

**SUPPORTING STATEMENT FOR THE
DECLARATION FOR FEDERAL EMPLOYMENT,
OPTIONAL FORM (OF) 306
OMB #3206-0182**

Justification:

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

The information collected on this form is used to determine acceptability for Federal and Federal contract employment. The U.S. Office of Personnel Management (OPM) is authorized to request this information under sections 1302, 3301, 3304, 3328, and 8716 of title 5, U.S.C. Section 1104 of title 5 allows OPM to delegate personnel management functions to other Federal agencies.

- 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 Optional Form (OF) 306 is completed by individual applicants during the hiring process. It is a fillable form that collects information about an applicant's selective service registration, military service, and general background. The information collected on this form is mainly used to determine a person's acceptability for Federal and Federal contract employment. The information on this form may be used in conducting an investigation to determine a person's suitability or ability to hold a security clearance, and it may be disclosed to authorized officials making similar, subsequent determinations.

This information is collected by human resources professionals during the hiring process.

- 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 of using information technology to reduce burden.**

The OF306 is available as a pdf on the web.

- 4. Describe efforts to identify duplication.**

Information collected on the OF 306 about a person's selective service information, military service and general background information is used to determine the

acceptability for Federal employment. Other forms, specifically the SF-85P and SF-86, may request similar information, but these information collections are for the purpose determining an eligible employee's suitability for a position of trust or eligibility to occupy a sensitive position or have access to National Security information.

5. **If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

Not applicable. This collection of information does not affect small businesses or other small entities.

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.**

The OF 306, is completed by applicants who are under consideration for Federal or Federal contract employment. The OF 306 requests that the applicant provide personal identifying data, including convictions, imprisonments, probations, paroles or military court martial in the past 10 years, delinquency on a Federal debt, Selective Service Registration, United States military service and Federal civilian or military retirement pay or pension received or applied for.

If this information is not collected, OPM would be neglecting authorization to request this information under sections 1302, 3301, 3304, 3328, and 8716 of title 5, U.S.C. Section 1104 of title 5 allows OPM to delegate personnel management functions to other Federal agencies.

7. **Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.**

Not applicable. This information collection is in compliance with 5 CFR 1320.6.

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 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 60-day Federal Register Notice was published on August 14, 2014 (Federal Register Notices/Volume 79, Number 157, pages 47693-47694). Comments were received from an employee of the Department of Homeland Security (DHS), an employee of the Equal Employment Opportunity Commission (EEOC), and advocacy groups National Employment Law Project (NELP), William E. Morris Institute for Justice, Civil Rights Restoration Clinic/ Rogers College of Law/ University of Arizona, Sargent Shriver National Center on Poverty Law, NAACP Legal Defense and Educational Fund, Inc. (LDF), and Center for Community Change (CCC).

OPM accepted, with modifications, a commenter's recommendation to add 'Males Only' verbiage to Item 7, Selective Service Registration instructions. OPM amended the verbiage from 'Are you a male born after December 31, 1959?' to 'Were you born a male after December 31, 1959?' OPM did not accept a commenter's recommendation to provide additional instructions regarding the use of the blank space provided with item 16. Instructions on the form already explain the use of this area.

OPM did not accept recommendations from NELP, William E. Morris Institute for Justice, Civil Rights Restoration Clinic/ Rogers College of Law/ University of Arizona, Sargent Shriver National Center on Poverty Law, and CCC, to remove Item 9, the criminal history question, or delay presentation of the question to the applicant. Recommendations to remove or delay presentation of the question indicated that the change would provide fairness to all applicants during the hiring process. OPM did not accept this recommendation because it is not consistent with governing policies or regulation. In accordance with 5 CFR 731.103(d), agencies may begin to determine an applicant's suitability at any time during the hiring process. It is generally more practical and cost-effective to first ensure that the applicant is eligible for the position, deemed by OPM or the Delegated Examining unit to be among the best qualified, and/or within reach of selection. However, in certain circumstances, such as filling law enforcement positions, an agency may choose to initiate a preliminary suitability review at the time of the application. We note that feedback received from federal agencies in response to a recent survey conducted by OPM revealed that that most agencies request completion of the OF 306 after the tentative offer of employment. OPM is currently conducting a review of 5 CFR part 731 regarding application of the OF 306. If it is determined that future changes to the regulation support the recommendation to delay presentation of the OF 306 to applicants, the appropriate instructional changes to the form will be made at that time.

NAACP LDF recommends removal of Items 9 through 11 or to require completion of the OF 306 at the end of the hiring process, to ensure that qualified applicants with criminal records, particularly persons of color, have equal opportunities to compete for and obtain federal employment. In addition, NAACP LDF also questioned the timeframes required to report felonies, firearms or explosive violations,

misdemeanors, and all other offenses in the past seven years; and the timeframe identified to collect military court-martial information. According to NAACP LDF, the types of prior convictions and the timeframes included in these questions are overbroad. In addition NAACP LDF indicated that the questions are duplicative of questions presented on forms required by applicants for public trust and national security positions.

OPM did not accept these recommendations. In accordance with 5 CFR 731.103(d) and as explained above, agencies are provided the flexibility to determine the appropriate timing to collect information required by the OF 306. It is important to reiterate that in most situations, agencies present the OF 306 only after the conditional offer of employment is made to the applicant.

In regard to the timeframe identified to collect information for items 9-11, questions as shown on the OF 306 have been carefully considered and deemed appropriate to inform assessment of suitability for Federal employment or fitness to perform work for the government under a contract. Questions 9-11 are carefully tailored for this purpose. They do not ask about arrests. Nor do they ask about charges without dispositions, except when the charges are current. They ask only about convictions, imprisonment, parole, and probation for criminal offenses within the past seven years. Seven years is a reasonable scope for questions about recent convictions, imprisonment, parole, and probation that may affect suitability or fitness to work for or on behalf of the Federal government.

OPM disagrees with the comment that questions 9-11 are cumulative of questions on the Questionnaire for Public Trust Positions and the Questionnaire for National Security Positions. The OF 306 may be used for preliminary suitability screening or for making an objection to a candidate or requesting to pass over a candidate. The Questionnaire for Public Trust Positions and the Questionnaire for National Security Positions are forms used to initiate background investigations that typically occur later in the hiring process.

A commenter recommended OPM add the following language to the introductory paragraph associated with questions 9, 10, and 11: “For Questions 9, 10, and 11, consideration will include assessing, at least, the nature of the crime, the time elapsed since the criminal conduct occurred, and the nature of the specific job in question.” The instruction for questions 9 through 13 already includes an advisement that the circumstances of each event listed will be considered and in most cases, the respondent can still be considered for Federal jobs.

A commenter also recommended that OPM direct agencies to afford screened-out applicants an opportunity to fully explain the circumstances of their conviction or charge in light of these factors. OPM did not accept this recommendation. OPM has already provided extensive guidance to agencies regarding suitability assessments and consideration of information collected during the hiring process; and the commenter’s reference to screen-outs appears to misconstrue the individualized nature of Federal

hiring and suitability decisions. As stated in the form instructions, “In most cases you can still be considered for Federal jobs” if you have a conviction record.

A commenter recommended OPM amend the instruction for question 11, “Are you currently under charges for any violation of the law?” from requiring an explanation of the violation to requiring an explanation of the charges. OPM accepted this recommendation. The wording change will help elicit truthful responses in cases where the respondent contests whether a “violation” actually occurred.

A commenter recommended OPM highlight the instructions in Item 16, Continuation Space/Agency Optional Questions. OPM did not accept this recommendation. Instructions are provided on the form regarding the purpose of the Continuation Space/Agency Optional Questions. OPM accepted a commenter’s recommendation to amend instructional verbiage in Item 17 to clarify that the instruction applies to individuals who are applying for a position and have not yet been selected as well as individuals who have received a tentative or condition offer of employment.

This ICR requests categorizing this form as a common form. Once OMB approves the use of this common form, all Federal agencies using the form not in connection with OPM’s own use investigation may request the use of this common form without additional 60 or 30 day notice and comment requirements. At that point, each such agency will account for its number of respondents and the burden associated with the agency’s use.

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

Not applicable. Individuals voluntarily complete this form to receive the benefit of Federal employment.

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

The OF 306 contains a Privacy Act Statement, as required by 5 U.S.C 552a. The U.S. Office of Personnel Management (OPM) is authorized to request this information under sections 1302, 3301, 3304, 3328, and 8716 of title 5, U.S.C. Section 1104 of title 5 allows OPM to delegate personnel management functions to other Federal agencies. Any disclosure of this record or information in this record is in accordance with routine uses found in System Notice OPM/GOVT-1, General Personnel Records.

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.

Not applicable. The questions are not of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

12. Provide estimates of the hour burden of the collection of information.

Each OF 306 form takes an estimated 15 minutes to complete. The number of forms completed varies depending on the number of investigations requested/completed each year. Estimates are provided below:

	<u>Number of Respondents</u>	<u>Burden Hours</u>
OF 306	265,385	66,346

It is estimated that the total number of respondents for the OF 306 is 265,385 annually. Accordingly, the estimated annual burden is 66,346 hours.

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.

Not applicable. There is no cost to individual respondents.

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 expenses that would not have been incurred without the paperwork burden.

Not applicable. There is no cost to the Federal Government. The OF 306 is available on the internet in a pdf file format.

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

The overall annual public burden hours for the OF 306 are 66,346 hours. This figure has been calculated utilizing the subsequent parameters: 265,385 (number of respondents) x 15 minutes (approximate time to complete the form) = 3,980,775 minutes / 60 minutes = 66,346 hours (annual public burden hours).

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.

Not applicable. Information collected on the forms will not be published.

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.

Not applicable.

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

Not applicable.