

## **Supporting Statement for Paperwork Reduction Act Submission**

### **OMB Control Number 3037-0011**

**AbilityOne Program Individual Eligibility Evaluation  
41 CFR 51-4.3  
July 18, 2012**

#### **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.

The Committee for Purchase from People Who Are Blind or Severely Disabled was established by Public Law 92-28, June 23, 1971 (85 Stat. 77, 41 U.S.C 8501-8506). The Act prescribes three conditions which must be met for an agency to qualify to participate under the Act; they are: be a nonprofit agency organized under the laws of the United States or any State; comply with applicable occupational health and safety standards; and employ people who are blind (in the case of an agency for people who are blind) or people who have other severe disabilities (in the case of an agency for people with other severe disabilities) for not less than 75% of the total work hours of direct labor performed in the agency in each fiscal year (8501(6) & (7)). The Commission is also charged with making rules and regulations necessary to carry out the other provisions of the Act (8503(d)). A copy of Title 41 of the code Sections 8501 through 8506 is enclosed.

Regulations which implement the Act have been published as Chapter 51, Title 41, Code of Federal Regulations. Part 4 of these regulations prescribes certain procedures to be followed by nonprofit agencies serving the blind or people with severe disabilities in qualifying for participation under the Act. Section 51-4.3 requires that nonprofit agency must conduct evaluations on each individual performing direct labor to determine their capability to perform competitive employment at least annually. This requirement is unique to the AbilityOne Program and as a result does not exist in any other documentation maintained by the nonprofits. The burden for conducting these evaluations is covered under OMB 3037-0005, Recordkeeping requirements.

In the past, the Commission simply explained the information that needed to be provided as part of the evaluation and the nonprofits could include the information in other documents or create their own evaluation. In 2010, the Commission conducted a Chief Executive Officer (CEO) forum with CEOs and executive directors from 24

nonprofit agencies. One of the recommendations from the forum was that the Commission develops an evaluation form and makes its use mandatory. During 2011, the Commission developed and field tested and modified an evaluation form with input from over 50 nonprofit agencies.

A copy of Part 4 of the regulations is enclosed.

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. [Be specific. If this collection is a form or a questionnaire, every question needs to be justified.]

This form will be used by the participating nonprofit agencies to insure that the required evaluation contains all the information required to justify considering an individual to be not competitively employable. The information will not be collected by the Commission, but it will be reviewed during compliance visits.

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 [and specifically how this collection meets GPEA requirements.].

The Commission provides the form as a Microsoft Word Template and suggests that it be filled out as a Word Document. Depending on the technology used by the individual nonprofit agencies the completed form could be saved electronically or printed and saved as part of a paper file.

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 determination of competitive employability is unique to the AbilityOne Program. The requirement for the determination and whether other federal or state agencies require the determination has been discussed with NIB, NISH and a large number of nonprofit agencies over the last five years. This determination is not available from any other source and no other Federal agency has a requirement to collect this information.

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 form is provided in electronic format and the method of maintaining the form is left to the nonprofit agency. The Commission's record keeping requirement (OMB 3037-0005) includes the burden estimate for completing competitive employability evaluations. It is estimated that the burden estimate in 3037-0005 will not increase and

only training time to learn the new form will be required. The information on this form is limited to that required to assure compliance with 41 U.S.C. 8501-8506 and the implementing regulations 41 CFR 51.

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 the nonprofit agencies did not fill this form out at least once a year they would not be in compliance with the Commission's regulations which could result in their removal from the AbilityOne Program. The Commission would also be unable to determine that the nonprofit agencies meet the requirement of the JWOD Act that 75% of the direct labor be performed by people who are blind or severely disabled.

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 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.

None.

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 in response to the PRA statement associated with the collection over the past three years] 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. [Please list the names, titles, addresses, and phone numbers of persons contacted.]

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.

The agency's 60 day notice was published in the Federal Register on May 4, 2012 on pages 26519 -26520. A copy is attached. This form was originally developed in consultation with executive directors of 24 nonprofit agencies in 2011 and with feedback from the people at over 50 nonprofit agencies that would be responsible for completing the form. The Commission has conducted briefing session at the 2011 and 2012 NISH annual conferences to make people aware of the form and to seek their comments.

There were a total five comments received as a result of the notice published on May 4, 2012.

One commenter sought clarification on the 60 day notice because the last paragraph says that the Commission is seeking comments on this renewal while the rest of the document states that this is a new requirement. This mistake was corrected in the 30 day notice.

One commenter simply requested a copy of the form and instructions.

NISH, one of the two designated central nonprofit agencies, provided a comment that they were in favor of the form and that based on a survey of NISH affiliated nonprofit agencies no additional burden is expected from the form being made mandatory.

National Industries for the Blind, one of the two designated central nonprofit agencies, submitted a comment containing seven recommended editorial changes to the form.

- Numbering each item on the form and instructions – This was considered unnecessary and actually clutters up the form. However, the form has been modified to number the sections of the form with matching numbers for the sections in the instructions.
- Changing job title to job title/job function – This recommendation was rejected as a job function is frequently a long description of the tasks being performed and this level of detail is not needed for the evaluation and would thus add unnecessary burden.
- Add the Commission's definitions of Blind and severely disabled – This recommendation was rejected as adding unnecessary length to the form. However, the definitions have been added to the instructions.

- That one standard documentation form for both blindness and severe disabilities be created – This is what the form does as developed. There are separate sections for people who are blind and people who are severely disabled because the requirement for each group is not the same. This is also counter to all the feedback that was received during the form’s development.
- Table on the first page dealing with medical documentation is unclear and the three columns should be combined into two columns – No change made on the form, but additional information has been included in the instructions.
- Changing the wording of a sentence concerning an individual who is blind interest in obtaining competitive employability. This recommendation has been adopted.
- Include language on the requirements in the AbilityOne regulations for the individuals signing the evaluation – This has been done in the instructions.

One commenter recommended that the form only be approved for two years and that during those two years the Commission makes changes to its policies and procedures. Once those changes are made a new evaluation should be developed. The commenter is confused between the legislative act that authorizes the AbilityOne Program, the Commission’s regulations and procedural documents that the Commission has developed for conducting compliance visits at nonprofit agencies. Most of what the commenter wants would take changes to the Program’s legislation and are not simply changeable by the Commission.

One of his recommendations is that the Commission revises its compliance manual. This change is already in progress. The Commission believes that a three year period is the correct length for the clearance to last.

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

There will not be any payment or gift to respondents.

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

This form will be maintained at the individual nonprofit agencies that complete the form. It will be reviewed by a compliance specialist during compliance visits to the nonprofit, but will not be copied, nor information provided on the form recorded. Thus the information concerning the individual being evaluated will remain confidential at the nonprofit agency.

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.

Much of the information reported on the form is sensitive and private in nature. However, the completed form is maintained by the nonprofit agency and is treated the same way that medical documentation maintained by the nonprofit agency is treated. The form is used to evaluate and substantiate the decision that an individual is severely disabled and not competitively employable, which is a requirement for people with severe disabilities to count toward the 75% direct labor ratio requirement of the AbilityOne Program.

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 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 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 14.

The respondent universe consists of only those nonprofit agencies currently producing a product or providing a service to the Federal Government under the AbilityOne Program. There are currently 602 nonprofit agencies serving people who are blind or severely disabled in the Program and it is anticipated that less than 10 additional nonprofit agencies will be added over the next three year period.

The competitive employability evaluation is required to be maintained by the nonprofit agencies under OMB control number 3037-005 and the burden for conducting the evaluation is also included under OMB control number 3037-005. Thus the only burden associated with this submission is a one-time event to learn how to complete the form. Based on training that the Commission staff has provided at nonprofit agencies during the form's development it is estimated that the burden associated with learning how to use the form is two hours per agency. At \$30 an hour and 602 agencies this equates to a one time burden cost of \$36,120.

13. Provide an estimate of the total annual [non-hour] 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 estimate 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. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. 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.

There should be no burden that is not hour related associated with this form. The operations and maintenance of computers and filing systems needed to complete and maintain this form must be done for other business requirements.

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

There should be no cost to the Federal Government. The form is maintained at the nonprofit agencies and only reviewed during compliance visits to the agencies.

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

None.

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 information recorded on this form will not be collected, or published. The form and the information on it will be maintained at the nonprofit agencies and only reviewed during compliance visits by the Commission staff. The Commission will track how many agencies are performing the required evaluations.

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 form will only be used at the nonprofit agencies participating in the AbilityOne Program and the requirement for the evaluation is specified by the JWOD Act. Thus the evaluation is required to be done as long as the nonprofit agency is in the Program. As long as there are no other changes requiring nonprofit agencies to go in and update the OMB expiration date to keep the form up to date will not create any value to the nonprofit agencies and will increase the burden on those agencies participating in the Program.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

There are no exceptions identified in item 19 of OMB Form 83-I.

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

This collection does not employ statistical methods.

Enclosures