

Supporting Statement for the State Annual Long Term Care Ombudsman Report for FY 2012-2014

A. Justification

1. Circumstances Making the Collection of Information Necessary

The State Annual Long Term Care Ombudsman Report is needed to:

- Comply with state and Administration on Aging (AoA) reporting requirements in the Older Americans Act (OAA);
- Carry out recommendations made by the General Accounting Office (GAO), the Department of Health and Human Services' Office of the Inspector General (OIG), and the Institute of Medicine (IOM);
- Advocate at the state and federal levels for changes needed to improve the quality of life and care in long-term care facilities; and
- Effectively manage the Long-Term Care Ombudsman Program at the local, state and federal levels.

The National Ombudsman Reporting System (NORS) was developed in response to these needs and directives and approved by the Office of Management and Budget for use in FY 1995-96. It was extended with slight modifications for use in FY 1997-2001 and extended with minor revisions for use in FY 2002-2006. In 2005, AoA requested an extension with no changes for the balance of FY 2006 through 2009. The NORS was extended, with modifications, a fourth time for use from FY 2007-2008 and extended with no modifications from FY 2009-2011. This current (sixth) request is to extend, with no modifications, use of the existing State Annual Long-Term Care Ombudsman Report (and Instructions) for use from FY 2012-2014. The form and instructions are posted on the AoA Web site at:

http://www.aoa.gov/AoARoot/AoA_Programs/Elder_Rights/Ombudsman/NORS.aspx

Section 712(c) of the OAA requires the state agency to establish a statewide uniform reporting system to:

- (1) Collect and analyze data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems and
- (2) Submit the data on a regular basis to the state licensing/certifying agency, other state and federal entities that the ombudsman determines to be appropriate; the Assistant Secretary for Aging; and the National Long-Term Care Ombudsman

Resource Center.

Section 712(h)(1) requires the state agency to require the Office of the State Long-Term Care Ombudsman to prepare an annual report describing the activities carried out by the ombudsman office in the year for which the report is prepared. The report is to contain

- The data and an analysis of the data collected under Section 712(c);
- Evaluation of the problems experienced and the complaints made by, or on behalf, of residents;
- Recommendations for improving quality of care and life and protecting the health, safety, welfare and rights of residents;
- Analysis of the success of the program, including success in providing services to residents of board and care facilities and other similar adult care facilities;
- Identification of barriers that prevent the optimal operation of the program; and
- Policy, regulatory and legislative recommendations to solve identified problems; resolve the complaints; improve the quality of care and life of residents; protect the health, safety, welfare and rights of residents; and remove the barriers.

Section 712 (h) (B) requires the state agency to require the office of the ombudsman to make the annual report available to the public and submit it to the Assistant Secretary for Aging, the chief executive officer of the state, the state legislature, the state agency responsible for licensing and certifying long-term care facilities, and other appropriate governmental entities.

Older Americans Act – Ombudsman Reporting Requirements for AoA

Title II of the OAA requires the Assistant Secretary to compile an annual national ombudsman report. The report must:

- Summarize and analyze the data collected by the states under Section 712(c) and (h) for the most recently concluded fiscal year;
- Identify significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents' rights);
- Discuss current issues concerning the long-term care ombudsman programs of the states; and
- Make recommendations regarding legislation and administrative actions to resolve such problems.

The Assistant Secretary is required to submit the report to the congressional committees of jurisdiction for the OAA and to the Director of the Centers for Medicare and Medicaid Services, the Office of the Inspector General of the Department of Health and Human Services, the Administrator of the Veterans' Administration, and agencies which house the state ombudsman office.

The General Accounting Office (GAO), U.S. Department of Health and Human Services OIG (OIG) and Institute of Medicine (IOM) Recommendations Regarding State Ombudsman Reporting to AoA:

A May 1992 GAO report entitled "The Older Americans Act: Access to and Utilization of the Ombudsman Program" stated:

We believe that, at a minimum, there is a need to modify AoA's annual data collection instrument to correct its defects and to allow measurement of utilization rates of the ombudsman program. The latter would involve collecting information on (1) the total number of complaints received, by type of facility (nursing home or board and care facility), and (2) the total number of nursing home and board and care residents (or, at a minimum, beds). To appropriately evaluate the ombudsman program, a standard definition of what constitutes the resolution of a complaint should be developed. In addition, we conclude that sufficient data to measure the impact of the program are not being collected at the national level.

In a three-part report issued in June 1991, the OIG recommended that AoA develop standards for State ombudsman programs in the following areas: frequency of facility visits; staff-to-bed ratios; volunteer-to-bed ratios; complaint response time; complaint resolution percentages; and recruitment, training and retention of staff and volunteers. The OIG also recommended that AoA develop and implement a system for rating the progress of States in developing their ombudsman systems and providing needed technical assistance.

In January 1995 the IOM issued a report on its evaluation of the ombudsman program. The report contained several recommendations regarding data and information systems.

The NORS reporting system is responsive to the GAO, OIG and IOM recommendations.

Consultation with State and Local Ombudsmen and State Agencies on Aging

From the beginning of the NORS, AoA has worked with state and local ombudsmen to develop and improve the reporting system. Representatives of the state and local national ombudsman associations worked with AoA staff to develop changes in the reporting form and instructions for the 2006 submission.

A notice was published in the January 11, 2012 *Federal Register* announcing that AoA was requesting extension of the current form and instructions with no changes, directing

readers to the AoA website where these documents are posted and providing an opportunity for public comment. No comments were received.

2. Purpose and Use of Information Collection

The information will be provided to the legislative and executive branch officials cited in the OAA, state directors on aging, state ombudsmen, national organizations involved in institutional long term care issues, and private citizens who request it. It will be posted on AoA's website.

Information from the national reports issued to date has been used:

- By AoA to advocate within the Department on specific issues affecting institutionalized elders, identify areas where technical assistance and program direction to the states are indicated, and prepare planning and reporting documents, including budgets;
- By state and area-level managers of aging programs to compare operation of their ombudsman programs with those in other states and make changes which may be needed as a result of the comparison;
- By state and local ombudsmen to determine problems that residents in their state and other states are experiencing and to plan training, technical assistance and public education programs to address these problems; and
- By other agencies, researchers and the general public in all manner of inquiry related to institutional long term care.
- By AoA, the states and local ombudsman programs to determine program objectives and outcome measures and to assist the state and local programs to use their data to develop their own objectives, targets and outcomes.

3. Use of Improved Information Technology and Burden Reduction

By 2008 all state ombudsman programs were using software systems to collect their case, complaint and program information from the local ombudsman programs, and over half of the states were using OmbudsManager, developed by Harmony Information Systems, Inc. This and other programs enable states to collect state-specific data, in addition to the data they collect for their NORS reports and to more efficiently manage their ombudsman programs.

Beginning in 2008 states were required to submit their annual ombudsman reports to AoA on a computer version of the NORS form, the Ombudsman Reporting Tool (ORT), a software program developed by Harmony Information Systems, Inc. under contract with AoA.

4. Efforts to Identify Duplication and Use of Similar Information

All information in the ombudsman report is unique to the Ombudsman Program except for the numbers of long term care facilities and beds in the state.

Per OMB instructions in FY 1995, states are not required to provide the number of nursing facilities certified by Medicare and Medicaid because this information is available from the Centers for Medicare and Medicaid Services.

While sporadic studies have provided estimates on the number of board and care and similar facilities and beds, the annual AoA ombudsman report, based on the state reports, provides the only consistent national data on the number of homes and beds classified as board and care or similar adult care homes, including assisted living.

If the names and descriptions of types of board and care and similar facilities covered by their programs have not changed since the previous annual ombudsman report, states are instructed to write "no change since previous report." An item requiring a narrative description of how their program provides statewide coverage has been eliminated because the data requested on local ombudsman entities and staff/volunteers indicate how they provide such coverage.

5. Impact on Small Businesses or Other Small Entities

No small businesses will be involved in this study.

6. Consequences of Collecting the Information Less Frequent Collection

If collection were less frequent than annual, neither the states nor AoA would be able to meet reporting requirements in the OAA; and both advocacy and program management functions dependent on the information in the NORS would suffer from lack of current data.

7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

None of the listed circumstances applies to this submission.

8. Comments in Response to the Federal Register Notice/Outside Consultation

A notice that AoA was requesting extension of the NORS form and instructions with no changes and providing 60 days for comments was published in the January 11, 2012 *Federal Register*. This notice is attached. No comments were submitted.

The 30-day Federal Register notice has been submitted to the *Federal Register*.

9. Explanation of any Payment/Gift to Respondents – not applicable

10. Assurance of Confidentiality Provided to Respondents

Individuals are not identified in the report. Ombudsman data collection systems are designed to guarantee the confidentiality of residents and complainants, which is a requirement of the ombudsman provision of the OAA.

11. Justification for Sensitive Questions

The report does not include questions of a sensitive nature.

12. Estimates of Annualized Burden Hours (Total Hours & Wages)

12A. Estimated Annualized Burden Hours

The hour burden is based on the number of cases managed by the nationwide Long-Term Care Ombudsman Program (consisting of 50 states plus DC and Puerto Rico -- 52) in the most recent year for which data is available. Closed cases reported by the 52 states for FY 2010 was 139,269. Based on average time required by early pilot states to document a case by computer (10 minutes), total documentation time is calculated by multiplying total cases by 10 minutes, totaling 1,392,690 minutes, divided by 60 = 23,211 hours of paid ombudsman time. However, about two-thirds of the information entered for a typical case is for use at the state level and is not required for the AoA report. Therefore, only 7737 hours (one-third of the 23,211) are required to document data needed for the AoA report

Based on reports from state ombudsmen, states spend anywhere from 4 hours to 4 days checking and verifying data from the local programs and compiling their annual report to AoA. The states enter and submit their data on a software program, the Ombudsman Reporting Tool (ORT), developed by an AoA contractor. Entering the data and narrative on the ORT requires about 1.5 hours for a typical state, but writing the narrative and correcting mistakes require additional time. A fair estimate for an average state is 2 days or 16 hours of staff time. Sixteen hours times 52 states totals 832.

Thus, total hours are estimated as 7737 for collecting plus 832 for entering = 8569
Average burden hours per state are calculated by dividing 8569 by 52 = 165

Type of Respondent	Form Name	No. of Respondents	No. Responses per Respondent	Average Burden per Response (in hours)	Total Burden Hours
State Agencies on Aging/Long-Term Care Ombudsmen	Annual State Ombudsman Report	52	1	165	8569

12B. Costs to Respondents

Documentation (local level)

7737 burden hours \ 52 states = 149 hours per state
149 hours x \$17 per hour (est. average local salary) = \$ 2529 per state
\$2529 x 52 states = \$131,508

Preparing AoA Report (state level)

16 hours per state x \$32 per hour (mean of 15 state salary sampling reported in March 2012) = \$512 per state x 52 states = \$ 26,624

Type of Respondent	Total Burden Hours	Hourly Wage Rate	Total Respondent Costs
Local Ombudsmen	149	\$17.00	\$2529
State Ombudsman Staff	16	\$32	\$512
Total			\$3041

Total Annual Costs to All Respondents: \$131,508 plus \$26,624 = \$158,132

13. Estimates of other Total Annual Cost Burden to Respondents or Record keepers/Capital Costs

There are no other costs to respondents or record keepers or capital costs.

14. Annualized Cost to Federal Government

One GS 15-1 @ 5 percent time	\$6,188
One GS 13-5 @ 5 percent time	\$5,045
One GS 13-1 @ five percent time	\$13,354
Contract cost	\$172,500
TOTAL	\$197,087

15. Explanation for Program Changes or Adjustments

Adjustments in respondents' burden hours from the previously approved request are due

to changes in the number of closed cases reported by all states. The base year of the previous request was FY 2007 and 184,177 cases were reported. The base year of this request was FY2010 with 139,269 cases reported. The factors used in the calculations shown in item 12 above were the same used in the previous request. Since the same amount of time for preparation of the state reports (16 hours per state) was used in both submissions, we are continuing with this number for preparation time because no changes were made to the reporting requirements. The salary schedule was updated to reflect current wages of local and state LTCO's.

16. Plans for Tabulation and Publication and Project Time Schedule

States collect their data from October 1 through September 30 of the fiscal year. They submit the data and narrative on a software program provided by an AoA contractor, who reviews and compiles the information. AoA prepares reports, a fact sheet and other information based on the data and posts the data tables on its website at http://www.aoa.gov/AoARoot/AoA_Programs/Elder_Rights/Ombudsman/National_State_Data/index.aspx.

The due date for the State reports is January 31 for the previous fiscal year, but a few reports are usually submitted late. The data is reviewed by the contractor, inconsistencies are noted and, when needed, states are asked to correct and resubmit their reports. Once all reports are in and verified as being correct, they are compiled into tables and sent to the states for a last review before the national data is finalized. This process typically takes three to four months. When the national data is finalized, the tables are posted on the AoA website and charts and graphs are prepared for the national data and each state's data, and these are sent to the states for their use. The report to Congress is also prepared.

As this is an annual process, OMB approval for an additional three years is requested.

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

Not applicable – display is not inappropriate.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

There are no exceptions to the certification.

B. Collection of Information Employing Statistical Methods. If statistical methods will not be used to select respondents and item 17 on Form 83-I is checked “No” use this section to describe data collection procedures.

These collections do not employ statistical methods. The Older Americans Act requires all states to submit an annual ombudsman report to AoA and AoA to submit an annual report to Congress and others.

As explained in item 3, states have their own data collection systems, which they use

statewide for collection throughout the reporting year. They submit this data on software provided by an AoA contractor.

Attachments