

Supporting Statement for Paperwork Reduction Act Submission
OMB Control Number 3090-00XX
GSA Form 176, Background Investigations for Child Care Workers

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.

Homeland Security Presidential Directive (HSPD) 12 “Policy for a Common Identification Standard for Federal Employees and Contractors” (the Directive) requires the implementation of a government-wide standard for secure and reliable forms of identification for Federal employees and contractors. OMB’s implementing instructions requires all contract employees requiring routine access to federally controlled facilities for greater than 6 months to receive a background investigation. The minimum background investigation is the National Agency Check with Written Inquiries or NACI.

However, there is no requirement in the law or HSPD-12 that requires child care employees to be subject to the NACI since employees of child care providers are neither government employees nor government contractors. Instead, the child care providers are required to complete the criminal history background checks mandated in the Crime Control Act of 1990, Pub. L. 101-647, dated November 29, 1990, as amended by Pub. L. 102-190, dated December 5, 1991. These statutes require that each employee of a child care center located in a Federal building or in leased space must undergo a background check that is: 1) based on fingerprints taken by a law enforcement officer and on other identifying information, 2) conducted through the FBI's Identification Division and through the State criminal history repositories in each state in which the child care employee has been a resident or has listed in an employment application, and 3) initiated through the personnel program of the applicable employing agency.

According to GSA policy child care workers (as described above) will need to submit the following:

1. An original signed copy of a *Basic National Agency Check Criminal History*, GSA Form 176; and
2. Two (2) sets of fingerprints on Form FD-258

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.

The Contracting Officer, Project Manager, Child Care Center Director, or other designated representative, referred to as “Sponsor”, is responsible for collecting and forwarding all necessary supporting documentation to perform the required background investigations for child care workers. The law enforcement forms shall be submitted by the contractor or child care employee to the Sponsor prior to the commencement of work.

These materials will be forwarded to DHS/FPS for the processing of the law enforcement check.

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.

There is no technology in place to have these forms submitted electronically with the required hard copy signature. The forms will have to be downloaded and completed manually, however the form is only two pages long, minimizing the burden.

The fingerprint charts can be submitted manually or electronically depending on the availability of fingerprint scanning equipment.

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 only time this information may be duplicated is if the child care worker were to require access to a federally controlled facility and the previous determination could not be verified; there was a break in service requiring the submission of a new 176; or the child care worker resubmits for a background check after five (5) years.

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

The burden applied to small business is the minimum burden consistent with applicable laws, Executive Orders, regulations and prudent business practices.

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.

Collection of this information is necessary for child care workers to be granted access and work in GSA controlled facilities. The collection of this information is required by law for child care workers.

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;**
- **Prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **Submit more than an original and 2 copies of any document;**

- **Retain records, other than health, medical, government contracts, grant-in-aid, or tax records, for more than 3 years;**
- **In connection with a statistical survey, that is not designed to produce valid, reliable results that can be generalized to the universe of study;**
- **Require the use of a statistical classification that has not been reviewed and approved by OMB;**
- **Include 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**
- **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.**

If the background investigation case comes back with questionable issues or conflicting information, the Federal Protective Service may request that additional information be provided. Therefore, the applicant should be ready to provide a written response or additional documentation upon request.

A written response is generally required in less than thirty (30) days after receipt to ensure the applicant can receive access to federally controlled facilities to perform in accordance with contract requirements.

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 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. 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.

A request for public comments was published at in the *Federal Register* at 74 FR 29212, June 19, 2009. The comment received did not address the cost and hour burden, but the concern that form was requesting duplicate information; and if there was a need for a form specific to child care, when there are currently approved background check forms available.

Specifically, the concern was with the request for two sets of finger print cards, duplication of information already included on the finger print cards, and the need for

two additional forms – “Pre-Employment Background Check Certificate” and the “Name Check Information Sheet”. In addition, the commenter questioned whether part of the background check form violated the Crime Control Act.

In response to these comments, the form was revised and the following response was sent to the commenter:

“In response to your questions and comments we will make a number of changes. The overall process will be changed: we will not require any additional forms and only the fingerprint cards required by FPS will be requested. We have never retained the duplicate card but had requested 2 copies when fingerprints were obtained using ink to ensure that usable prints were obtained. Since now most fingerprints are obtained digitally, there is no need to request two cards, unless they are taken with the ink method. This new one page form helps us streamline the background check process and issue clearances in a timely manner in accordance with the Crime Control Act. Child care workers in GSA space are not employees of the Federal government or government contractors. Consequently this form is designed specifically to eliminate any reference to Federal employment or federal contractors. We agree that it is not necessary to inquire about the employee's marital or previous employment status and will eliminate the questions. The questions on line 20 are part of our adjudication process and modeled after DOD requirements for a background check for child care workers. There are times when the criminal background check will not reveal certain domestic violence issues that are resolved in Family rather than criminal court. Our adjudication process takes this information into consideration in its determination whether a prospective child care employee should be employed at our centers. Since the Form Number 176 was used in the announcement and is commonly known and understood in our child care network and is not used by any other entity we feel it is appropriate to keep this form number.”

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

Not applicable.

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

This information is disclosed only to the extent consistent with agency regulations and applicable statutes.

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.

The sensitive questions involved relate to an applicant’s criminal history and employment records, and are deemed necessary to insure adequate protection of GSA’s owned and leased facilities, as well as providing a level of protection and safety to the children and staff in those child care centers located within those facilities.

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.**
- **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 13.**

The estimated number of respondents annually is **3,060** child care workers, with each respondent requiring **.50** hour to complete the form, for a total of **1,530** hours. The estimate of 3,060 respondents is based on the number of child care workers cleared in Fiscal Year 2008, plus a 20% increase for Fiscal Year 2009.

For child care workers, the cost will be incurred by the government.

Total Annual Requests	3060
Estimates hours/response	.50
Estimated total burden/hours	1530
Average Cost/hour	<u>N/A</u>
Total Cost to Public	N/A

Note: There will be no increase in the burden to the public. This information is presently being collected on either the old Federal Protective Service 176 Form or the SF85P. These forms will be less of a public burden than the SF85P.

13. Provide an estimate for the total annual 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) 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. 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.

Not Applicable

INSERT RESPONSE.

14. Provide estimates of annualized costs to the Federal Government. Also, provide a description of the method used to estimate cost, which should include qualification 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 may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

Estimate of the burden hours to the Federal Government is 1,530 hours annually. Reviewing and processing each response should take approximately .5 hour; the total number of responses is estimated to be 3,060 child care worker clearances each year. $3,060 \text{ responses} \times .5 \text{ hour} = 1,530 \text{ hours}$.

Based on the 1,530 burden hours to the Government, using the annual salary of a Government Program Analyst, grade 12, step 1, paid \$59,383 annually includes fringe benefits (this does not include the locality adjustment); $\$28.45 \text{ per hour} \times 1,530 \text{ hours} = \$43,529$.

Reviewing Time/hr	.5 hour
Requests/year	<u>3,060</u>
Review Time/year	1,530 hours

Average Cost/hr	<u>\$28.45</u>
Total Government Cost	\$43,529

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14.

Not applicable.

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.

The results will not be published.

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.

GSA is not seeking approval to not display the expiration date for OMB approval of the information collection.

18. Explain each exception to the certification statement identified in the, “Certification for Paperwork Reduction Act Submissions”, I.

There are no exceptions to the certification statement, “Certification for Paperwork Reduction Act Submissions”.

B. Collections of Information Employing Statistical Methods

This section is not applicable for the purposes of these forms.