Supporting Statement
OMB Control Number 1545-2266
Certified Professional Employer Organization (CPEO)

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1. Circumstances necessitating collection of information

Information is being collected as a result of new legislation (section 206 of the Achieving a Better Life Experience (ABLE) Act passed Dec. 19, 2014) creating the Certified Professional Employer Organization (CPEO) designation. This new information collection consists of creation of new forms: Form 14737, Request for Voluntary IRS Certification of a Professional Employer Organization (Application), Form 14737-A, CPEO Responsible Individual Personal Attestation, Form 14751 Certified Professional Employer Organization Surety Bond, Form 8973, Certified Professional Employer Organization/Customer Reporting Agreement. The forms will only be used by program applicants and related responsible individuals. The accompanying Regulations and Revenue Procedures are currently in draft form and not yet published.

In establishing this CPEO program, section 3511(g) of the Code provides that the IRS "develop such reporting and recordkeeping rules" concerning CPEOs that the IRS "determines necessary or appropriate to ensure compliance" with the CPEO statutes and regulations. More specifically, section 3511(g)(1) provides that such reporting and recordingkeeping rules include "notification of the Secretary in such manner as the Secretary shall prescribe in the case of the commencement or termination of a service contract described in section 7705(e)(2) between such a person and a customer, and the employer identification number of such customer." Proposed regulations under section 3511 provide that a CPEO must report the "commencement or termination of any CPEO contract … with a customer, or any service agreement described in §31.3504-2(b)(2) with a client, and the name and employer identification number (EIN) of such customer or client."

To comply with the requirements of section 3511(g)(1) and the proposed regulations thereunder, the IRS developed Form 8973, Certified Professional Employer Organization/Customer Reporting Agreement. The purpose of this form is so that a CPEO can report to the IRS the commencement or termination of a CPEO contract (as described in section 7705(e)(2)) or a service agreement described in §31.3504-2(b)(2). In addition, a CPEO uses Form 8973 to provide consent for the IRS to disclose to the customer or client identified on the form information from the CPEO's employment tax returns (for example, Forms 940 and 941) filed with respect to the customer or client identified on the form.

2. Use of data

The application, attestation and supporting information will be used by IRS to qualify professional employer organizations to become and remain a Certified Professional Employer Organization, which entitles them to certain tax benefits. This certification is renewed annually and the CPEO will submit annual and quarterly financial statements in addition to supporting documentation. Responsible individuals will submit annual attestation forms and fingerprint cards. The burden for the requirement for quarterly financial information will be in the regulations. The annual renewal/certification form by which the information will be reported to the IRS on an ongoing basis is still in the initial stages of development.

3. Use of improved information technology to reduce burden

We are working to obtain all of the required applications, attestations and supporting documentation electronically via a web-based application to minimize the paperwork burden on taxpayers. We are working to have annual fees collected via www.pay.gov to reduce paperwork and time. The anticipated volume of applicants for this program is very small, approximately 350 over the initial 3 years.

4. Efforts to identify duplication

This is a new program required by new legislation, so there is no duplication of existing programs.

5. Methods to minimize burden on small businesses or other small entities

We have attempted to minimize burden on small businesses. However, all applicants are subject to the same requirements to obtain certification.

6. Consequences of less frequent collection on federal programs or policy activities

Less frequent collection will compromise the Agency's ability to adequately determine the suitability of the CPEO applicant to meet their responsibilities for the program including tax compliance. Tax compliance is a vital part of the government's ability to meet its' mission and serve the public.

7. Special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(0) (2)

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

8. Consultation with individuals outside of the agency on availability of data, frequency of collection, clarity of instructions and forms, and data elements

Discussions occurred between IRS and National Association of Professional Employer Organizations (NAPEO) as well as individual state CPEO programs for industry standards to assist in creation of the IRS CPEO program.

The Stephen Beck, Jr., Achieving a Better Life Experience (ABLE) Act of 2014, enacted on December 19, 2014, as part of The Tax Increase Prevention Act of 2014 (Pub. L. 113–295), added new sections 3511 and 7705 to the Internal Revenue Code (Code) relating to the certification requirements for, and the federal employment tax consequences of being, a certified professional employer organization (CPEO). The ABLE Act requires the establishment of a voluntary program for persons to apply to become certified as a CPEO. Temporary and final regulations under section 7705 of the Code (TD 9768, published May 6, 2016, at 81 FR 27315, as corrected July 12, 2016, at 81 FR 45012) describe the certification requirements necessary for a person to become and remain a CPEO, and proposed regulations under section 3511 of the Code (REG–127561–15, published May 6, 2016, at 81 FR 27360) describe the federal employment tax consequences of becoming a CPEO. Revenue Procedure 2016–33, 2016–25 I.R.B. 1034, sets forth the detailed procedures for applying to be certified as a CPEO. Notice 2016–49, 2016–34 I.R.B. 265, provides interim guidance and describes modifications to certain certification requirements that the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) intend to make when publishing final regulations and updating Rev. Proc. 2016–33.

This revenue procedure addresses the requirements for a CPEO to remain certified and the procedures relating to suspension and revocation of CPEO certification, and consolidates in one place the ongoing requirements articulated in the regulations (both proposed and temporary) under sections 3511 and 7705 of the Code as well as certain applicable requirements of Rev. Proc. 2016–33, as modified by Notice 2016–49. In addition, this revenue procedure provides guidance, including certain transition relief, to CPEOs with an effective date of certification of January 1, 2017, that receive notice of certification after that date.
Revenue Procedure 2017-14 was published in the Internal Revenue Bulletin on December 29, 2016 (2017-3 IRB 733).

In response to the Federal Register notice dated October 25, 2016, (81 FR 73474), there were no comments received during the comment period.

9. Explanation of decision to provide any payment or gift to respondents

No payment or gifts are being provided to respondents.

10. Assurance of confidentiality of responses

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. Justification of sensitive questions

Self attestation questions are of a public record nature and are not considered sensitive. As part of the background and suitability check, responsible individuals must provide fingerprints for a FBI background check.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

A Privacy & Civil Liberties Impact Assessment (PCLIA) is pending approval for information collected under this request as part of the "Certified Professional Employer Organization and 501(c)(4) Registration, CPEO & 501 (c)(4), and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS PCLIA ID Number 1699.

A website for the CPEO program is under construction. The following statement will be posted on the application and the website.

Certification of Professional Employer Organization Application Privacy Act and Paperwork Reduction Act Notice

We are requesting this information to certify Professional Employer Organizations. Our legal authority to collect this information is Sections 6109 and 7705 of the Internal Revenue Code. Providing the information is voluntary, but if you provide incomplete or no information it may delay or prevent processing of this application; providing false or fraudulent information may subject you to penalties. Although we do not anticipate it at this time, we may disclose the information to a contractor who is bound to follow applicable confidentiality provisions as required by law and the contract if necessary for efficiency and improving our service to you.

The estimated average time to complete this form is 20 minutes. This average includes all associated forms. If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we will be happy to hear from you. You can write to the Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, Washington, DC 20224. Do not send your application to this address.

12. **Estimated burden of information collection**

Estimated Taxpayer Burden for Year 2017

	Respondents	Time Per Respondent	Total Hours
Form 14737	250	200 hrs.	50,000

	Respondents	Time Per Respondent	Total Hours
Form 14737-A	1,000	40 hrs.	40,000
Form 14751	235	2 hrs.	470
Form 8973	240	1.5 hrs.	360
Total	1,725	243.5 hrs.	90,830

13. Estimated total annual cost burden to respondents

The annual cost burden is estimated to be at least $1000. This estimate is associated with the application fee when using Forms 14737 , 14737-A, 14751, and 8973. Costs for complying with the regulations is not included.

14. Estimated annualized cost to the federal government

The annualized cost to the federal government is undetermined as program staffing and costs have not been estimated at this time.

15. Reasons for change in burden

The change in burden occurred as a result of new Forms 14751 and 8973 being added. This resulted in an increase of 3.5 hours per respondent as well as an increase of 830 hours.

16. Plans for tabulation, statistical analysis, and publication

There are no plans for tabulation, statistical analysis and publication.

17. Reasons why displaying the OMB expiration date is inappropriate

Displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of OMB approval and obtain a new expiration date, before the old one expires.

18. Exceptions to the certification statement

There are no exceptions to the certification statement.

Note: The following paragraph applies to all collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to the collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential as required by 26 U.S.C. § 6103.