

## **Supporting Statement for the State Annual Long Term Care Ombudsman Report for FY 2009-2011**

### **A. Justification**

#### **1. Circumstances Making the Collection of Information Necessary**

The State Annual Long Term Care Ombudsman Report is needed to:

- Comply with state and Administration on Aging (AoA) reporting requirements in the Older Americans Act (OAA);
- Carry out recommendations made by the General Accounting Office (GAO), the Department of Health and Human Services' Office of the Inspector General (OIG), and the Institute of Medicine (IOM);
- Advocate at the state and federal levels for changes needed to improve the quality of life and care in long-term care facilities; and
- Effectively manage the Long-Term Care Ombudsman Program at the local, state and federal levels.

The National Ombudsman Reporting System (NORS) was developed in response to these needs and directives and approved by the Office of Management and Budget for use in FY 1995-96. It was extended with slight modifications for use in FY 1997-2001 and extended with minor revisions for use in FY 2002-2006. In 2005, AoA requested an extension with no changes for the balance of FY 2006 through 2009. The NORS was extended, with modifications, a fourth time for use from FY 2007-2008. This current (fifth) request is to extend, with no modifications, use of the existing State Annual Long-Term Care Ombudsman Report (and Instructions) for use from FY 2009-2011. The form and instructions are posted on the AoA Web site at:

[http://www.aoa.gov/AoARoot/AoA\\_Programs/Elder\\_Rights/Ombudsman/NORS.aspx](http://www.aoa.gov/AoARoot/AoA_Programs/Elder_Rights/Ombudsman/NORS.aspx)

Section 712(c) of the OAA requires the state agency to establish a statewide uniform reporting system to:

- (1) Collect and analyze data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems and
- (2) Submit the data on a regular basis to the state licensing/certifying agency, other state and federal entities that the ombudsman determines to be appropriate; the Assistant Secretary for Aging; and the National Long-Term Care Ombudsman Resource Center.

Section 712(h)(1) requires the state agency to require the Office of the State Long-Term Care Ombudsman to prepare an annual report describing the activities carried out by the ombudsman office in the year for which the report is prepared. The report is to contain

- The data and an analysis of the data collected under Section 712(c);
- Evaluation of the problems experienced and the complaints made by, or on behalf, of residents;
- Recommendations for improving quality of care and life and protecting the health, safety, welfare and rights of residents;
- Analysis of the success of the program, including success in providing services to residents of board and care facilities and other similar adult care facilities;
- Identification of barriers that prevent the optimal operation of the program; and
- Policy, regulatory and legislative recommendations to solve identified problems; resolve the complaints; improve the quality of care and life of residents; protect the health, safety, welfare and rights of residents; and remove the barriers.

Section 712 (h) (B) requires the state agency to require the office of the ombudsman to make the annual report available to the public and submit it to the Assistant Secretary for Aging, the chief executive officer of the state, the state legislature, the state agency responsible for licensing and certifying long-term care facilities, and other appropriate governmental entities.

### **Older Americans Act – Ombudsman Reporting Requirements for AoA**

Title II of the OAA requires the Assistant Secretary to compile an annual national ombudsman report. The report must:

- Summarize and analyze the data collected by the states under Section 712(c) and (h) for the most recently concluded fiscal year;
- Identify significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents' rights);
- Discuss current issues concerning the long-term care ombudsman programs of the states; and
- Make recommendations regarding legislation and administrative actions to resolve such problems.

The Assistant Secretary is required to submit the report to the congressional committees

of jurisdiction for the OAA and to the Director of the Centers for Medicare and Medicaid Services, the Office of the Inspector General of the Department of Health and Human Services, the Administrator of the Veterans' Administration, and agencies which house the state ombudsman office.

### **The General Accounting Office (GAO), U.S. Department of Health and Human Services OIG (OIG) and Institute of Medicine (IOM) Recommendations Regarding State Ombudsman Reporting to AoA**

A May 1992 GAO report entitled "The Older Americans Act: Access to and Utilization of the Ombudsman Program" stated:

We believe that, at a minimum, there is a need to modify AoA's annual data collection instrument to correct its defects and to allow measurement of utilization rates of the ombudsman program. The latter would involve collecting information on (1) the total number of complaints received, by type of facility (nursing home or board and care facility), and (2) the total number of nursing home and board and care residents (or, at a minimum, beds). To appropriately evaluate the ombudsman program, a standard definition of what constitutes the resolution of a complaint should be developed. In addition, we conclude that sufficient data to measure the impact of the program are not being collected at the national level.

In a three-part report issued in June 1991, the OIG recommended that AoA develop standards for State ombudsman programs in the following areas: frequency of facility visits; staff-to-bed ratios; volunteer-to-bed ratios; complaint response time; complaint resolution percentages; and recruitment, training and retention of staff and volunteers. The OIG also recommended that AoA develop and implement a system for rating the progress of States in developing their ombudsman systems and providing needed technical assistance.

In January 1995 the IOM issued a report on its evaluation of the ombudsman program. The report contained several recommendations regarding data and information systems.

The NORS reporting system is responsive to the GAO, OIG and IOM recommendations.

### **Consultation with State and Local Ombudsmen and State Agencies on Aging**

From the beginning of the NORS, AoA has worked with state and local ombudsmen to develop, update and improve the reporting system. Representatives of the state and local national ombudsman associations worked with AoA staff to develop changes in the reporting form and instructions for the 2006 submission. These two associations have requested no changes for the 2009 submission

A notice was published in the February 19, 2009 *Federal Register* announcing that AoA was requesting extension of the current form and instructions with no changes, directing readers to the AoA website where these documents are posted and providing an

opportunity for public comment. No comments were received.

## **2. Purpose and Use of Information Collection**

The information will be provided to the legislative and executive branch officials cited in the OAA, state directors on aging, state ombudsmen, national organizations involved in institutional long term care issues, and private citizens who request it. It will be posted on AoA's website.

Information from the national reports issued to date has been used:

- By AoA to advocate within the Department on specific issues affecting institutionalized elders, pin-point areas where technical assistance and program direction to the states are indicated, and prepare planning and reporting documents, including budgets;
- By state and area-level managers of aging programs to compare operation of their ombudsman programs with those in other states and make changes which may be needed as a result of the comparison;
- By state and local ombudsmen to determine the kinds of problems large numbers of residents in their state and other states are experiencing and to plan training, technical assistance and public education programs to address these problems; and
- By other agencies, researchers and the general public in all manner of inquiry related to institutional long term care.
- By AoA, the states and local ombudsman programs to determine program objectives and outcome measures and to assist the state and local programs to use their data to develop their own objectives, targets and outcomes.

## **3. Use of Improved Information Technology and Burden Reduction**

By 2008 all state ombudsman programs were using software systems to collect their case, complaint and program information from the local ombudsman programs, and over half of the states were using OmbudsManager, developed by Synergy, Inc., now Harmony Information Systems, Inc. This and other programs enable states to collect state-specific data, in addition to the data they collect for their NORS reports and to more efficiently manage their ombudsman programs.

Beginning in 2008 states were required to submit their annual ombudsman reports to AoA on a computer version of the NORS form, the Ombudsman Reporting Tool (ORT), a software program developed by Harmony Information Systems, Inc. under contract with AoA. Under the AoA contract, Harmony has developed computerized systems to efficiently compile the validated state data into tables and charts showing national totals and multi-year trends.

#### **4. Efforts to Identify Duplication and Use of Similar Information**

All information in the ombudsman report is unique to the Ombudsman Program except for the numbers of long term care facilities and beds in the state.

Per OMB instructions in FY 1995, states are not required to provide the number of nursing facilities certified by Medicare and Medicaid because this information is available from the Centers for Medicare and Medicaid Services.

While sporadic studies have provided estimates on the number of board and care and similar facilities and beds, the annual AoA ombudsman report, based on the state reports, provides the only consistent national data on the number of homes and beds classified as board and care or similar adult care homes, including assisted living.

If the names and descriptions of types of board and care and similar facilities covered by their programs have not changed since the previous annual ombudsman report, states are instructed to write "no change since previous report." An item requiring a narrative description of how their program provides statewide coverage has been eliminated because the data requested on local ombudsman entities and staff/volunteers indicate how they provide such coverage.

#### **5. Impact on Small Businesses or Other Small Entities**

No small businesses will be involved in this study.

#### **6. Consequences of Collecting the Information Less Frequent Collection**

If collection were less frequent than annual, neither the states nor AoA would be able to meet reporting requirements in the OAA; and both advocacy and program management functions dependent on the information in the NORS would suffer from lack of current data.

#### **7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5**

None of the listed circumstances applies to this submission.

#### **8. Comments in Response to the Federal Register Notice/Outside Consultation**

A notice that AoA was requesting extension of the NORS form and instructions with no changes and providing 60 days for comments was published in the February 19, 2009 *Federal Register*. This notice is attached.

One comment (attached) was received; the commenter, the DC Long-Term Care Ombudsman, stated that he “does not dispute the need for AoA to collect data from local Ombudsman Programs throughout the United States” but questioned how the data is

“compiled and disseminated so it has the greatest impact on the operation of ombudsman programs as well as on legislation regarding ombudsman programs and/or long-term care residents.” The comment was acknowledged and the commenter thanked for making it.

The 30-day Federal Register notice has been submitted to the *Federal Register*.

**9. Explanation of any Payment/Gift to Respondents** – not applicable

**10. Assurance of Confidentiality Provided to Respondents**

Individuals are not identified in the report. Ombudsman data collection systems are designed to guarantee the confidentiality of residents and complainants, which is a requirement of the ombudsman provision of the OAA.

**11. Justification for Sensitive Questions**

The report does not include questions of a sensitive nature.

**12. Estimates of Annualized Burden Hours (Total Hours & Wages)**

12A. Estimated Annualized Burden Hours

The hour burden is based on the number of cases managed by the nationwide Long-Term Care Ombudsman Program (consisting of 50 states plus DC and Puerto Rico -- 52) in the most recent year for which data is available. Closed cases reported by the 52 states for FY 2007 was 184,177. Based on average time required by early pilot states to document a case by computer (10 minutes), total documentation time is calculated by multiplying total cases by 10 minutes, totaling 1,841,770 minutes, divided by 60 = 30,696 hours of paid and volunteer ombudsman time. However, about two-thirds of the information entered for a typical case is for use at the state level and is not required for the AoA report. Therefore, only one-third of the 30,696 hours --10,232 hours -- are required to document data needed for the AoA report.

Based on reports from state ombudsmen, states spend anywhere from 4 hours to 4 days checking and verifying data from the local programs and compiling their annual report to AoA. The states enter and submit their data on a software program, the Ombudsman Reporting Tool (ORT), developed by an AoA contractor. Entering the data and narrative on the ORT requires about 1.5 hours for a typical state, but writing the narrative and correcting mistakes require additional time. A fair estimate for an average state is 2 days or 16 hours of staff time. Sixteen hours times 52 states totals 832.

Thus, total hours are estimated as 10,232 for collecting plus 832 for entering = 11,064. Average burden hours per state are calculated by dividing 11,064 by 52 = 213 .

Type of Respondent	Form Name	No. of Respondents	No. Responses per Respondent	Average Burden per Response (in hours)	Total Burden Hours
State Agencies on Aging	Annual State Ombudsman Report	52	1	213	11,064

12B. Costs to Respondents

Documentation (local level)

10,310 burden hours \ 52 states = 198 hours per state  
 198 hours x \$10 per hour (est. average local salary) = \$ 1,980 per state  
 \$1,980 x 52 states = \$102,960

Preparing AoA Report (state level)

16 hours per state x \$24 per hour (median state salary reported in recent 9-state sampling) = \$384 per state x 52 states = \$ 19,968

Type of Respondent	Total Burden Hours	Hourly Wage Rate	Total Respondent Costs
Local Ombudsmen	198	\$10.00	\$1,980
State Ombudsman Staff	16	\$24.00	\$384
Total			\$2,364

Total Annual Costs to All Respondents: \$102,960 plus \$19,968 = \$122,928

**13. Estimates of other Total Annual Cost Burden to Respondents or Recordkeepers/Capital Costs**

There are no other costs to respondents or record keepers or capital costs.

**14. Annualized Cost to Federal Government**

One GS 14-9 @ fifteen percent time	\$ 21,798	
One GS 13-6 @ five percent time		5,071
Contract cost	172,500	
TOTAL	\$ 199,369	

**15. Explanation for Program Changes or Adjustments**

Adjustments in burden hours to respondents from the previously-approved request are due to changes in the number of closed cases reported by all states in the base year for that request, FY 2004 (184,638), and those reported for the base year of this request, FY 2007 (184,177). The factors used in the calculations shown in item 12 above were the same used in the previous request. Since the same amount of time for preparation of the state reports (16 hours per state) was used in both submissions, any other respondent hour adjustments are due to lack of clarity for this section in the previous instructions and error in our response in the previous submission.

**16. Plans for Tabulation and Publication and Project Time Schedule**

States collect their data from October 1 through September 30 of the fiscal year. They submit the data and narrative on a software program provided by an AoA contractor, who reviews and compiles the information. AoA prepares reports, a fact sheet and other information based on the data and posts the data tables on its website at [http://www.aoa.gov/AoARoot/AoA\\_Programs/Elder\\_Rights/Ombudsman/National\\_State\\_Data/index.aspx](http://www.aoa.gov/AoARoot/AoA_Programs/Elder_Rights/Ombudsman/National_State_Data/index.aspx).

The due date for the State reports is January 30 for the previous fiscal year, but a few reports are usually submitted late. The data is reviewed by the contractor, inconsistencies are noted and, when needed, states are asked to correct and resubmit their reports. Once all reports are in and verified as being correct, they are compiled into tables and sent to the states for a last review before the national data is finalized. This process typically takes three to four months. When the national data is finalized, the tables are posted on the AoA website and charts and graphs are prepared for the national data and each state’s data, and these are sent to the states for their use. The report to Congress is prepared in the summer months and submitted as soon as it is approved, typically in the early fall.

As this is an annual process, OMB approval for an additional three years is requested.

**17. Reason(s) Display of OMB Expiration Date is Inappropriate**

Not applicable – display is not inappropriate.

**18. Exceptions to Certification for Paperwork Reduction Act Submissions**

There are no exceptions to the certification.

**B. Collection of Information Employing Statistical Methods. If statistical methods will not be used to select respondents and item 17 on Form 83-I is checked “No” use this section to describe data collection procedures.**

These collections do not employ statistical methods. The Older Americans Act requires all states to submit an annual ombudsman report to AoA and AoA to submit an annual report to Congress and others.

As explained in item 3, states have their own data collection systems, which they use statewide for collection throughout the reporting year. They submit this data on software provided by an AoA contractor.

Attachments