

## Justification for Submitting 1293-0002

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

### Response

On 10/13/94, the Uniformed Services Employment and Reemployment Rights Act (USERRA), P.L. 103-353, 108 Stat, 3139 was signed into law. Contained in Title 38, U.S.C., Sections 4301-4333, USERRA is complete rewrite of and replacement for the Veterans' Reemployment Rights (VRR) law. USERRA's purposes are: to encourage non-career service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service; to minimize the disruption of persons performing service in the uniformed services as well as to their completion of such service under honorable conditions; and to prohibit discrimination against persons because of their service in the uniformed service, 38 U.S.C. 4301(a).

Recognizing the sacrifices made by members of the uniformed services, Congress enacted laws to prevent veterans seeking Federal employment from being penalized for their time in military service. The Veterans Employment Opportunities Act (VEOA) of 1998, PL 105-339, provides assistance to preference eligible individuals who believe their rights under the veteran's preference statutes and regulations have been violated. Veterans' preference recognizes the economic loss suffered by citizens who have served their country in uniform, restores veterans to a favorable competitive position for Government employment.

Section 4322 of USERRA authorizes the Secretary of Labor (through the Veterans' Employment and Training Service) to investigate claims concerning the employment and reemployment rights and benefits to which persons may be entitled under the law. Section 3 of the VEOA provides the Secretary of Labor similar authority to investigate complaints brought by preference eligibles. The collection instrument completed by potential claimants contains much of the information by which the Department can determine initial eligibility of the claimant.

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

### Response:

The information on the USERRA/VP 1010 is used by the staff of the Veteran's Employment and Training Service (VETS) in determining eligibility and as an official notification that the complainant requests assistance in obtaining rights under veteran's preference law or USERRA. Detailed items on the form describe the employment relationship with the employer with whom the complainant is seeking to exercise his rights. If this information were not collected from the complainant the Department would

have no reason or basis to assist him/her in determining and/or exercising USERRA or preference rights and could not meet its statutory mandate.

- 3 Describe whether, and to what extent, the collection of information involves the use of automated, electronic or other technology.

Response:

The 1010 Form can be submitted in paper form, FAX or electronically. A claimant can submit the 1010 Form using the Web. The Web site allows a claimant to enter claims information and electronically transmit the file to VETS. The assigned investigator and the claimant receive an e-mail notice that an electronic claim is filed.

- 4 Describe efforts to identify duplication.

Response:

This information is submitted by the claimant and is not kept by other agencies.

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

Response:

The collection of information has no impact on small business

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

Response:

The collection of information is made at the time an individual claimant believes that his/her USERRA or veterans preference rights have been violated. Therefore, the question of frequency of collection is not relevant.

- 7 Explain any special circumstances that would cause an information collection to be in a manner inconsistent with 5 CFR 1320.5.

Response:

This collection will not be conducted in a manner inconsistent with 5 CFR 1320.5.

- 8 Provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice requesting solicited comments. Summarized public comments received in response to the notice and action take by the agency in response. Address comments received on cost and burden hours. Describe efforts to consult with person outside the agency. Consultation with representatives of those from who information is to be obtained or those who must comply.

Response:

The 60-day Federal Register Notice was published on January 18, 2007, Volume 72, Number 31, Page 7476-7477.

VETS received one comment from the Federal Register notice. The Office of Special Counsel (OSC) submitted a comment on April 9, 2007. OSC recommends that the 1010 Form be amended to include an additional "yes or No" question stating "Was the U.S. Office of Special Counsel (OSC) involved, or will OSC be involved, in handling a related prohibited personnel practice claim. Justification state by OSC is the service member's response to that question will enhance the quality, clarity and utility of the information collected by VETS.

VETS feels that the question will not provide quality or clarity, but will instead create confusion when a potential claimant tries to respond to the question. OSC is seeks "mixed" cases only involving USERRA and PPP cases and is not interested in the cases that filed as a veterans' preference case. The second reason for not including the question is because VETS views it as a leading question. The person filing a claim is looking for resolve regardless of the source. Asking if an issue may be related to a PPP without an understanding of what constitutes a PPP mean the person is likely to incorrectly identify the claim as a PPP issue. VETS Senior Investigators received formal PPP from OSC and are better equipped identify PPP issues and can refer "mixed" claim after reviewing the claimant's initial statement.

- 9 Describe any decision to provide any payment or gift to respondents.

Response:

There is no payment of gifts or enumeration for completing a 1010 Form.

- 10 Describe assurance of confidentiality provide to respondents and the basis for assurance in statute, regulations or agency policy.

Response:

All claimants are informed clearly that they must request that VETS staff contact their employer, and that no compliance activities will be undertaken unless the complainant indicates that he/she wishes the employer to be contacted. Further, the entire contents of the file of each claimant are subject to the Privacy Act requests by the claimant, and the Freedom of Information Act disclosure, as appropriate.

- 11 Provide addition justification for any question of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Response:

No questions of a personal nature are asked on the form. During case processing it is possible that questions need to be asked involving medical information. That information is requested of the claimant only if his/her claim is influenced by or dependent upon such information. In those instances, medical information will be utilized or is requested only to support the claimant's allegation. Should medical information be necessary, VETS requests that the claimant furnish a signed authorization that VETS may present to the Veterans' Affairs or to private physicians/hospitals to obtain the medical records, or VETS requests the claimant to obtain these records and furnish them directly.

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

Response:

VETS estimates that DOL will receive approximately 1,500 forms per year. The total burden is estimated to be approximately 375 hours per year. (.25 hour X 1,500 response = 375 hours).

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

Response:

There is no additional cost burden to the respondents

- 14 Provide estimates of annualized cost to the Federal government. Description of method used to estimate cost.

Response:

The cost to the Federal Government for printing, stocking, and disbursal of this form is nominal (\$100.00 a year).

- 15 Explain the reasons for any program changes or adjustment reported in 13 or 14 of OMB form 83-1.

Response:

VETS is not requesting any program changes or adjustments for this collection.

16 Collection of information whose results will be published. Address analytical techniques that will be used. Beginning and ending date of project.

Response:

The results of this information collection will not be published

17 Seeking approval to not display the expiration date.

Response:

VETS will display the expiration date on the Form VETS/USERRA/VP-1010.

18 Explain each exception to the certificate statement identified in item 19  
“Certification for Paperwork Reduction Act Submission.”

Response:

No exceptions to the certification statement were identified in Item 19.