

## Supporting Statement for Paperwork Reduction Act Submission

OMB Control Number 3037-0002

41 CFR 51-4.3  
Committee Form 404  
February 2007

### General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. OMB reserves the right to require the submission of additional information with respect to any request for approval.

### Specific Instructions

#### 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.

The Committee for Purchase from People Who Are Blind or Severely Disabled (The Committee) was established by Public Law 92-28, June 23, 1971 (85 Stat. 77, 41 U.S.C. 46-48c), which is named the Javits-Wagner-O'Day (JWOD) Act. The Act prescribes three conditions that must be met for an agency to qualify to furnish commodities and services to the Federal Government under the Act; the agency must: (1) be a nonprofit agency organized under the laws of the United States or any State; (2) comply with applicable occupational health and safety standards; and (3) employ people who are blind (in the case of an agency for people who are blind) or people who have other severe disabilities (in the case of an agency for people with other severe disabilities) for not less than 75% of the total work hours of direct labor required for the production or provision of the commodities or services (41 U.S.C. 48b(3) & (4)). The Act also prescribes the duties and powers of the Committee; among these is making rules and regulations necessary to carry out the purposes of the Act (41 U.S.C. 47(d)). A copy of the Act is included in this submission.

Regulations implementing the Act are codified at 41 CFR 51-1 through 51-10. Part 51-4 of these regulations prescribes certain procedures that nonprofit agencies serving people who are blind or who have other severe disabilities must follow to qualify, and maintain qualification, to participate in the AbilityOne Program. Section 51-4.3(a) of the regulations requires nonprofit agencies to submit the appropriate annual certification. Separate certifications are required for nonprofit agencies serving people who are blind and for nonprofit agencies serving people who

have other severe disabilities, as the legal requirements for qualification of the two categories of nonprofit agencies differ. This annual certification (Committee Form 404) concerns nonprofit agencies serving people who have severe disabilities. A copy of Part 4 of the regulations is included in this submission.

We are requesting two changes to Committee Form 404, as follows, based on the proposed rule included in this submission. First, we are proposing to require nonprofit agencies awarded Government contracts under the authority of the Act to comply with new accountability standards, including standards concerning the practices of boards of directors and the reasonableness of executive and other employee compensation. The new standards would be placed in the regulations at 41 CFR 51-2.10 (and a reference to those new standards would be placed in 41 CFR 51-4.3). If these new accountability standards are adopted, we would need to add a new certification to Committee Form 404 for nonprofit agencies serving people with severe disabilities. The new certification, numbered 5.G. on the form, would require each agency's Officer of the Board and Agency Executive to certify, via signature, that the accountability standards in § 51-2.10(a) and (b) have or have not yet been met. If the accountability standards have not yet been met, an explanation (with relevant documentation attached) would be required. Second, we are proposing to require that nonprofit agencies submit information regarding the total compensation (cash and noncash) provided to its "key employees" during the fiscal year covered by the annual certification. This data is the same as part of the information required by Internal Revenue Service (IRS) Form 990. The data would be collected in section 10 of the form (see page 3 of the form), and the agency's Officer of the Board and Agency Executive would certify, via signature, that the information provided is complete and accurate (see 5.F. on the form). This second change would help ensure that the Committee has the current information necessary to assess the reasonableness of a nonprofit agency's executive compensation in accordance with the proposed 41 CFR 51-2.10(b).

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.

Committee Form 404 is and will be used by the Committee to ensure compliance with the Act and its implementing regulations. Without this information, the Committee would be unable to assure that the participating nonprofit agencies meet the requirements of the JWOD Act and its implementing regulations. In addition, this information will be used by the Committee to measure progress in meeting the goals laid out in its strategic plan for Fiscal Years 2005-2007.

All information gathered on Committee Form 404 is and will be maintained in the Committee office in individual nonprofit agency files. There are no personal identifiers, and the information complies with the Privacy Act of 1974.

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 Committee provides the form in electronic format. However, while the information on the second page (and proposed third page) can be transmitted electronically, the first page requires the original signatures of three individuals, and NISH and the majority of nonprofit agencies serving people who have severe disabilities currently do not have electronic signature capability. Therefore, at this time, this form must still be transmitted via fax or postal mail.

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.

The AbilityOne Program is administered by the Committee for Purchase from People Who Are Blind or Severely Disabled. No other Federal agency has any role in managing the AbilityOne Program.

Part of the information collection we are asking OMB to approve is required in Section IV of the Internal Revenue Service's (IRS) Form 990. This is one small part of the complete IRS Form 990. We considered requiring nonprofit agencies to attach their most recent IRS Form 990s to the annual certification instead of re-collecting the information concerning the total compensation provided to an agency's executives. After researching this option, we rejected it. Because of differing dates of fiscal years and the extensions that IRS routinely grants to nonprofit agencies completing Form 990, agencies often run between one and three years behind the current fiscal year in their reporting of this information. Out-of-date information would do little to assist the Committee in assessing the current situation regarding a nonprofit agency's compensation for executives. Therefore, we are proposing to require only that current information that is essential to the Committee for assessing the reasonableness of executive compensation in accordance with the proposed 41 CFR 51-4.3.

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

No methods are used to minimize the burden because the majority of the information required to complete the form is already maintained by the respondent nonprofit agencies. The information requested on this form is limited to that required to assure compliance with the JWOD Act at 41 U.S.C. 46-48c, the Act's implementing regulations at 41 CFR 51, and the proposed changes to the Act's implementing regulations (as reflected in the proposed rule included in this submission).

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 the collection of this form were less frequent, the Committee would be unable to determine that nonprofit agencies participating in the AbilityOne Program meet the requirements of the

JWOD Act and its implementing regulations, particularly the requirement that 75% of the total work hours of direct labor required for the production or provision of commodities or services be performed by people who are blind or have other severe disabilities. Without the certification signatures, prosecution of any nonprofits fraudulently submitting data would be severely hampered.

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 secrets, 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.

There are no special circumstances that would cause this collection to be conducted in a manner inconsistent with OMB guidelines. If a nonprofit agency failed to meet the requirement of the JWOD Act that that 75% of the total work hours of direct labor required for the production or provision of commodities or services be performed by people who are blind or have other severe disabilities, then that agency could be required to report information more frequently. However, that reporting would not be more frequent than quarterly.

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.

In a proposed rule (included in this submission), we are proposing to add a new certification to those required on Committee Form 404 and to require agencies to submit information regarding the total compensation (cash and noncash) provided to the agency's executives during the fiscal year covered by the annual certification. The comment period for the proposal will last 60 days, and we will consider all public comments that we receive on the proposed rule, including comments on the information collection aspects of the proposed rule, during the comment period. The anticipated publication date of the proposed rule is August 30, 2007.

Apart from the proposed changes, Committee Form 404 was originally developed by a task force consisting of representatives of the Departments of Labor and Health, Education and Welfare; a central nonprofit agency representing the nonprofit agencies; and a nonprofit agency manager. It was reviewed in detail and approved by seven national agencies representing the nonprofit agencies for the blind and nonprofit agencies serving people with severe disabilities participating under the Act. In 1976, the Committee designated the National Industries for the Severely Handicapped (name since changed to NISH) as the single nonprofit agency, replacing six other national agencies, to represent nonprofit agencies serving persons with severe disabilities.

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

There has been no decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

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

There is no assurance of confidentiality provided to respondents other than information protected by the Freedom of Information Act.

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 a sensitive nature on Committee Form 404.

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.
- \* If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in the IC Burden Worksheet.
- \* 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 respondent universe consists of approximately 640 nonprofit agencies serving people with severe disabilities in the United States. Only those nonprofit agencies currently authorized to produce a product or provide a service to the Federal Government under the Committee's program are required to respond. There are currently 540 nonprofit agencies serving people with severe disabilities in the Committee's program, and it is anticipated that an average of 8 to 10 additional nonprofit agencies per year will be added during the 3-year OMB approval period. Therefore, we are estimating 565 respondents per year for this collection.

The data requested on the form is maintained and should be readily available in each nonprofit agency from existing records. Contacts from a variety of nonprofit agencies indicate that the total time required for preparation of the existing form ranges from one to three hours, including clerical time. We have used the maximum total time, three hours, as our hour burden estimate per response for the existing elements on the form. The participating nonprofit agencies take information from their accounting records and transfer data to the Committee Form 404. The completed form is submitted to the Committee staff through NISH.

We expect the additional proposed certification would require moderate time for respondents even though the certification and any documents to support the certification do not exceed the knowledge and information normally possessed by a prudent person in the ordinary course of business dealings. The following burden estimates are based on IRS' estimate of the burden hours required to complete their Form 990. We estimate that it will take an average of 19 hours for a respondent to read the appropriate instructions; refer to and read the new standards (as provided in § 51-4.3; certify that the new standards have or have not been met; if necessary, provide a brief explanation concerning why the accountability standards have not yet been met and attach appropriate documentation; and gather and record information on the total compensation (cash and noncash) paid to the agency's key employees during the fiscal year for which the agency is submitting an annual certification. Therefore, for the total number of respondents completing this form (565), this new certification would result in an additional annual burden of 10,735 hours. In addition, in accordance with 41 CFR 51-4.3(b)(4), relevant records would have to be made available for inspection at any reasonable time to representatives of the Committee or the central nonprofit agency representing the nonprofit agency.

For the entire collection, including the proposed changes, the annual burden hours would amount to 12,430 hours. At an hourly rate of \$50.00, the dollar value of the total annual burden hours for the collection would be \$621,500.

Total Annual Number of Respondents	Total Annual Number of Responses	Estimated Burden Hours Per Response (Not Including Proposed Changes)	Annual Burden Hours (Not Including Proposed Changes)	Estimated Burden Hours for Proposed Changes	Annual Burden Hours for Proposed Changes	Total Annual Burden Hours Per Respondent	Total Annual Burden Hours for the Collection	Total Dollar Value of Annual Burden Hours for the Collection
565	565	3 hours	1,695 hours	19 hours	10,735 hours	22 hours	12,430 hours	\$621,500

13. Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information.

- \* The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- \* If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- \* Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

There is no submission or filing fee associated with providing this certification form to the Committee. There are miscellaneous costs, including the cost of making photocopies and the cost of faxing or mailing the form to NISH, associated with this collection, but they are minimal (less than \$20 per respondent). We estimate that these miscellaneous costs for respondents, in the aggregate, amount to approximately \$10,000.

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 incurred without this collection of information. Agencies also may aggregate cost estimates.

The estimated annual cost to the Government is approximately \$73,000, and this includes analyzing the data submitted. Apart from space on our server to store the electronic version of this form, the distribution of the form to nonprofit agencies is not a Government expense; NISH will distribute the form to its nonprofit agencies participating in the AbilityOne Program.

15. Explain the reasons for any program changes or adjustments reported in the IC Burden Worksheet.

The program change reported in the IC Burden Worksheet is the result of the newly proposed certification of accountability standards, and the submission of information related to the total compensation provided to executives, on Committee Form 404 (Annual Certification—Qualified Nonprofit Agencies Serving People Who Are Severely Disabled). The proposed rule is included in this submission.

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.

Some of the data is compiled and used in the Committee's annual report to show the overall size of the AbilityOne Program and in the Committee's report to measure progress in meeting the goals laid out in the strategic plan for Fiscal Years 2007-2009.

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.

We will display the expiration date for OMB approval of the information collection on Committee Form 404.

18. Explain each exception to the certification statement identified in the IC Certification page, "Certification for Paperwork Reduction Act Submissions," of the ROCIS PRA

There are no exceptions to the certification statement identified in the IC Certification page.

## **B. Collections of Information Employing Statistical Methods**

This collection does not employ statistical methods.