

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION:

APPLICANT BACKGROUND SURVEY

A. JUSTIFICATION

1. Circumstances Making the Collection of Information Necessary:

Authority for the collection of information appears under section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 USC 2000e-16, and under section 501 of the Rehabilitation Act of 1973 as amended by Public Law 99-506. The Equal Employment Opportunity Commission (EEOC) Management Directive (MD) 715 states that Federal agencies must collect and maintain applicant flow data. As part of the agency plans to eliminate barriers which are required by EEOC from all agencies with more than 500 employees, agencies must assess whether the present recruitment sources yield qualified applicants for all groups with low representation in the workforce such as minorities, women applicants and persons with disabilities. The Assistant Secretary for Administration and Management has determined that HHS should continue to collect applicant background data and that the Applicant Background Survey form should be resubmitted to OMB for approval for an additional three year period. The current form does reflect the revisions required by Statistical Policy Directive No. 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting.

2. Purpose and Use of the Information

The form will be used by each of the Department's 11 Operating Divisions (OPDIVs), to collect and analyze data on race, sex, national origin, and disability from applicants for employment. Information will be collected by each of the personnel offices in the Department of Health and Human Services (HHS). The form will be used to assess whether current recruitment efforts yield applicants from groups with low representation in the HHS workforce such as minorities, women and persons with disabilities. The results of this data collection will be used to assist the OPDIVs within HHS determine if current recruitment sources yield qualified applicants from these groups with low representation; and the effectiveness of current efforts to address barriers to representation in the workforce as required by the EEOC's MD-715.

3. Use of Improved Information Technology and Burden Reduction

Job applicants complete an electronic version of the Applicant Background Survey on a voluntary basis at the time of their job application.

4. Efforts to Identify Duplication and Use of Similar Information

No other form will provide HHS with the types of applicant data gathered by this survey.

5. Impact of Small Businesses or Small Entities

There are no small businesses or other small entities involved in this data collection.

6. Consequence of Collecting the Information/Less Frequent Collection

Collection of this data can only be initiated when a job applicant applies for a position that has been advertised. Privacy considerations do not permit the linking of the Applicant Background Survey with applicant information, therefore, collection on any other frequency or interval is not possible. Failure to collect this information will not allow the Department to effectively determine which recruitment strategies provide greater success in the recruitment of persons with low representation within the Department's workforce.

7. Social Circumstances Relating to the Guidelines of 5 CFR 1320.5

None of the listed circumstances apply.

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

A 60-day Federal Register notice was published on May 13, 2009, Vol. 74, No. 91, Page 22553. The following comments were received.

Comment:

We are writing to comment on today's Federal Register notice (Volume 74, Number 91, Pages 22553-22554) regarding "Agency Information Request. 60-Day Public Comment Request."

The abstract states that the form involved will be used "where workforce analysis has shown evidence of low representation of minorities, women, or persons with disabilities," and that the "results of the collection will assist the Department to determine if present recruitment sources yield qualified minority and female applicants and applicants with disabilities" We have two concerns.

First, it is not explained why "low representation" of minorities and women is considered but "low representation" of nonminorities and men is not. This formulation is at odds with *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 227 (1995) ("all racial classifications ... must be analyzed by a reviewing court under strict scrutiny"). Accordingly, we suggest that the language be changed to

read, “low representation of any racial, ethnic, or gender group, or persons with disabilities.”

Second, we have concerns if, as appears likely, the form is to be used to facilitate what is often called “targeted recruitment.” These concerns are laid out in an appendix to this email (which, incidentally, is also an appendix to testimony that I delivered to the Equal Employment Opportunity Commission on February 28, 2007).

Thank you very much for your attention to our concerns.

Reply:

Good Afternoon Mr. Clegg,

I am writing to you in response to your comments regarding Federal Register Notice 60-FRN 0990-0208:

In regards to the comments on “low representation” we will change the language to read “low representation of any racial, ethnic, or gender group, or persons with disabilities.” as requested.

In regards to the question or concern that the form is used to facilitate “targeted recruitment”; we would offer the following explanation: HHS has recruitment needs for a number of Mission Critical Occupations that relate to the technical and/or professional requirements. Any targeted recruitment conducted at HHS is related to these technical and/or professional requirements and it is not related to the use of the Applicant Background Survey. The Applicant Background Survey is used to obtain information as to the number of persons who apply for employment at the Department of Health and Human Services and to determine the effectiveness of the various recruitment efforts being conducted by the HHS’ Operating Divisions.

9. Explanation of Any Payment/Gift to Respondents

No payment or gift has been provided to respondents.

10. Assurance of Confidentiality Provided to Respondents

The information provided by survey respondents will be used for administrative use only and will not in any way affect them individually. The applicant Background Survey form does not require the respondent's name or Social Security Number. Once the application for employment is received the survey form is separated from other applicant data and does not become part of the applicant's file. The data collected is only used for analysis purposes and the collection is made pursuant to Public law 93-579 (Privacy Act of 1974) for individuals completing Federal records and forms that solicit personal information.

11. Justification for Sensitive Questions

The information to be requested includes birth year, race, national origin, sex, and indication of the presence of a disability. Submission is voluntary, and is necessary to comply with the requirement of the EEOC's Management Directive (MD) 715, that states that agencies measure the effectiveness of efforts towards increasing the number of applicants of groups with low representation within the workforce such as; persons from diverse racial and ethnic backgrounds, males, females and persons with disabilities. The information derived from the use of this survey will be used only for administrative purposes in order to determine whether the various recruitment efforts have been successful in increasing the number of applicants of diverse backgrounds.

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

We estimate that the number of respondents will be approximately 30,000 on an annual basis. The survey form takes an average of two minutes to complete for a total burden of 1,000 hours. There are no costs for respondents of the survey.

a. Estimated Annualized Burden

Type of Respondent	Form Name	No. of Respondents	No. of Responses per request	Average Burden per Response (in Hours)	Total Burden Hours
Applicants for Employment	Applicant Background Survey	30,000	1	2/60	1,000

b. Estimates of Annualized Cost to Respondents *

Type of Respondent	Total Burden Hours	Hourly Wage Rate	Total Respondent Costs
Employment Applicants	1,000	20.32	20,320

* This data is based on an hourly rate of \$20.32 which is the listed average for all occupations published in the May 2008 report on National Occupational Employment and Wage Estimates from the Bureau of Labor Statistics at the Department of Labor.

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

There are no other costs to respondents of record-keepers.

14. Annualized Cost to the Federal Government

The maximum number of hours for this collection is 5,000.00 and the cost per hour is \$8.00. The estimated cost per annum is \$40,000.00

Number of Hours	5,000
Cost per Hour	\$8.00
Cost per Annum	\$40,000

15. Explanation for Program Changes or Adjustments

There are no program changes.

16. Plans for Tabulation and Publication and Project Time Schedule

The results of the survey are intended for internal use only. Each OPDIV within the Department analyzes the results of its own recruitment efforts. There are no anticipated plans for HHS-wide distribution of the survey results.

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

The Department is not seeking permission to not display the OMB expiration date.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

There are no exceptions at this time.