

Supporting Statement
USDA Program Discrimination Complaint Form (0508-0002)

Terms of Clearance

This information collection expired on October 31, 1998. Since that time, the USDA Office of the Assistant Secretary for Civil Rights (OASCR) has not used a form as a method for customers to file a program discrimination complaint. Instead, customers have filed program discrimination complaints by writing a letter detailing the discrimination to the OASCR. This method of complaint filing has caused longer processing times and increased errors in processing for civil rights complaints because complainants frequently do not provide all the information that is needed to process the complaint in their letter and follow up with the complainant to obtain the information is required. By capturing all of the information needed to accept a complaint, the reinstatement of the form will reduce the time it takes to process complaints and make it easier to resolve straightforward issues as soon as a complaint is filed.

When this information collection was approved for an emergency extension on July 29, 1998, the terms of clearance stated:

“The information collection request is approved through July 1998. However, the optional questions on the USDA Program Discrimination Complaint form requesting that the complainant provide specific information on their race, sex, Social Security number, and attorney or representative are not approved and shall be removed from the form. The practical utility of this information in processing discrimination complaints has not been demonstrated.”

The OASCR communicates with complainants who are represented through their authorized representatives. 7 CFR 15.6 and 7 C.F.R. 15d.4 provide that persons may file program discrimination complaints by themselves or through an authorized representative. Departmental Manual 4330-001, *Procedures for Processing Discrimination Complaints and Conducting Civil Rights Compliance Reviews in USDA Conducted Programs and Activities*, states “If a complainant is represented by an attorney or other designated representative, all complainant contacts will be made through the attorney or designated representative. Permission will be sought from the attorney or designated representative prior to any direct contact with the complainant.” The subject of these communications might be the investigation, settlement and/or adjudication of their complaints of discrimination. The OASCR requires the name and contact information of a complainant’s representative, if any, so that communications about the

processing of the complaint can be addressed to that person, in accordance with our regulations and policy.

Section 14006 of the Food, Conservation and Energy Act of 2008 (2008 Farm Bill; Pub. L. 110-246) requires the Secretary of Agriculture to compile program application and participation rate data on socially disadvantaged farmers or ranchers by race, ethnicity, and gender. Section 14007 requires the Secretary, acting through the Assistant Secretary for Civil Rights, to use the data collected in the conduct of oversight and evaluation of civil rights compliance. The OASCR is seeking to collect, on a voluntary basis, data on race, ethnicity and gender of customers who file program discrimination complaints against USDA agencies so that this data can be analyzed alongside race, ethnicity, and gender data on program application and participation rates. This data collection and analysis will help the OASCR to identify trouble spots and trends to more effectively target resources for civil rights enforcement initiatives.

OASCR agrees that it is not necessary to collect a Social Security number from Complainants, and has not included such a question on the complaint form.

- 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.**

Under 7 CFR 15.6 “any person who believes himself or any specific class of individuals to be subjected to discrimination...may by himself or by an authorized representative file a written complaint based on the ground of such discrimination.” The collection of this information is the avenue by which the individual or his representative may file such a complaint. The requested information is necessary in order for the Office of the Assistant Secretary for Civil Rights to address the alleged discriminatory action.

- 2. Indicate how, by whom, how frequently, 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 requested information, which can be submitted by filling out a form or by submitting a letter, is necessary in order for the USDA Office of the Assistant Secretary for Civil Rights

(OASCR) to address the alleged discriminatory action. The respondent is asked to state his/her name, mailing address, property address (if different from mailing address), telephone number, email address (if any) and to provide a name and contact information for the respondent's representative (if any.)

A brief description of who was involved with the alleged discriminatory action, what occurred and when, is requested. In the event that the respondent is filing the program discrimination complaint more than 180 days after the alleged discrimination occurred, the respondent is asked to provide the reason for the delay.

The respondent is asked to identify which bases are alleged to have motivated the discriminatory action (of those bases prohibited under either 7 C.F.R. 15d.2: race, color, national origin, age, sex, disability, religion, sexual orientation, marital or familial status, or because all or part of the individual's income is derived from any public assistance program; or under nondiscrimination regulations applying to recipients of Federal financial assistance from USDA: race, color, national origin, sex, age, disability, religion or political beliefs.) (Not all bases apply to all programs.)

Finally, the respondent is asked to provide information about what would be required to resolve the complaint, from his or her perspective, as well as information about whether the respondent has previously filed a complaint about the incident in another forum. Show citation box

The information provided by the respondent will be used by staff of the USDA Office of the Assistant Secretary for Civil Rights to investigate, attempt resolution and settle the case. The information format in the submitted collection of document is being provided to the public to assist in gathering the necessary information to open a program discrimination complaint case in a manner most efficient and least intrusive for the public/customer.

- 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.**

This form can also be downloaded from the USDA website, completed and submitted by email. The information provided will be entered into a USDA Office of the Assistant Secretary for Civil Rights electronic tracking system, although the original document(s) submitted by the respondent will be retained in hard copy..

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose described in item 2 above.

Each allegation of discrimination is unique and the circumstances surrounding the alleged actions must be recorded separately. No other agency or group is collecting this information.

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

Approximately 20 small businesses or entities will use this form each year. The submission of information regarding alleged discrimination is of a minimum burden and is of the same intensity for any member of the public/customer who wishes to submit a complaint.

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.

If information regarding alleged discrimination is not collected from the individual who believes he/she has experienced discrimination in a USDA program, it would not be possible for the USDA to address and rectify the alleged discrimination.

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;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to 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 reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes 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**
- **requiring respondents to submit proprietary trade secret, 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.**

There are no special circumstances. The collection is conducted in a manner consistent with guidelines in 5 CFR 1320.5.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, 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.**

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 form, and on the data elements to be recorded, disclosed, or reported.

A notice was published in the Federal Register on November 22, 2010, Vol. 73 #224 pg. 71067. The agency did not receive any public comments. The USDA Office of the Assistant Secretary for Civil Rights (OASCR) has solicited feedback from customers on the development of the form through a number of mechanisms. First, OASCR partnered with Rural Development to show the form to a number of Rural Development customers and as well as staff at two housing advocacy groups. We considered feedback from those customers and organizations, which was generally very positive, in drafting the final version of the form. .

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

No payment to or gift will be provided to individuals for responding.

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

The information provided on this form will only be shared with persons who have an official need to know, and will be protected from public disclosure pursuant to the provisions of the Privacy Act, 5 U.S.C. § 552a(b).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or 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.

Under 7 C.F.R 15.6, “Any person who believes himself/herself or any specific class of individuals to be subjected to discrimination [in any USDA assisted program or activity]... may by himself/herself or by an authorized representative file... a written complaint.” Under 7 C.F.R. 15d.4, “Any person who believes that he or she (or any specific class of individuals) has been, or is being, subjected to [discrimination in any USDA conducted program or activity]... may file on his or her own, or through an authorized representative, a written complaint alleging such discrimination.” The collection of this information is an avenue by which the individual or his representative may file such a program discrimination complaint.

The requested information, which can be submitted by filling out a form or by submitting a letter, is necessary in order for the USDA Office of the Assistant Secretary for Civil Rights (OASCR) to address the alleged discriminatory action. The respondent is asked to state his/her name, mailing address, property address (if different from mailing address), telephone number, email address (if any) and to provide a name and contact information for the respondent’s representative (if any.)

A brief description of who was involved with the alleged discriminatory action, what occurred and when, is requested. In the event that the respondent is filing the program discrimination complaint more than 180 days after the alleged discrimination occurred, the respondent is asked to provide the reason for the delay.

The respondent is asked to identify which bases are alleged to have motivated the discriminatory action (of those bases prohibited under either 7 C.F.R. 15d.2: race, color, national origin, age, sex, disability, religion, sexual orientation, marital or familial status, or because all or part of the individual's income is derived from any public assistance program; or under nondiscrimination regulations applying to recipients of Federal financial assistance from USDA: race, color, national origin, sex, age, disability, religion or political beliefs.) (Not all bases apply to all programs.)

Finally, the respondent is asked to provide information about what would be required to resolve the complaint, from his or her perspective, as well as information about whether the respondent has previously filed a complaint about the incident in another forum. Show citation box

The program discrimination complaint filing information, which is voluntarily provided by the respondent, will be used by the staff of USDA OASCR to intake, investigate, and adjudicate the respondent's complaint. The program discrimination complaint form will enable OASCR to better collect information from complainants in a timely manner, therefore reducing delays and errors in determining USDA jurisdiction.

In addition, the respondent is asked voluntarily to provide his or her race, ethnicity, gender, and national origin. This information will be used to help USDA monitor enforcement of laws that require equal access to its programs for eligible persons.

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. 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 of OMB Form 83-I.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

The number of respondents per year is estimated to be 1000. The hour burden for the respondent will vary widely depending upon the complexity of the situation and the extent of detail the

respondent wishes to share. This variation is consistent regardless of the format which the respondent uses: letter or complaint form. The average burden is expected to be 60 minutes.

The cost burden for the respondent at an average hourly wage of \$10.00 multiplied by 1000 hour per year would total \$10,000.00.

Provide estimates 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 items 12 and 14). The cost estimates should be split into two components: (a) 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.

There is no capital or start up costs, nor operation/maintenance costs to respondents.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

The cost to the federal government for the intake of this information is \$625,584. This figure is the total cost to the government to employ the individuals who process the information in the OASCR.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

This is a reinstatement of an expired collection 0508-0002 resulting in a program change of 1,000 burden hours.

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.

The information received 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.

Request is being made not to print the expiration date because this brochure and form will be usable for many years. Having the expiration date on the form respondents may think the expiration date is when their filed complaint expires and they may have to re-file etc.

**18. Explain each exception to the certification statement identified in Item 19
"Certification for Paperwork Reduction Act."**

The request is in full compliance with the certification statement identified in Item 19.