have an option to include and/or attach any other relevant information to the form.

6. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

If this information collection is not conducted, the Department will be less efficient in responding to inquirers who contact EBSA. EBSA has experienced that the intake form reduces the number of follow-up telephone calls and missed telephone calls typically required to address a request for assistance. EBSA also experienced an overall reduction in the duration of inquiries arising from the ability of inquirers to provide documents in connection with the web intake form rather than waiting for them to be received by mail.

7. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*

- *requiring respondents to report information to the agency more often than quarterly;*
- *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
- *requiring respondents to submit more than an original and two copies of any document;*
- *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*
- *in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
- *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
- *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
- *requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

Not applicable. The collection is voluntary and only identifying information is required to be submitted when a respondent makes use of the information collection.

8. *If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe*

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*actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

*Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.*

*Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.*

The Department published a notice in the Federal Register on May 21, 2014 (79 Fed. Reg. 29208), as required by 5 CFR 1320.8(d), soliciting comments on the information collection. This notice provided the public with 60 days to comment on the submission. No comments were received.

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

No payments or gifts are provided to respondents.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

The application contains a Privacy Act Notice that complies with the Privacy Act of 1974.

11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

There are no questions of the nature described.

12. *Provide estimates of the hour burden of the collection of information. The statement should:*

- *Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.*

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- *If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.*
- *Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.*

The Department has received an average of approximately 6,500 requests for assistance through the intake form over the last three years. No mailed requests were received; all of the requests were received through the web intake option. Nearly all inquirers will conduct this activity themselves rather than paying others to do so. The Department estimates that reading instructions, completing the form, and attaching materials will take from fifteen (15) minutes to 1 hour, with an average of thirty (30) minutes per response. This results in an average annual hour burden of approximately 3,250 hours.

The Department believes respondents will come from all occupations; consequently, the June 2014 average hourly earnings rate of all employees on private nonfarm payrolls of \$24.45 in monetizing the value of respondents' time. See *The Employment Situation—June 2014*, Table B-3, at [http://www.bls.gov/news.release/archives/empst\\_07032014.pdf](http://www.bls.gov/news.release/archives/empst_07032014.pdf) The Department increased the rate by 40 percent to ensure it is “fully loaded.”

The equivalent cost of the 3,250 hour burden is \$111,000 (3,250 hours x \$24.45 x 1.4 = \$111,000).

13. *Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 or 14).*

The intake process is designed to maximize electronic communication, but also allows inquirers to print and mail a paper request to the appropriate Regional Office. However, the Department has not received any mailed requests in the last three years, and does not expect to receive many in the future. Therefore, the cost burden associated with this collection is estimated to be \$0.

14. *Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been*

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*incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.*

This information collection provides the public with an easy way to request information; however, the public will make inquiries regardless of whether this vehicle exists or not. Responding to public inquires is a regular part of agency staff duties; consequently the Department has associated no additional cost for time spent reviewing and responding to the inquiries.

15. *Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.*

The burden in Items 12, 13, and 14 are lower than during the last submission.

In the case of Item 12, the Department made projections on the use of the new form that turned out to be too high. Actual usage was lower than projected and has been adjusted accordingly for this submission.

Further, the Department expected to receive 15 percent of its inquiries through the mail and calculated the cost burden in Item 13 accordingly. In actuality, none of its inquiries were received through the mail, and the Department sees no reason why this will change in the future.

In Item 14, the cost to the government has decreased because the costs included in the last submission reflected one-time start-up costs that are no longer applicable for this renewal.

16. *For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

There are no plans to publish results of this information collection.

17. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

Upon approval, EBSA will update the form to reflect the expiration date.

18. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.*

None.

**B. Statistical Methods**

This information collection does not employ statistical methods.