

DEPARTMENT OF VETERANS AFFAIRS 38 CFR Parts 61, 62, and Part 50

RIN 2900-AP05 -Equal Protection of the Laws for Faith-Based and Community

Organizations

OMB No. 2900-0828

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify legal or administrative requirements that necessitate the collection of information.

On November 17, 2010, President Obama signed Executive Order 13559, "Fundamental Principles and Policymaking Criteria for Partnerships with Faith-Based and Other Neighborhood Organizations." 75 FR 71319 (available at <http://www.gpo.gov/fdsys/pkg/FR-2010-11-22/pdf/2010-29579.pdf>). Executive Order 13559 amended Executive Order 13279 to: Require agencies that administer or award Federal financial assistance for social service programs to implement protections for the beneficiaries or prospective beneficiaries of those programs (these protections include providing referrals to alternative providers if the beneficiary objects to the religious character of the organization providing services, and ensuring that written notice of these and other protections is provided to beneficiaries before they enroll in or receive services from the program).

The information of collection under this rulemaking is necessary for VA to implement this requirement for VA beneficiaries being served by faith-based or religious organizations that receive VA financial assistance in providing social services.

2. Indicate how, by whom, and for what purposes the information is to be used; indicate actual use the agency has made of the information received from current collection.

This is a new collection. The information will be used by VA National Grant & Per Diem Program Office, to identify those beneficiaries who object to the religious character of the faith-based organization providing services; and to provide them with services from another faith-based or community organization. Once the beneficiaries complete and submit the form to the faith-based organization, then the form should be submitted to VA National Grant & Per Diem Program Office, 10770 N. 46th Street, Suite C-200 Tampa, FL 33617. The VA National Program Office will notify the faith-based organization that the form has been received via email or U.S Mail. This form will be kept on internal file at VA for the purpose identifying the beneficiaries' treatment location and for data collection/metrics.

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.

The beneficiary will submit the form to the faith-based organization for which he or she has an "objection of the religious character", either by mail or in-person. VA will monitor the use of the form in the future and determine whether using technological collection techniques would be effective.

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 beneficiary only needs to submit the form once for each type of service being provided.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

This information collection will impact VA grantee organizations that have a religious affiliation but the burden will be minimal. Of the 190,700 beneficiaries potentially receiving services under these VA programs, very few (1907 or 0.1% annually) are expected to use the form. For those beneficiaries, the grantees will not provide services and VA will find an alternative service provider for the beneficiary.

6. Describe the consequences 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.

The frequency of collection is based on the requests of VA beneficiaries; it is not dictated by VA. If VA does not collect this information, then it would not be responsive to the needs of beneficiaries and would not be in compliance with Executive Order 13559.

7. Explain any special circumstances that would cause an information collection to be conducted more often than quarterly or require respondents to prepare written responses to a collection of information in fewer than 30 days after receipt of it; submit more than an original and two copies of any document; 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 and require the use of a statistical data classification that has not been reviewed and approved by OMB.

There are no such special circumstances.

8. a. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the sponsor'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 describe actions taken by the sponsor in responses to these comments. Specifically address comments received on cost and hour burden.

The notice of Proposed Information Collection Activity was published in the Federal Register, within RIN 2900-AP05, "Equal Protection of the Laws for Faith-Based and Community Organizations," on August 6, 2015. See 80 FR 47340. VA, as well as eight other Federal agencies that also published a similar proposed rule to implement Executive Order 13559, received comments on the beneficiary notice and referral forms that constitute the collection. The following are the summarized comments as well as VA's response as to why VA will not make changes to its collection based on comments:

- Remove or separate the "for staff only" portion of the notice form: VA's proposed notice form did not contain such a "staff only" portion, VA does not make changes due to this comment. The final rulemaking (see 81 FR 19353, published April 4, 2016) otherwise explains why other agencies did or did not remove this portion from the form.
- Incorporate the form in the regulation text in CFR: The final rulemaking explains why all agencies have a form separate from the regulation text in CFR, to allow for changes to the form (with notice and comment) as needed without initiating a rulemaking. VA does not make changes due to this comment.
- The written notice form is too burdensome for organizations: The final rulemaking explains that the written notice is required by EO 13559, and all efforts were made to make the notice the least burdensome to the public. VA does not make changes due to this comment.
- The notice requirement should be phased in. The final rulemaking agrees with this comment and explains that the notice and referral requirements in the final rulemaking (as implemented in the collection via the notice and referral forms) will not take effect until July 5, 2016 (90 days after the publication of the final rule). VA adopted this change, but no changes were necessary to the collection or the associated notice and referral form.

VA does make non substantive changes to the form associated with the collection that are not based on public comments, but these changes do not affect the estimated burden that was reported during the proposed rule stage and that is still estimated now. The non substantive changes to VA's form are:

- Removing the procedural instructions for the organizational providers to submit the form to VA after the beneficiary completes the form. The program beneficiaries that complete this form are not required to submit it to VA, and such procedural instructions would be confusing for the program beneficiaries actually completing the form. Further, VA may direct its grantees on the procedures to submit the form to VA via a means that is not this form.
- Removing the last sentence from the PRA statement on the form "[t]he purpose of this data collection is to determine eligibility for benefits." Eligibility for the social services at issue are determined through regulations and grant agreements, this form is not related to eligibility for benefits.

b. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, clarity of instructions and recordkeeping, disclosure or reporting format, and on the data elements to be recorded, disclosed or reported. Explain any circumstances which preclude consultation every three years with representatives of those from whom information is to be obtained.

Outside consultation is conducted with the public comments through the 60- and 30-day Federal Register notices.

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

No payment or gift is provided to respondents.

10. Describe any assurance of privacy, to the extent permitted by law, provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

VA follows the requirements of the Privacy Act and Health Insurance Portability and Accountability Act (HIPAA), which protects personal information that VA maintains in the "systems of records".

11. Provide additional justification for any questions of a sensitive nature (Information that, with a reasonable degree of medical certainty, is likely to have a serious adverse effect on an individual's mental or physical health if revealed to him or her), such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private; include 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.

There are no questions of a sensitive nature.

12. Estimate of the hour burden of the collection of information:

a. The number of respondents, frequency of responses, annual hour burden, and explanation for each form is reported as follows:

VA Form	No. of respondents	x No. of responses	x No. of minutes	÷ by 60 =	Number of Hours
Written Notices for Beneficiary Rights	190,700	1907	2		64

b. 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 83-I.

This request covers only one form - Written Notices for Beneficiary Rights.

c. Provide estimates of annual cost to respondents for the hour burdens for collections of information. 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.

VA does not require any additional recordkeeping.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- a. There is no capital, start-up operation or maintenance costs.
- b. Cost estimates are not expected to vary widely. The only cost is for the time of the respondent.
- c. There is no anticipated recordkeeping burden.

14. Provide estimates of annual cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operation 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.

The estimated annual cost of Written Notices for Beneficiary Rights Form has not been calculated at this segment of the process. This form will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601-612.

15. Explain the reason for any burden hour changes or adjustments reported in items 13 or 14 of the OMB form 83-1.

There is no change. VA does not project any changes since the last submission.

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.

VA does not intend to publish this data.

17. If seeking approval to omit the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The expiration date has been added to the form.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB 83-1.

There are no exceptions.