

PAPERWORK REDUCTION ACT SUBMISSION

Supporting Statement

Agency: U.S. Department of Justice
Civil Rights Division
Office of Special Counsel for Immigration-Related Unfair Employment Practices

Title: Title 8 of the Immigration and Nationality Act, Section 1324b—Unfair Immigration-Related Employment Practices Charge Form

A. Justification

- 1. Circumstances of Information Collection:** Pursuant to the Immigration and Nationality Act's anti-discrimination provision, 8 U.S.C. § 1324b, and its implementing regulations at 28 C.F.R. part 44 *et seq.*, an individual may file a charge form with the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) alleging discrimination by an employer or recruiter or referrer for a fee on the basis of citizenship or immigration status or on the basis of national origin, document abuse or retaliation for asserting rights covered by the statute. OSC investigates any charge received over which it has jurisdiction. If OSC lacks jurisdiction but another Federal, state or local agency may have jurisdiction over the claim, OSC refers the charge.
- 2. Purpose and use of Information:** The information to be collected in the form submitted for Office of Management and Budget (OMB) approval is necessary to enable the Department to process and investigate charges as required by statutory mandate. The use of this collection instrument will facilitate this process by assisting charging parties to identify and provide the information necessary to initiate an investigation.
- 3. Use of Information Technology:** Currently, the form is available on our website (www.justice.gov/crt/about/osc) and respondents may view, save, or print the form in English, Spanish, Chinese and Vietnamese. The Department currently has an online fillable version in English and plans to develop additional online fillable versions in Spanish, Chinese, Vietnamese among other languages within one year.
- 4. Efforts to Identify Duplication:** The form will be downloadable from OSC's website and will be distributed to potential charging parties at their request. All completed charge forms received are assigned a number and all pertinent tracking information is input in the Department's electronic docket tracking system. If the information provided by a charging party indicates that the charge should be investigated by another federal or state agency, the completed form will be

forwarded to the investigating agency, thus avoiding any duplicative requests for information.

5. **Involvement of Small Entities:** This collection of information does not impact small businesses or other small entities.
6. **Consequences if Information Collection is not Conducted or is Collected less Frequently:** If this information were not obtained, the Department would be unable to process and investigate charges as required by its statutory mandate.
7. **Explanation of Special Circumstances:** None of the listed special circumstances are applicable to this information collection.
8. **Consultations Outside the Agency:** The Department published a notice in the Federal Register on November 8, 2012 at 77 Fed. Reg. 217, allowing for a 60-day comment period. We received one comment to date. The commenter recommended further simplifying language in the proposed charge form, making clear that an individual need not be work-authorized to file a charge (note that an unauthorized individual cannot seek a remedy for discrimination under the anti-discrimination provision), and requesting that the charge form explicitly state that OSC investigates E-Verify-related discrimination. Currently, our proposed language has been simplified from the original version currently in use. We are considering the other proposed changes.
9. **Payment to Respondents:** The Department does not provide payments or gifts to respondents in exchange for a benefit sought.
10. **Assurance of Confidentiality:** A separate paragraph entitled “Privacy Act Statement” describes how information provided to or obtained by the Department of Justice in the course of an investigation or complaint will be treated by the Department. This paragraph provides a brief overview of the Department of Justice’s Federal Register Notice published in the Federal Register at 68 Fed. Reg. 47611 (August 11, 2003).
11. **Questions of a Sensitive Nature:** The anti-discrimination provision of the Immigration and Nationality Act protects work-authorized individuals from discrimination, and only enumerated categories of non-U.S. citizens are protected from the anti-discrimination’s prohibition against discrimination in hiring and firing based on citizenship status. While unauthorized individuals may file a charge, there is no remedy available under this statute. Accordingly, the proposed charge form requests citizenship/immigration status information to assist OSC in determining whether OSC has jurisdiction to investigate the claim and whether the charging party may be entitled to relief.
12. **Estimates of Hour Burden:** The following figures were derived from past experience in past investigations of allegations of discrimination.

a.	Number of respondents	300
b.	Number of responses per each respondent	1
c.	Total annual responses	300
d.	Number of hours per response	<u>0.50 hours</u>
e.	Total annual reporting burden	150 hours

13. Estimate of Annualized Cost Burden to Respondents: There is no capital or start-up cost associated with this information collection since it is currently in use. There is no fee charged to individuals who file a charge form. The cost to such individuals is \$0.

14. Estimate of Annualized Cost to the Federal Government: There is no capital or start-up cost associated with this information collection. The total cost to the Federal government is based on the following:

- a. Printing cost equals the number of respondents times cost per form:
 $\text{Printing cost} = 300 \times \$0.60 \text{ (6 pages @ } \$0.10) = \$180$
- b. Collection and processing cost equals the number of respondents multiplied by the time for collection and processing multiplied by the average hourly rate for clerical and professional time (e.g., the average hourly rate is based on the 2012 GS Salary Table for GS8 step 1 to GS15, Step 10):
 $\text{Collection and processing cost} = 300 \times 1 \times \$42 = \$12,600$
- c. Total estimated cost to the Federal government = \$12,789

15. Changes in Burden: This is a new collection. There is no current OMB approval. There is no change in burden.

16. Time Schedule, Publication and Analysis Plans: The Department does not intend to use statistics or the publication thereof for this collection of information.

17. Display of Expiration Date: The Department is seeking approval to **not display** the expiration date for OMB approval of this information collection. The display of the expiration date would require the Department to pull and destroy current forms in its own inventory as well as in the inventory of other entities with outdated expiration dates which could otherwise still be used by the public. This would become cumbersome and costly to the Department to print and distribute this form.

18. Exceptions to Certification Statement: The Department does not request an exception to the certification of this information collection.

B. Collection of Information Employing Statistical Methods

This section is not applicable.

