

**SUPPORTING STATEMENT FOR  
VA FORM 4939, COMPLAINT OF EMPLOYMENT DISCRIMINATION**

**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.**

Pursuant to the Equal Employment Opportunity Commission (EEOC) title 29 Code of Federal Regulations (CFR) §1614, VA Form 4939, Complaint of Employment Discrimination, can be used by VA employees, former employees and applicants for employment who wish to file a formal Equal Employment Opportunity (EEO) complaint of discrimination. This regulation prohibits discrimination based on race, color, religion, gender (sex), national origin, age (40 years and over), physical or mental disability, and/or reprisal for prior EEO activity. Upon completion of the informal EEO complaint process, an Office of Resolution Management (ORM) EEO counselor will provide the aggrieved individual/respondent a Notice of Right to File (NRTF) a Discrimination Complaint along with VA Form 4939, Complaint of Employment Discrimination. In accordance with Regulation 29 CFR, §1614.106 an aggrieved individual who wants to file a complaint of discrimination must file a complaint within 15 days of receipt of the NRTF.

**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 use of VA Form 4939 occurs in accordance with EEOC Regulation 29 CFR §1614 Federal Sector EEO. The form is completed by VA employees, former employees and applicants for employment as outlined in item 1.

It is not mandatory to use VA Form 4939 to file a formal complaint of discrimination. However, in order to have a less burdensome process and simplify the filing of a formal EEO complaint, VA Form 4939 is used. A complaint must contain a signed statement from the person claiming to be aggrieved or that person's attorney. This statement must be sufficiently precise to identify the aggrieved individual and the agency and to describe generally the action(s) or practice(s) that form the basis of the complaint. The complaint must also contain a telephone number and address where the complainant or the representative can be contacted.

An aggrieved individual who wants to file a formal complaint of discrimination can complete and submit VA Form 4939 to the ORM Field Operations identified in the NRTF, the Deputy Assistant Secretary for ORM, or the Secretary for the VA. The aggrieved individual may submit a copy either by mail, in person, electronically (via e-

mail), or by facsimile. The information submitted by the aggrieved individual is only provided once.

VA Form 4939 establishes the official filing date of a formal EEO complaint of discrimination. An ORM designated intake specialist reviews the form to determine if it is acceptable for processing in accordance with the provisions set forth in EEOC Regulation 29 CFR §1614.107.

**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.**

VA Form 4939 can be accessed electronically at <http://vaww.va.gov/vaforms>. The aggrieved individual may save this form and then submit a copy of it in person, electronically (via e-mail), or by facsimile to the ORM Field Operations identified in the NRTF, the Deputy Assistant Secretary for ORM, or the Secretary for the VA. VA is currently hosting this form on a secure server and does not currently have the technology in place to allow for an electronic submission of the form. Efforts within VA are underway to provide a mechanism to allow the electronic submission.

**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 information is not contained in any other VA records. The form solicits information from the aggrieved individual that is not available elsewhere.

**5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

The collection of information does not involve small organizations.

**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.**

The information collected is completed by the aggrieved individual (VA employees, former employees and applicants for employment) in connection with the filing of a formal EEO complaint of discrimination. The data furnished on this form is essential to identify the claims, basis, official filing date of a formal complaint of discrimination, as well as other essential information required. If this form is not used, relevant information required in order to file a formal complaint of discrimination may not be captured.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with 5 CFR 1320.6 guidelines.**

In accordance with EEOC Regulation 29 CFR §1614.106(b), a complaint must be filed within 15 days of receipt of the NRTF.

**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.**

The Department notice was published in the Federal Register on July 1, 2011, page 38743. There were no comments received in response to this notice.

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

Decisions to provide any payment or gift to respondents do not apply.

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

Maintenance and disclosure of VA Form 4939 is made in accordance with the Privacy Act of 1974. Collection of the information on this form is authorized and/or required in accordance with EEOC Regulation 29 CFR, §1614. All records, from which information is retrieved, by the name or personal identifier of a respondent, are maintained by a Government-wide Systems of Records: EEOC/GOVT-1, Equal Employment Opportunity Complaint Records and Appeal Records.

Disclosure of information on VA Form 4939 may be made in accordance with the disclosure provisions of the Privacy Act of 1974. Collection of the information on this form is authorized and/or required by EEOC Regulation 29 CFR §1614. The information collected will be used by ORM to determine if a complaint is acceptable for administrative processing. In the course of the administrative process, this form may be shown to any individual who may be required by regulations, policies or procedures of the EEOC and/or ORM to provide information in connection with the complaint. This includes individuals who may have been identified by a complainant as responsible for the action(s) or practice(s) that form the basis of the complaint.

**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.**

In accordance with EEOC Regulation 29 CFR §1614 VA employees, former employees and applicants for employment can file a formal EEO complaint of discrimination. This regulation prohibits discrimination based on race, color, religion, gender (sex), national origin, age (40 years and over), physical or mental disability, and/or reprisal for prior EEO activity. Consequently, the aggrieved individual is required to provide sensitive information relative to the issue and basis of the complaint.

**12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.**

**A) 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.**

**B) Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

#### Estimated Cost to Respondents

- a. Number of respondents (applicants, contractors, and former employees) is estimated at 419 per year. (This figure is based upon the number of formal complaints filed by applicants, contractors, and former employees which filed formal complaints in 2010.)
- b. Frequency of response is on occasion.
- c. Annual burden is 210 hours (419 complaints X .30 minutes).
- d. The response time is estimated at 30 minutes based on an ORM survey, random sampling of complaints and previous usage of the form. The response time for this form can vary based upon the number of issues in a complaint.

- e. The total estimated cost to respondents is \$3,150.00 (210 hours x \$15 per hour). (The hourly rate is based upon information obtained from Records Management Service.)

**13. 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 are no anticipated capital and start-up cost components resulting from this collection of information.

**14. Provide estimates of annualized cost to the Federal government. 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.**

Estimated Cost to the Federal Government

\$11,619.00	Estimated ORM processing cost for FY 2011 (419 cases x 30 minutes x \$55.46 per hour (Salary of a GS-13-Step 10 Intake Specialist in Washington, D C.) The cost estimate to the Federal government can vary based upon the number of issues and supporting documentation provided.
\$ 25.00	Printing Cost for FY 2011 (419 respondents X \$.06 per page)
\$11,643.00	Total estimated cost to the Federal Government

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

The change in burden hour is due to an increase in formal complaints filed by applicants, contractors, and former employees.

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

Publication of information obtained from VA Form 4939 is made in accordance with the Privacy Act of 1974. Publication of the information on this form is authorized and/or required in accordance with EEOC Regulation. The publication of this information is available on VA's website annually.

**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.**

This VA Form does not display an expiration date, and if required to do so it would result in unnecessary waste of existing stocks of this form. VA seeks an exemption that waives the display of an expiration date on VA Form 4939.

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

**A. Certification Statement**

This submission does not contain any exceptions to the certification statement. The agency is able to certify compliance with all provisions under Item 19 of OMB Form 83-I.

**B. Collections of Information Employing Statistical Methods**

Not applicable as no statistical methods are employed.