

Supporting Statement for Paperwork Reduction Act Submission

OMB Control Number 3037-0005

Nonprofit Agency Responsibilities 41 CFR 51-2.4 and 51-4.3 March 21, 2008

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 Javits-Wagner-O'Day (JWOD) Act (Pub. L. 92-28, June 23, 1971 (85 Stat. 77, 41 U.S.C. 46-48c)) established the Committee for Purchase From People Who Are Blind or Severely Disabled (Committee). The Committee administers the JWOD Act through the AbilityOne Program. Pursuant to the JWOD Act, the Committee qualifies certain nonprofit agencies that employ people who are blind or have other severe disabilities to manufacture products or provide services to the federal government through the procurement process. The Act prescribes three conditions that must be met for a nonprofit agency to qualify to participate: 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 percent of the total work hours of direct labor performed in the agency in each fiscal year (41 U.S.C. 48b(3) and (4)). The Committee is also charged with making rules and regulations necessary to carry out the other provisions of the Act (41 U.S.C. 47(d)).

Regulations implementing the Act are set forth in Title 41, Chapter 51, of the Code of Federal Regulations. Part 51-4 of the regulations prescribes certain procedures that must be followed by nonprofit agencies serving people who are blind or severely disabled if those agencies want to qualify, or maintain qualification, to participate in the AbilityOne Program. Section 51-4.3 requires that nonprofit agencies participating in the AbilityOne Program keep records on direct labor hours performed by each worker and keep individual records or files on each blind or severely disabled individual documenting the individual's disability and capabilities for competitive employment.

In addition, Part 2 of the regulations provides certain procedures that the Committee follows. Section 51-2.4 of the regulations describes the criteria that the Committee must consider when adding a product or service to its Procurement List. One of these criteria is that a proposed addition must demonstrate a potential to generate employment for people who are blind or severely disabled. The Committee regards recordkeeping that tracks direct labor or revenues for products or services sold through a JWOD Program contract to be adequate evidence that

employment will or will not be generated for those individuals. This recordkeeping can be done on each individual JWOD project or by product or service family.

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. [Be specific. If this collection is a form or a questionnaire, every question needs to be justified.]

The Committee has and will use these records to ensure participating nonprofit agencies' compliance with recordkeeping requirements established under the authority of the JWOD Act and set forth in the Act's implementing regulations at 41 CFR 51-4. This is done by Committee staff members visiting nonprofit agencies and reviewing the records. Further, these records have and will ensure that the Committee has the ability to confirm the suitability of products and services on its Procurement List. The recordkeeping requirements described in this document are the same as those currently imposed on nonprofit agencies participating in the AbilityOne Program.

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 [and specifically how this collection meets GPEA requirements.].

The information required to meet this recordkeeping requirement is already maintained by participating nonprofit agencies in the course of meeting current AbilityOne requirements or the requirements of State and other Federal entities. In the case of the medical documentation of disability and competitive employability evaluation, there are no automated, electronic or other technological methods for maintain the documents. The recordkeeping on the direct labor hours is dependent on the choice of the nonprofit agency. In the vast majority of nonprofits the data is maintained electronically. There is no plan for electronic submission of information as this requirement is only to require that the nonprofits maintain records. At present, a variety of information technologies exist that could and do aid in reducing the burden involved. It is the individual participating nonprofit agency's choice regarding what information technology to use, and the methods used depend greatly on their current resources and capabilities in the area of information technology.

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, and the information is not available from any other source. When records already

exist at the nonprofit agencies that include the required information, the Committee accepts those records and does not require that duplicate records be maintained solely for the Committee.

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.

Small businesses are not involved, but nonprofit agencies do fall into the small entity category. As noted above, the majority of the information required for the records is already maintained. The information requested is limited to that required to ensure compliance with the JWOD Act (41 U.S.C. 46-48c) and its implementing regulations 41 CFR 51.

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 JWOD Act requires that on an annual basis, 75 percent of each nonprofit agency's direct labor must be performed by individuals who are blind or who have a severe disability. If participating nonprofit agencies did not keep the required records and make them available to the Committee upon request, the Committee would be unable to determine that the nonprofit agencies meet the requirements of the Act and its implementing regulations at 41 CFR 51. Without the recordkeeping concerning the potential to generate employment of a proposed addition to the Procurement List, the Committee would be unable to confirm the suitability of products and services on its Procurement List.

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 recordkeeping requirement to be

conducted in a manner inconsistent with OMB guidelines.

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 in response to the PRA statement associated with the collection over the past three years] 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. [Please list the names, titles, addresses, and phone numbers of persons contacted.]

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.

On December 21, 2007, we published in the Federal Register (Volume 72 Number 245, Pages 72665-72666) a notice requesting public comment on these recordkeeping requirements for 60 days, ending February 19, 2008. By that date we received comments from 44 respondents with a total of 75 comments.

Seven comments were received opposing the request by indicating that this is a new recordkeeping requirement. There is nothing new in the Committee's request. The Committee did make a change in its recordkeeping requirements in 2002 to add recordkeeping of the direct labor hours and sales for AbilityOne projects on at least a product or service family basis. This change was approved by OMB and was renewed in 2005 and is exactly what the Committee is requesting OMB to approve again.

Eight comments were received questioning the necessity of the recordkeeping requirement and if it has any practical utility. The JWOD Act requires that 75% of the direct labor of all work done at a participating nonprofit agency be done by people who are blind or severely disabled. A number of these comments also stated that this requirement does nothing to increase jobs for people with disabilities. This recordkeeping requirement is to ensure that those nonprofit agencies participating in the AbilityOne Program employ people who meet the Act's definitions. This requirement does not involve any reporting requirements by nonprofits, only that the nonprofits keep records that can be used to document their compliance with the requirements of the Act. The requirement to keep records on the direct labor hours of AbilityOne projects is to ensure that the projects are suitable to remain on the Committee's Procurement List. Without this recordkeeping requirement the Committee would have no way of verifying that those nonprofits that participate in the AbilityOne Program were meeting the requirements of the JWOD Act.

Thirty-eight of the comments referred to the accuracy of the Committee's burden estimate.

The comments included estimates of the actual burden for the recordkeeping requirement that ranged from 25 minutes per person who is blind or severely disabled to 35.6 hours per person who is blind or severely disabled.

The Committee has used a burden estimate of 5 hours per agency since 2002 and before that 3 hours per agency since at least 1992 and has not received any prior comments as to its accuracy. However, after review and consideration of comments on this issue, the Committee agrees that 5 hours per agency is inaccurate and that the burden is much higher. The range of burden estimates is a result of the many differences between individual nonprofit agencies and a misunderstanding of the recordkeeping requirement being considered. Many of the burden estimates identified in the comments included tasks that are required to meet other requirements, such as those of the Department of Labor, or would be performed by the nonprofit agency even if they were not in the AbilityOne Program.

Based on an analysis of the information contained in the comments and discussions with several other nonprofit agencies during the comment period, the Committee believes that a reasonable burden estimate is 2.5 hours per person that is blind or severely disabled. Currently, there are over 600 nonprofit agencies participating in the AbilityOne Program with employee numbers ranging from less than 10 to more than 2,000. The average number of people who are blind or severely disabled at participating nonprofit agencies was 218 in fiscal year 2007; therefore, the current recordkeeping burden will be estimated at 550 hours annually per nonprofit agency. The Committee recognizes that the burden will be higher for some nonprofit agencies based on their size, types of disabilities served, and whether or not they provide rehabilitation functions. However, based on the information submitted, the Committee believes that, on average, 550 hours per nonprofit agency is a reasonable burden estimate of those tasks imposed directly by this recordkeeping requirement.

Sixteen comments were received with suggestions on minimizing the burden. These included making changes to the JWOD Act, adhering to the Act as promulgated and intended by Congress, abolishing the Committee, deleting requirements from the Committee regulations, not requiring annual evaluations on some disabilities, and that the Committee include the cost of meeting the recordkeeping requirements in the price of products and services on the Procurement List. The Committee has reviewed its regulations and believes that its current regulations are in keeping with its administration of the JWOD Act and those recommendations that would require a change to the Act itself are, therefore, beyond the scope of the Committee's information collection authority. One commenter questioned the necessity for requiring annual evaluations of all people with severe disabilities. This issue had previously been addressed by the Committee and determined the requirement exists.

Five comments were received that do not fit within the four areas about which the Committee requested comments. One commenter requested that the Committee's request be denied; one discussed the difficulties involved with meeting the requirements of different Federal and State requirements; one requested that the Committee seriously consider the comments from all nonprofit agencies; one commented that this request was perpetuating the inefficiencies which hamper the AbilityOne Program; and one comment was that the Committee had made substantive and material modifications to collection requirements after approval by OMB. The Committee believes that this recordkeeping requirement is critical for the Committee to determine if nonprofit agencies are in compliance with the JWOD Act. There has been no

substantive or material modification to collection requirements since 2002 and those made in 2002 were approved by OMB in 2002 and renewed in 2005. The Committee's responsibility to administer the Act requires that certain information be available to them to ensure that the purposes of the Act are met. Reasonable requirements by participating nonprofit agencies will permit the Committee to gather data required to report the results to the President and to Congress.

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 record keepers 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.

Documentation of an individual's disability and competitive employability can be considered sensitive and private. Under the American's with Disabilities Act they must be maintained separately from the individual's personnel file. The Committee does not receive copies of this information; it only requires that the nonprofit agencies maintain the information. Without documentation of an individual's disability and competitive employability the Committee would be unable to confirm that the nonprofit agencies were complying with the JWOD Act.

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 Item 13 of OMB Form 83-I.
 - * 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. Instead, this cost should be included in Item 14.

The recordkeeper universe consists of approximately 2,000 nonprofit agencies serving people who are blind or severely disabled in the United States. Only those nonprofit agencies participating in the AbilityOne Program are required to maintain records meeting the Committee's requirements. There are currently about 620 nonprofit agencies in the Committee's Program.

As stated earlier, the recordkeeping requirements described in this renewal request are the same as those currently approved by OMB and imposed on nonprofit agencies participating in the AbilityOne Program.

The Program has several unique requirements that most nonprofits employing people who are blind or severely disabled outside of the AbilityOne Program would not normally do. The three primary ones are sorting labor hours into direct and indirect and severely disabled and non-disabled, getting and maintaining medical documentation and doing the competitive employability evaluation. In addition, there are other Federal requirements that nonprofit agencies without Federal contracts do not have to comply with. As a result, there is a need for nonprofit agencies to attain and retain knowledge of the AbilityOne Program. Based on attendance at various seminars and symposiums it is estimated that nonprofit spend 15 hours a year in training on the Program. At a wage of \$30 per hour, the dollar value of the annual burden hours is \$279,000.

The files required to meet Part 51-4 of the Committee's regulations are already being maintained by, and should be readily available at, each nonprofit agency. The time it takes for the nonprofit agency to collect and maintain the medical documentation and conduct the competitive employability evaluation varies depending on the size, mission and the disability community being served. Contacts with a variety of nonprofit agencies reveal that the total time required for preparation of the statement of competitive employability does not normally exceed one hour per individual and in some cases can be included in other required evaluations. Overall, we estimate that it requires two and a half hours per individual for recordkeepers to gather and maintain the records required by 51-4.3 of the regulations. Based on the average number of people with severe disabilities at a participating nonprofit agency being 218 people this amounts to an annual burden of 550 hour per agency and 341,000 hours for all participating nonprofit agencies. At a wage of \$30 per hour, the dollar value of the annual burden hours is \$10,230,000.

Combining the burden for the files maintenance with the Program knowledge burden brings the total burden for Part 51-4 to 565 hours per agency and 350,300 hours for all participating nonprofit agencies. At a wage of \$30 per hour, the dollar value of the annual burden hours is \$10,509,000.

The files required to meet the requirements of Part 51-2 of the Committee's regulations are also routinely kept by the majority of nonprofit agencies participating in the JWOD Program. While there are some nonprofit agencies that still do not track direct labor or revenues on each contract, most nonprofits agree with the Committee that this is a normal business practice. We estimate that it requires two hour per year for recordkeepers to gather and maintain the records to show evidence that they meet the suitability criterion for generating employment provided in 51-2.4 of the regulations. This amounts to an annual burden of 1,240 hours for participating nonprofit agencies. At a wage of \$30 per hour, the dollar value of the annual burden hours is \$37,200.

Therefore, as the table below shows, the total annual burden hours for this recordkeeping collection is 3,250 hours, and the dollar value of those burden hours is \$97,500.

Relevant CFR citation	Total Annual Number of Recordkeepers	Estimated Annual Burden Hours Per Response	Total Annual Burden Hours	Dollar Value of Annual Burden Hours
41 CFR 51-2.4	620	2 hour	1,240 hours	\$37,200
41 CFR 51-4.3	620	565 hours	350,300 hours	\$10,509,000
TOTALS	620	567 hours	351,540 hours	\$10,546,200

13. Provide an estimate of the total annual [non-hour] 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 and 14).

- * 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 non-hour cost burden associated with these recordkeeping requirements. There is no fee associated with keeping records, and because these requirements have been in place for many years, there is no start-up non-hour cost burden to record keepers.

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 from Items 12, 13, and 14 in a single table.

There is no cost to the Federal Government for the recordkeeping requirement itself. The Committee does incur a cost for the compliance function of visiting and reviewing the records maintained by the nonprofits.

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

The recordkeeping requirements described in this renewal request are the same as those currently approved by OMB and imposed on nonprofit agencies participating in the AbilityOne Program. Therefore, there are no program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

There is a significant increase in the burden estimate to the nonprofit agencies in item 13 from previous submissions based on the comments received from nonprofit agencies discussed in item 8. The Committee previous estimate of 5 hours per respondent had been used since 2002 and an estimate of 3 hours per respondent was used since at least 1993 with no comments ever have been received.

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 any data for statistical use. Rather, the records will be used to ensure nonprofit agency compliance with Committee regulations. The recordkeeping requirements do not employ or impose any particular statistical methods. Some of the data is compiled and used in the Committee's annual report to show the overall size of the AbilityOne Program. The reports used to gather this information are approved under other OMB control numbers.

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 are not seeking approval to not display the expiration date for OMB approval of these recordkeeping requirements.

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

There are no exceptions to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

B. Collections of Information Employing Statistical Methods

This collection does not employ statistical methods.