

## **SUPPORTING STATEMENT**

### **1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

The collection of information in this proposed regulation is in Prop. Reg. §1.509(a)-4(i)(2)(iii). The collection of information flows from section 509(f)(1)(A), which requires a Type III supporting organization to provide to each of its supported organizations such information as the Secretary may require to ensure that the Type III supporting organization is responsive to the needs or demands of its supported organization(s).

To implement this provision, the proposed regulations require that each taxable year, a Type III supporting organization must provide to each of its supported organizations: (A) a written notice addressed to a principal officer of the supported organization identifying the supporting organization and describing the amount and type of support it provided to the supported organization in the past year; (B) a copy of the supporting organization's most recently filed Form 990; and (C) a copy of the supporting organization's governing documents, including any amendments. Copies of governing documents need only be provided once. The proposed regulations provide that the required notice and documents may be delivered by electronic media. Organizations must satisfy the notification requirement to qualify as a Type III supporting organization and should, therefore, retain proof of delivery in their records.

### **2. USE OF DATA**

The information will be used as a tool by a supported organization to ensure that its supporting organizations are responsive to its needs. Additionally, a supporting organization will be required to maintain copies of these statements so that it can prove to the IRS that it is an organization that qualifies as a Type III supporting organization under section 509(a)(3).

### **3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

The regulation allows supporting organizations to provide this annual notification by electronic notice.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible. This is a specific requirement of Congress and is not duplicative of any other requirement of a Type III supporting organization. We did provide that once an organizational document is provided to a supported organization, the supporting organization need not provide that document again.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

**NPRM:**

This notice of proposed rulemaking will be published in the Federal Register to provide the public a 60-day period in which to review and provide public comments relating to any aspect of the proposed regulation. A public hearing will be held with respect to this NPRM if any person who has submitted written comments requests one.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Estimated total annual reporting burden: 8,400 hours.

Estimated average annual burden hours per recordkeeper: Two hours.

Estimated number of recordkeepers: 4,200.

Estimated frequency of collection of such information:

Annual.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

Not applicable.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulations sunset as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

## Relevant Provisions of the Law

§ 509(f)(1)(A)

Responsiveness. For each taxable year beginning after the date of the enactment of this subsection, the organization provides to each supported organization such information as the Secretary may require to ensure that such organization is responsive to the needs or demands of the supported organization.

Treas. Reg. § 1.509(a)-4(i)(2)

(2) Notification requirement. Each taxable year, the supporting organization must provide to each of its supported organizations--

(i) A written notice addressed to a principal officer of the supported organization indicating the type and amount of support provided by the supporting organization to the supported organization in the past year,

(ii) A copy of the supporting organization's most recently filed Form 990, "Return of Organization Exempt from Income Tax," or other return required to be filed under section 6033, and

(iii) A copy of the supporting organization's governing documents, including its charter or trust instrument and bylaws, and any amendments to such documents. Copies of governing documents in a given year need not be provided if such documents have previously been provided and have not subsequently been

amended.

(iv) Electronic Media. Notification may be provided by electronic media.

(v) Due Date. The required notifications shall be postmarked or electronically transmitted by the last day of the 5<sup>th</sup> month after the close of the supporting organization's tax year.