

**SUPPORTING STATEMENT FOR
CLAIM AUTHORIZATION FOR ANNUAL LEAVE
(VA FORM 0862)**

A. JUSTIFICATION

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

On October 13, 2003, the Office of Personnel Management (OPM) issued guidance to executive departments and agencies to assist in processing employees' administrative claims for annual leave as a result of the decision in *Butterbaugh v. Department of Justice*, 336 F.3d 1332 (Fed. Cir. 2003). In a July 24, 2003, decision, the U.S. Court of Appeals for the Federal Circuit ruled that, pursuant to 5 U.S.C. 6323, employees were required to take military leave only on days on which they were required to work and that agencies should have allowed 15 workdays of military leave for reserve training (instead of 15 calendar days, as the language in this section was previously interpreted and applied prior to the court's ruling). Therefore, the court ruled that agencies should not have charged military leave for nonworkdays that occurred within the period of military duty prior to the change in the military leave law that became effective on December 21, 2000. On this date, 5 U.S.C. 6323(a) was amended to include a new paragraph (3), which for the first time allowed employees to take military leave on an hourly basis. Following enactment of this amendment, employees were no longer required to take leave for nonworkdays.

Under the Barring Act of 1940 (31.U.S.C. 3702), a leave claim must be received by the agency that conducts the activity from which the claim arises within 6 years after the claim accrues. Therefore, agencies may accept claims filed after July 24, 2003 (the date the *Butterbaugh* decision was issued), for crediting additional leave for military leave charged on nonworkdays between the date 6 years prior to the claim filing date (the beginning of the 6-year claims period) and December 21, 2000 (the date the change in the military leave law).

While OPM's guidance specifically covers employees under the Title 5 Leave System, the Department of Veterans Affairs (VA) has decided to extend the provisions of the *Butterbaugh* decision to employees covered under the Title 38 Leave System to ensure fair and equitable treatment with their Title 5 counterparts.

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

a. VA Form 0862 will be completed and submitted by eligible employees as an official claim for restoration of annual leave based on being charged leave on their administrative nonduty days while in a military active duty status.

b. Payroll Officials at local VA facilities will use VA Form 0862 to process employee claims and authorize restoration of leave to a restored leave account; or in the case of a separated or retired employee, make a lump-sum payment for any recredited annual leave.

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c. If the collection of information were not carried out, VA would be in non-compliance with the Office of Personnel Management's guidance and instructions for taking corrective action for the inappropriate charge of leave on administrative nonduty days while in military active duty status.

- 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 or responses, and the basis for the decision for adopting this means of collection). Also describe any consideration of using information technology to reduce burden.**

VA Form 0862 is available in fillable format on the VA Forms internet and intranet for current and separated VA employees. Upon completion, the form can be saved and printed for submission to the local payroll office for processing.

- 4. Describe effort to identify duplication. Show specifically why any information already available cannot be used or modified for use for the purposes describe in Item 2 above.**

This is a new form designed for a specific purpose and limited use. There is no data available that can be modified for this purpose. Each individual form is a single entity, and is required for the collection of information to process an applicant's claim for a restored leave benefit.

- 5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB form 83-1) describe any methods used to minimize burden.**

Since VA Form 0862 is an application for individual restored leave benefits, no small businesses or other entities are impacted by the information collected. The form has been designed to minimize the information collection burden on the public and applicant.

- 6. Describe the consequences 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 information were not carried out, VA would be in non-compliance with the Office of Personnel Management's guidance and instructions for taking corrective action for the inappropriate charge of leave on administrative nonduty days while in military active duty status.

- 7. Explain any special circumstances that would cause an information collection to be conducted often than quarterly, or require respondents to prepare written responses to a collection of information in fewer than 30 days after receipt of it; submit more than an original and two copies of any document; 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**

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reliable results that can be generalized to the universe of study and require the use of a statistical data classification that has not been reviewed and approved by OPM.

There are no such special circumstances.

- 8. a. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the sponsor's notice required by 5 CFR 1320.8(d), soliciting comments on the information prior to submission to OMB. Summarize public comments received in response to the notice and describe actions taken by the sponsor in responses to these comments. Specifically address comments received on the cost and hour burden.**

A proposed collection of information notice was published in the Federal Register on May 11, 2005 (Vol. 70, Number 90, pp 24863-24864. No comments were received during the 60-day notice period.

- b. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, clarity of instructions and record keeping, disclosure or reporting format, and on the data elements to be recorded, disclosed or reported. Explain any circumstances that preclude consultation every three years with representatives of those from whom information is to be obtained.**

No outside consultations were made as only essential information is solicited. Responses to the questions on the forms are considered as standard business practice.

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

Employees who have separated or retired will receive a lump-sum pay for recredited annual leave. No other payments or gifts are provided.

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

Respondents are informed that the furnishing of data is voluntary; that Executive Order 9397 authorizes use of their social security number for the orderly administration of records; and that disclosure of the information may be made in accordance with the disclosure provisions of the Privacy Act of 1974. The claim forms will be maintained in VA System of Records (SOR) 27VA047.

- 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; include 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 sensitive questions involved in this data collection.

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12. Estimate of the hour burden of the collection of information:

a. We estimate the following respondent burden:

13, 501 Responses x 15 minutes/60 = 3,375 hours

b. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burden in Item 13 of OMB 83-1.

No other forms will be used.

c. Provide estimates of annual cost to respondents for the hour burden for collections of information. 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 cost to respondents for completing this form is \$50,629 (3,375 hours x \$15/hr.).
No additional record recordkeeping is required.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Item 12 and 14).

- a. There is no capital start-up operation or maintenance costs.
- b. Cost estimates are not expected to vary. The only cost is the time of the respondent.
- c. There are neither anticipated capital start-up cost components nor requests to provide information.

14. Provide estimates of annual cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operation 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 aggregate cost estimates from Items 12, 13, and 14 in a single table.

- a. The estimated annual cost to the Federal Government is \$315,113.

Printing and distribution				No Charge
13,501 Claims	x	\$14.26/hr (GS 5/5) x 15 min	=	\$48,131
13,501 Claims	x	\$21.61/hr (GS 9/5) x 15 min	=	\$72,939
13,501 Claims	x	\$26.15/hr (GS 11/5) x 15 min	=	\$88,263
13,501 Claims	x	\$31.34/hr (GS 12/5) x 15 min	=	<u>\$105,780</u>
				\$315,113

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

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This is a new information collection.

- 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 the information collected on any of the forms.

- 17. If seeking approval to omit the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

For cost effectiveness, we request a waiver to omit an expiration date.

- 18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-1.**

There are no exceptions.

- 19. Collection of Information Employing Statistical Methods**

No statistical methods are used in this data collection.