

Supporting Statement For
OMB Clearance

Income Withholding for Support

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Attachments

Attachment A: Income Withholding for Support, OMB 0970-0154
Attachment B: Income Withholding for Support – Instructions
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Attachment E: e-IWO Record Layout
Attachment F: Federal Register 60-Day Notice
Attachment G: Summary of Comments-Responses
Appendix H: Safeguarding and Disclosure of Confidential Information

SECTION A – JUSTIFICATION

In accordance with OMB instructions, the following supporting statement is a request for clearance for an information collection using the Income Withholding for Support form, OMB 0970-0154. The form is contained in *Attachment A: Income Withholding for Support, OMB 0970-0154* and its accompanying instructions are contained in *Attachment B: Income Withholding for Support - Instructions*.

1. Necessary Circumstances

The Social Security Act requires that child support enforcement (CSE) agencies, courts, tribes, private attorneys and all other entities use the OMB-approved federal Income Withholding for Support form (IWO) when ordering or sending notice to employers/income withholders to withhold income for child support. 42 U.S.C. §666(b)(6) requires the use of the IWO in all cases enforced by CSE agencies where payment is made by income withholding, whether the case is processed administratively or through the court. 42 U.S.C. § 666(a)(8)(B)(iii) provides that the requirements of §666(b)(6) are applicable to all child support orders which are initially issued in the State on or after January 1, 1994, and all child support orders which are initially issued (or modified) in the State before January 1, 1994 if arrearages occur. Accordingly, all states must have in effect laws that require the use of the IWO in compliance with 42 U.S.C. § 666.

Attachment D: Applicable Statutes contains the citations mentioned above.

The expiration date for the current version of the IWO is February 28, 2011. The IWO is a critically important enforcement tool used by state, tribal, and local CSE agencies, courts/tribunals, attorneys and other entities to collect child support payments through employers and other income withholders. Use of the IWO allows employers/income withholders to implement income withholdings and send payments to centralized payment collection facilities (State Disbursement Units [SDUs]) in a more timely and efficient manner.

Based on comments received from state CSE agencies, employers, payroll processors, and members of the judiciary, the Federal Office of Child Support Enforcement (OCSE) modified the IWO and its instructions to improve the process and understanding of income withholding.

2. Use and Purpose of the Information Collection

2.1 How the Information Is to Be Used

Section 466 of the Social Security Act requires that income of a noncustodial parent is subject to withholding regardless of whether support payments by such parent are in arrears. All entities must use the IWO to direct employers/income withholders to

withhold and remit child support payments to SDUs.

2.2 By Whom the Information Is to Be Used

The IWO is used by all entities to order or notify employers/income withholders to withhold child support payments from an individual's income, including but not limited to state/tribal CSE agencies, courts/tribunals, attorneys, private collection agencies, and custodial parties.

2.3 For What Purpose the Information Is to Be Used

Income withholding is an effective and long-standing enforcement remedy for CSE agencies and the courts. Congress enacted laws designed to enhance the effectiveness of income withholding on the state level. In the Family Support Act of 1988, Congress made immediate income withholding mandatory effective November 1, 1990, for child support orders issued or modified through state CSE agencies. With limited exceptions, that law also mandated immediate wage withholding for all orders entered or modified on or after January 1, 1994.

The purpose of the IWO is to provide a standardized and efficient mechanism to direct employers/income withholders to withhold child support. The sender populates the form with the information necessary to carry out the withholding including the name and social security number of the obligor, name of the custodial party and the name(s) of the child(ren). The IWO also states the amount and frequency of withholding and instructs the obligor's employer/income holder to remit payments to the SDU. The IWO contains information about the maximum percentage that may be withheld from the obligor's income per the Consumer Credit Protection Act. In total, the sender populates the IWO with all of the information needed by an employer/income holder to withhold child support payments accurately.

3. Use of Information Technology

Given this long-standing requirement for automated systems in the CSE program, technology improvements to the CSE program are intrinsic to its administration.

OCSE requires states' automated systems to have the ability to automatically generate and download data to the IWO as referenced in OMB # 0980-0271, expiration date April 30, 2011, which addresses information collection for CSE systems. If child support orders are established by the CSE agency, necessary information is already contained within the automated system to populate IWOs. If a court or other tribunal issues a child support order, then the CSE agency staff enter the terms of the order into the automated system to issue income withholding orders and/or process payments. Copies of the IWO are provided to all parties and copies are transmitted to the employer/income withholder

directly by the state CSE agency by mail or through the OCSE's electronic income withholding order (e-IWO) portal as explained below.

Changes to the IWO and the instructions will require state CSE agencies to update their automated systems. It is recognized that automated systems are complex in nature and as such, sufficient time is required to allow for these program changes. Therefore, OCSE will instruct employers/income withholders to honor previous versions of the IWO until March 1, 2012 to accommodate CSE agencies needing additional time to implement.

In 2008, OCSE implemented e-IWO, which is a centralized internet portal that enables state CSE agencies and employers/income withholders or payroll processors to easily and securely exchange e-IWOs. The portal picks up e-IWOs from state CSE agencies and sends them to employers/income withholders. The record specifications for eIWO are contained in *Attachment E: eIWO Record layouts*. The employers/income withholders electronically notify state CSE agencies whether or not the IWO was implemented as well as report terminations and lump sum payments. Benefits of OCSE's e-IWO portal include an increase in child support collections, reduced administrative expenditures for states, reduced processing costs for employers/income withholders, improved communication between CSE agencies and employers/income withholders and information exchanged in a consistent and uniform format.

In addition to improvements realized by e-IWO, OCSE also developed a fillable portable document format (.pdf) version of the IWO available on OCSE's website. This provides states, tribes, courts, attorneys, private collection agencies, and other entities an efficient method for filling out the IWO. Limited numbers of these forms may also be printed locally in hardcopy for use in emergencies when automated systems are not available or in situations in which computer-generated forms are not available.

4. Efforts to Identify Duplication

Prior to implementation of the IWO, state CSE agencies and other entities that issued income withholding orders/notices used a variety of different forms and formats to require employers to initiate income withholding. Employers/income withholders have difficulty understanding and validating non-standard income withholding forms, which causes delays and errors in withholding. The IWO replaces all of the various forms with a single standardized format.

5. Small Businesses Impact

All information that is needed for a small business owner to withhold and remit child support payments is contained in the IWO. Where possible, the language on the IWO was simplified and clarified. In addition a link was added to the form so an employer can easily access the instructions on OCSE's website.

6. Consequences of No or Less Frequent Collection

The IWO as developed by the Secretary of Health and Human Services is mandated by the Social Security Act. When not used, or used less frequently than required, the CSE program is seriously impaired in meeting the mission of ensuring that children and families receive the support to which they are entitled. In fiscal year 2009, 67% of child support payments were collected via income withholding making it the largest and most important enforcement tool.

The OMB approved, federal form emphasizes the requirement to remit payments to the SDU as per the intent of federal legislation to provide one location per state for the receipt of payments. The form encourages employers to remit their payments electronically to the SDUs, saving time and money for both employers/income withholders and states and relieving employers/income withholders of the burden of creating paper checks for individual custodial parents.

The e-IWO process is not mandated. However, twenty-two states have successfully implemented e-IWO. As a result, child support collections have increased because employers/income withholders are able to remit child support payments more quickly when receiving an electronic version of the IWO rather than waiting for a printed form through the mail. Additionally, states and employers/income withholders realized a reduction in administrative expenditures. As more states and employers/income withholders implement e-IWO, savings in administrative expenditures and increases in collections will continue.

7. Special Circumstances

There are no special circumstances associated with collecting this information.

8. Solicitation of Public Comments

A notice was published in the Federal Register on June 30, 2010 in FR Volume 75, Number 125, page 37816, which allowed a 60-day comment period for the public to submit in writing any comments about this information collection. *Attachment F: Federal Register 60-day Notice* contains the notice to the public as required by 5 CFR 1320.8(d).

In addition, OCSE conducted numerous conference calls and conference/workgroup presentations to solicit feedback from state and tribal CSE agencies, employers, payroll processors, members of the judiciary, and private attorneys. OCSE received written comments from 24 CSE agencies, 7

judiciary representatives, 3 private attorneys/paralegals, 4 employers, and 4 federal agencies in their role as employers. The proposed form and instructions were updated for consistency and clarity in light of numerous comments suggesting changes. No comments were received on cost and hour burden.

Attachment G: Summary of Comments-Responses provides a list of the most frequently voiced comments and recommendations as well as OCSE's response to the comments.

9. Payments or Gifts to Respondents

No payments or gifts were made to respondents.

10. Assurance of Confidentiality Provided to Respondents

No assurance of confidentiality in the revision of the IWO was provided to any respondent; however, the information contained within the IWO, including the e-IWO record layout, is subject to the federal confidentiality requirements described at 45 CFR 303.21. *Appendix H: Safeguarding and Disclosure of Confidential Information* contains this cite.

11. Sensitive Questions Justification

An individual's Social Security number (SSN) is required for ensuring that the employer/income withholder withholds child support payments from the correct noncustodial parent and that these payments are credited to the correct account when processed by the SDU.

12. Annual Hour Burden Estimate

This clearance is for use of the IWOs by entities that do not have CSE system access to the form: employers responding to the IWO, and non-IV-D cases represented through 2,136 courts and 1,969,044 custodial parties (CPs), who are not receiving IV-D services and either issue the IWOs to the employers themselves or have attorneys or private collection agencies issue them on their behalf. The collection of information required by state CSE agencies and courts to populate IWOs is contained in OMB # 0980-0271 which addresses information collection for CSE systems. Therefore, there is no additional hour burden placed upon state CSE agencies and courts issuing IWOs for this information collection.

Since there are 2,747,051 non-IV-D cases on the Federal Case Registry, it is assumed that the number of IWOs issued to employers/income withholders by CPs or on behalf of CPs is 1,969,044. This is based on the assumption that IWOs are sent to approximately 72% of the cases with orders during a given year, which is the currently estimated rate for IV-D cases.

The labor associated with IWOs completed by CPs or on behalf of CPs by attorneys and private collection agencies to populate information required in an IWO is approximately 5 minutes per notice for a total burden of 164,087 hours.

There are 1,232,6222 employers that are respondents which is based on the number of US employers with 10 or more employees, as reported by the US Census. Employers receive all of the information required to process IWOs from the sender who collects the information necessary to complete the IWO. Employers are required to complete the “Notification of Employment Termination or Income Status” section on the form and return it to the sender when IWOs are not implemented because the noncustodial parent was never employed there or is no longer employed there. 53.6% of IWOs do not result in any collections from the employer. It is assumed that approximately 5% of these never reach the employer (due to bad addresses, etc.), but for the rest, the employer would be required to send a notification of employment termination or income status (approximately 5.9 million notices) to the sender. Employers are also required to notify the sender when a noncustodial parent’s employment ends after an IWO was implemented and payments were deducted to collect child support. Of the over 5 million IWOs that generate collections annually, approximately 76% of them stop paying during the year due to the noncustodial parent’s employment ending resulting in employers sending notices on approximately 4 million IWOs.

Reporting Requirement for IWO

Type of Respondent	Number of Respondents	Number of Responses Per Respondent	Annual Number of Responses	Average Burden Hours Per Response	Total Burden Hours
Employers	1,232,622 ¹	8 ²	9,860,976 ³	2 minutes ⁴	328,699 ⁵
Non-IV-D CPs	1,969,044 ⁶	1 ⁷	1,969,044	5 minutes ⁸	164,087

Estimated Total Annual Burden Hours:

492,786

12.2 Respondents' Cost for Hour Burden

According to the Bureau of Labor Statistics, the median wage for a legal assistant is \$22.58/hr and a collections agent is \$14.87/hr. If an attorney's office or PCA is issuing the IWO on behalf of a CP, the average cost to the CP is \$35/hr, after applying the assumption that the private companies will earn a profit. The profit margin was calculated as a 55% increase from the average hourly wage for a legal assistant. This calculation was based on information from the Department of Labor. The cost burden is about \$5,749,608.48.

The average annual cost per employer for notifying the IWO sender that a noncustodial parent has never been or is no longer employed is \$4.39. According to the Bureau of Labor and Statistics, the hourly wage for a payroll clerk is \$17.31. It takes approximately 2 minutes to complete the response and return it to the sender for a total annual cost of \$5,383,371 which represents payroll clerk salaries.

¹ Based on the number of US employers with 10 or more employees, as reported by the US Census.

² The annual number of responses is divided by the number of respondents to calculate the number of responses per respondent.

³ Based on the estimated number of IWOs which reach an employer in a given year where the NCP was either never employed there or no longer works there, plus the number of IWOs which do result in collections, but the NCPs employment ends less than a year after the payments start.

⁴ It is assumed that it takes a payroll clerk approximately 2 minutes to complete each IWO response form.

⁵ The annual number of responses is multiplied by the average burden hours (2/60)(9,860,976) per response to calculate the total burden hours.

⁶ The number of non-IV-D cases on the Federal Case Registry as of the end of FY2010 was 2,747,051. To estimate the number of IWOs sent for non-IV-D cases, the percent of IV-D cases with orders for which an IWO was sent in FY2008 was applied to the non-IV-D universe.

⁷ The CP is bearing the burden of the IWO as he/she is actually issuing the notice or paying a private entity to issue the notice on his/her behalf.

⁸ It is assumed that it takes a legal assistant, collection agent or CP approximately 5 minutes to complete an IWO and send it to an employer/income withholder.

Reporting Requirement	Average Annualized Cost Per Respondent	Total Annualized Cost
Non-IV-D Custodial Parents	\$2.92	\$5,743,045
Employers	\$4.39	\$5,383,371
Total	\$7.31	\$11,126,416

13. Annual Cost Burden Estimate

The proposed changes to the IWO require a one-time start-up cost to program the state and tribal CSE agency automated systems. A sample of states⁹ estimated that making changes to the form would require 40 hours or less of programming time. Thus, the total estimated start-up cost for 58 states and tribes to effect the proposed changes is \$185,101¹⁰, or \$3,200 per agency. There are no operations and maintenance costs.

It is assumed that the cost to the employer to mail each individual IWO response would be \$1 which includes the cost of postage, paper and envelopes resulting in \$9,367,927 as the total annual mailing costs for IWO responses. The total annual cost to employers for IWO responses is \$14,751,298.

14. Annualized Cost to the Federal Government

There are no significant costs to the federal government associated with the IWO. The IWO is not used to report any information to the federal government.

15. Explanation for Program Changes or Adjustments

OCSE is requesting a revision to the previous clearance. The annual hour burden has been eliminated on state child support enforcement agencies, tribes and courts since submission of the 2007 version of this form due to increased use of technology and that the information collection is accounted for in OMB # 0980-0271 which addresses

⁹ States sampled were Maryland, Virginia, Massachusetts, Missouri, and Washington.

¹⁰ Estimated for 58 entities (50 states, 3 territories, the District of Columbia and 4 tribes which use automated systems) at 40 hours time required to make programming changes at \$80 per hour labor cost. One state estimated the cost of programming labor at \$80 per hour; several states agreed with this estimate.

information collection for CSE systems and therefore eliminated the calculation of 221,095 burden hours submitted in the last form revision.

The proposed form and instruction changes were made for consistency and clarity in light of numerous comments suggesting the changes and are captured in Appendix G. The annual burden associated with state and tribal CSE agencies making changes to the form and instructions in their automated systems is explained in number 13.

OCSE's initiative to facilitate the electronic transmission of Income Withholding for Support forms (e-IWO) between CSE agencies and employers/income withholders has become more widely used since 2007. Currently used by 22 states and over 100 employers/income withholders, the e-IWO initiative decreases costs and increases child support collections. As the number of transmissions sent via e-IWO increases, CSE agencies and employers will experience even more cost savings.

Previous iterations of the IWO omitted employers and CPs or attorneys or PCAs issuing IWOs on behalf of CPs as respondents; however, upon further review it has been determined that the impact on employers and CPs should be included in this information collection. This is based on the requirement that employers complete the "Notification of Termination/Income Status" section of the IWO and that CPs or attorneys or PCAs issuing IWOs on behalf of CPs do not have the information required to complete the IWO contained in an automated system and therefore are required to manually issue IWOs to employers/income withholders. The annual burden estimates for employers and CPs is captured in number 12.

Although the burden for states, courts and tribes was eliminated, the employers and Non-IV-D CPs were added to this clearance, increasing the estimated total annual burden hours from 221,095 to 476,351.

16. Plans for Tabulation and Publication

There is no planned analysis or publication of the data collected.

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

Not applicable.

18. Certification Statement Exceptions

There are no exceptions to the certification statement.

SECTION B – STATISTICAL METHODS

The information collection requirements outlined in this report do not employ the use of statistical methods.