

Supporting Statement for Paperwork Reduction Act Submission
Optional Form 178 (OF-178) - Certificate of Medical Examination

Under the provisions of the Paperwork Reduction Act of 1995 (Public Law 104-13, May 22, 1995), the Office of Personnel Management (OPM) is submitting to the Office of Management and Budget (OMB) a request for the use of the Optional Form (OF-178), Certificate of Medical Examination, which will be used to collect medical information about individuals who are incumbents of positions which require physical fitness/agility testing and medical examinations, or who have been selected for such a position contingent upon meeting physical fitness/agility testing and medical examinations as a condition of their employment. This information is needed to ensure fair and consistent treatment of employees and job applicants, to adjudicate passover of a preference eligible, and to adjudicate claims of discrimination under the Americans with Disabilities Act (ADA).

A. Justification for Optional Form 178 (OF-178).

1. Veterans' preference is established by the Veterans Preference Act of 1944, as amended, and is now codified in various provisions of title 5, United States Code (U.S.C.). By law, veterans who are disabled or who served on active duty in the Armed Forces during certain specific time periods or in military campaigns are entitled to preference over others in hiring from competitive lists of eligibles. Specifically, 5 U.S.C. 3312, 3318, 3504; and 5 CFR part 339 - Medical Qualification Determinations and 5 CFR 351.702(d) – Qualifications for Assignment; speak to ensuring that applicants are treated fairly and not discriminated against because of a medical or physical condition that would not affect their ability to perform the duties of the position. The medical passover of a preference eligible, or rejection of a veteran with a service-connected disability rated at 30 percent or more, are raised by Federal agencies or the U.S. Postal Service for adjudication by OPM.
2. In formulating this adjudication decision, the OPM and agency examining offices will use the information from the OF-178, including supporting documentation, to determine whether an applicant for a Federal job is physically able to perform the duties of the position. Without this information, officials would not know how to adjudicate a passover request. The submission of documents alone, without the OF-178, would not satisfy this need.
3. Electronic alternatives to the OF-178 would not be cost-effective because of the amount of information that is actually collected. The supporting documentation that must be submitted with the OF-178 provides most of the information agencies use to adjudicate veterans' preference. The information may come from the military, the Department of Veterans Affairs, the courts, hospitals, or medical practitioners, as appropriate. The form will be available on OPM's website in PDF fillable format.
4. There are no duplicative efforts in this process. If the supporting documentation submitted with the OF-178 is inadequate, the examining office must contact the agency requesting that OPM render a passover determination to attain all relevant data required to complete the review and render a final determination concerning the physical ability of the employee to perform the duties of the position with undue risk to the health and safety of themselves or others.

5. The collection of information does not affect small businesses or other small entities.
6. Veterans' preference is a factor considered in Federal hiring. Federal agencies and the USPS are unable to proceed in the selection of a non-preference eligible to a position until OPM has rendered a determination relative to an agency adjudication request regarding a medical passover of a preference eligible, or rejection of a veteran with a service-connected disability rated at 30 percent or more.
7. There are no special reporting or recordkeeping requirements that increase the burden on the applicant.
8. The notice was previously published in the Federal Register at 76 FR 81999 on December 29 2011. There were no comments received. The Federal Register Notice of Extension 77 FR 4061 was published on January 26, 2012, to allow an additional 30 days for public comments. During this period the following proposals were accepted and the OF-178 will be amended accordingly. The Public Burden Statement will be amended to amend the office title at OPM to the "OPM, Employee Services, Recruitment and Hiring, Hiring Policy." Under the Privacy Act Statement language has been incorporated relative to the Genetic Information Nondiscrimination Act of 2008 (GINA) which prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law.

The Instructions, Part C, has been appended to include "Access to protected health information may be restricted to the Agency Medical Officer in accordance with existing and applicable legal requirements." Part D, has been appended to include "Upon completion of part D, an Agency Medical Officer forwards parts A, B, D and E to the agency Human Resources Officer. A copy of the entire form, to include Part C, is retained in the medical record." Part E, has been appended to explain that if the examining physician/physician assistant/nurse practitioner or reviewing Agency Medical Officer requires additional space, he/she may add "See attached continuation with heading OF-178 with the name and date" and create the attachment.

Part A, Number 5, has been modified to read "Do you have any medical disorder or physical impairment which may interfere in any way with the full performance of the duties show in Part B, No. 3? If your answer is YES, please provide a written explanation below and explain verbally to the physician performing the examination)." Unnecessary space has been removed from the form in its entirety as appropriate. Part B, Number 4, has been appended to include the sentence "Provide complete reference to applicable medical standards and requirements in Block 4a and ensure the examining physician/physician assistant/nurse practitioner has immediate and complete access to these materials when performing this assessment." The functional requirement under 4A has been amended to state "Hearing (aid may be permitted)" to enable a case by case determination by each individual agency.

Part C, Number 3, is amended to remove the dBA frequency tables and include a statement that audiogram results should be included and certified with the examination package. The headings in Part C have been modified to read "To be completed by examining physician/physician assistant/nurse practitioner." In addition, it is emphasized that the final examination results must

be reviewed and certified by the Agency Medical Officer. Part C, Number 5 – Conclusions, has been amended to include boxes for “Medically Qualified”; “Medically qualified if restrictions accommodated (list restrictions)”; and “Medically Disqualified.”

Other suggestions made by DOD have been taken under advisement and are still under consideration and/or discussion between OPM and DOD.

9. No payment or gift is made to respondents.

10. The Privacy Act Statement printed on the form identifies limitations on disclosure. The Privacy System of Records covering this information is OPM Government 5: Recruiting, Examining, and Placement Records.

11. The OF-178, Certificate of Medical Examination, collects personal and sensitive medical information about an applicant which is necessary for OPM to render a medical adjudication relative to an applicant’s ability to safely and efficiently perform the duties of the position without undue risk or harm to the individual, to the safety of others, or to the vulnerability to business operating and information systems. The information is collected, maintained and protected by OPM as required under the Privacy Act.

12. OPM estimates approximately 45,000 forms will be completed each year. Each form requires from two to three hours to complete with an annual estimated burden of 135,000 hours. There is no cost to the respondent to complete this form.

13. There is no cost to respondents for the collection of information or its recordkeeping.

14. OPM estimates annual usage of the OF-178 form is 45,000. Cost can be calculated by processing the total estimated forms (45,000) at a rate of \$2.66 per form for a total of \$119,700 plus 25% overhead (\$7,482.58), resulting in a total cost of \$127,182.58 to the Government.

15. The reporting burden is 135,000 hours. Providing the OF-178 in an easily accessible online version, both fillable and printable, will aid agencies in hiring greater numbers of disabled veterans into the Federal Government. An increasing use of the OF-178, and the reporting burden each successive year, can be attributable to additional hiring of disabled veterans.

16. Frequency of recordkeeping or recording is not applicable. Information is not published.

17. N/A

18. Agency contact would not be applicable for this purpose.

B. Collection of Information Employing Statistical Methods.

Not applicable.