

# Supporting Statement for Supporting Nursing Moms at Work: Employer Solutions Evaluation

## A. Justification

### 1. Circumstances Making the Collection of Information Necessary

A section of the Affordable Care Act (ACA) enacted in 2010 (Section 4207), amended the Fair Labor Standards Act (FLSA) to require employers to provide reasonable break time and private space for milk expression for nursing women who are wage workers and can be compensated for overtime (known as non-exempt workers), many of whom work in difficult non-office settings. The research is firm that returning to work is a major reason cited by mothers for early weaning or discontinuing to breastfeed, often not reaching their personal breastfeeding goals, or the recommendations by the American Academy of Pediatrics for 6 months of exclusive breastfeeding. A major challenge for nursing women in the workplace is to have the time, a private space, and a place for safe milk storage until going home.

The U.S. Department of Labor, as the lead agency for implementation of this FLSA provision sought expert advice from the HHS Office on Women's Health (OWH) on how to best help employers and employees understand and address the requirements of this ACA provision. Upon conducting outreach to many employers, OWH became acutely aware that there is a scarcity of information and resources that target the worksite lactation needs and challenges of employers of hourly workers. In response to this need, OWH developed an initiative, *Supporting Nursing Moms at Work: Employer Solutions* to provide information, education and resources to employers – to help them provide time and space solutions and support for lactating mothers upon their return to the workplace.

This comprehensive, on-line, solutions-based project includes a compendium of successful model programs that demonstrate how employers in various industry groups (at least 22 industries) have utilized innovative / creative methods and strategies to overcome time and /or space barriers and to provide breastfeeding support for hourly workers in non-traditional, non-office worksite settings. These industry groups include manufacturing, retail, restaurants, and, agriculture, among others.

This project has a special emphasis on outreach to employers of hourly workers because their work settings often present the greatest time and space challenges. These achievable lactation work-place solutions are housed and made accessible on the OWH website, [www.womenshealth.gov](http://www.womenshealth.gov).

One of the Action Steps from *The U.S. Surgeon General's Call to Action to Support Breastfeeding*, (SGCTA) issued in 2011, states: "Ensure that employers establish and maintain comprehensive, high quality lactation support programs for their employees." SGCTA implementation strategies include:

- 1) Develop resources to help employers comply with federal law that requires employers to provide the time and a place for nursing mothers to express breastmilk;
- 2) Design and disseminate materials to educate employers about the benefits of providing more

comprehensive high-quality support for breastfeeding employees; and  
3) Develop and share innovative solutions to the obstacles that women face when returning to work in non-office settings.

In addition, *Healthy People 20/20* objectives on breastfeeding under the Maternal, Infant and Child Health topic area (MICH-22) for the first time addresses worksite lactation stating: Increase the proportion of employers that have worksite lactation support programs from the baseline 25% to the HP2020 target of 38%. This OWH initiative, *Supporting Nursing Moms at Work: Employer Solutions* addresses the recommendations of these important government documents.

OWH has contracted with LTG Associates, Inc. under Section 301 of the Public Health Service Act (42 U.S.C. 241), to conduct formative research to explore how to strengthen and enhance the *Supporting Nursing Mothers at Work: Employer Solutions* tools, and to advance dissemination of these resources to sustain their reach and utility. This research includes: collecting metrics of the online resources, evaluating perceived effectiveness, identifying opportunities for effective dissemination, and continuing to engage and leverage partnerships to heighten visibility and build ongoing sustainability. The results will be crucial to OWH, but also to employers and employees to ensure appropriate worksite lactation support.

## **2. Purpose and Use of Information Collection**

As desired by OWH, the findings from this formative research will be used to develop targeted dissemination to specific groups to improve the use of OWH information and training resources and increase the awareness and understanding of the FLSA lactation support provisions. Specific targeted groups include breastfeeding coalitions and advocates who conduct outreach with businesses in their community, government leaders, and business organizations. If the proposed data were not collected, OWH would have invested considerable time and resources into developing tools to support the implementation of the ACA Nursing Mothers' Breaks Law without being able to know whether it would have met its anticipated outputs and short, medium, and long-term outcomes. More specifically, it would not know whether 1) targeted businesses and their human resources leads, supervisors, employees are aware of the OWH website, view the website as useful, use it as primary source of information and use other OWH resources; and 2) whether women employees and co-workers are aware of the requirements and perceive a change in access to workplace accommodations for nursing mothers. This knowledge would inform OWH on the perceived utility and sustainability of *Supporting Nursing Mothers at Work*.

## **3. Use of Improved Information Technology and Burden Reduction**

The research to be undertaken will center on interviews with industry representatives and with employed women who are currently or were previously breastfeeding upon their return to work and their supervisors. Whenever possible, the research team will conduct telephone or video interviews that will be digitally recorded. The research team has the technology to arrange video meetings with industry representatives, and teleconference calls with supervisors and employed women until the proposed sample size has been reached. Since the proposed research is formative, it is important to hear from women and their supervisors without asking leading questions or close ended questions. Structuring the interviews as open-ended questions with free

flowing answers that are provided orally reduces the burden on the person being interviewed and places the burden of recording the information electronically and otherwise on the research team. The research team will also be collecting some basic demographics information as part of the interview. All data will be collected via digitally recorded video meetings or digitally recorded telephone calls (based on interviewee preference). OWH and the research team will ensure that in every case the data collection burden is reduced and that electronic means of collecting information that lessen the burden on the individual providing the information are promoted whenever appropriate. All data will be secured at all times to protect participant confidentiality and privacy. Data will be stored only on password-protected computers, and transferred only through high-security, encrypted connections.

#### **4. Efforts to Identify Duplication and Use of Similar Information**

Prior to developing the research requirement, OWH conducted an assessment to ensure that the proposed research did not duplicate other research and that it built on other, similar, preexisting information, if available.<sup>1</sup> The Project Officer at the Office of Women’s Health consulted a variety of agencies and organizations to ensure that there is no duplication of research data or efforts. The Health Resources and Services Administration within the Department of Health and Human Services had previously developed a basic lactation worksite toolkit, *The Business Case for Breastfeeding* with OWH support. This resource was utilized as the framework on which to develop the more comprehensive on-line resources *Supporting Nursing Moms at Work*. The U.S. Department of Labor and the Federal Breastfeeding Work Group were consulted. In addition, the U.S. Breastfeeding Committee (USBC) and the Society for Human Resource Management (SHRM) were also consulted. SHRM is the world’s largest human resource professional organization. The USBC membership includes numerous health professional organizations and state, tribal, local, and ethnic breastfeeding coalitions from across the U.S. Finally, the research team includes an expert from Every Mother, Inc., who is extremely well versed in the evidence and research efforts to date and was able to share her extensive knowledge with the entire research team. After carefully exploring these different sources of information and further analyzing the results, there is full confidence that no duplicative research exists, which assesses the use of OWH information and training resources and the awareness and understanding of the FLSA lactation support provisions.

#### **5. Impact on Small Businesses or Other Small Entities**

The law does not specifically exempt small businesses from providing lactation support to their employees, except upon a requested and granted waiver from the U.S Department of Labor. Therefore, “no small businesses will be involved in this study.”

See, e.g., Jou, J., Kozhimannil, K. B., Blewett, L. A., McGovern, P. M., & Abraham, J. M. (2016). Workplace Accommodations for Pregnant employees: Associations with Women’s Access to Health Insurance Coverage after Childbirth. *Journal of Occupational and Environmental Medicine*, 58(6), 561-566. doi:10.1097/JOM.0000000000000737;

Kozhimannil, K. B., Jou, J., Gjerdingen, D. K., & McGovern, P. M. (2016). Access to Workplace Accommodations to Support Breastfeeding after Passage of the Affordable Care Act. *Women’s Health Issues*, 26(1), 6-13.

doi:<http://dx.doi.org.proxygw.wrlc.org/10.1016/j.whi.2015.08.002>

#### **6. Consequences of Collecting the Information Less Frequent Collection**

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Respondents will respond to interviews on a one-time basis only. There are no legal obstacles to reduce the burden. If this information were collected less frequently than once, then the OWH would lack critical information about the perceived effectiveness and sustainability of its website and training resources.

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

This request fully complies with the regulation.

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

The 60-day Federal Register notice was published on October 28, 2016, Vol. 81, No. 209, pp. 75139-140 (see attachment XX). There was one comment from the Arkansas Breastfeeding Coalition. Please see response below:

Thank you to the Arkansas Breastfeeding Coalition for their comments in response to the Federal Register Notice, published on October 28, 2016, Vol. 81, No 209. OWH is aware of low breastfeeding rates in the South in general, including rates in Arkansas. The “Supporting Nursing Moms at Work: Employer Solutions” on-line resource was developed specifically to address the concerns that nursing mothers face upon their return to the workplace, but just as importantly, assuring that employers have appropriate information and resources to support nursing mothers - especially in challenging non office, non-traditional workplaces. This project was developed to reach out to a broad range of industry groups (at least 22) throughout the country, including manufacturing, retail, restaurant/ fast food, agriculture and others. As indicated in the Federal Register notice, this OWH evaluation will include an interface with human resource directors, supervisors as well as mothers. Once the results of this evaluation are completed, OWH will utilize this information to update and integrate new information into the current on-line resource. Results of the evaluation will be disseminated as requested and made available through OWH as well as through the United States Breastfeeding Committee (USBC).

#### **9. Explanation of any Payment/Gift to Respondents**

An electronic thank you note will be sent to all respondents; each of the respondents in the women’s sample will also receive a \$30 electronic or physical gift card to offset potential loss of work time for these women expected to be low-income, hourly workers. The card will be provided after the interview is completed.

#### **10. Assurance of Confidentiality Provided to Respondents**

The instruments include all directions to the interviewer for set-up and conduct of the interview, including issues such as: an overview of the research; description of confidentiality of data; request for and purpose of recording and ability to stop at any time; and incentive for participation. The research team also developed a draft informed consent, which clearly states that every effort will be made to keep participants’ information confidential. However, this cannot be guaranteed. The specific language is replicated below:

##### **“Confidentiality**

The information we collect for this study will [*be kept private to the extent allowed by law*]. This means that the fact that you participated in an interview will not be revealed to anyone other than the person who conducted the interview. We protect the confidentiality of your answers by assigning a code number to you. We only refer to this number and not your name when we analyze the information and discuss the results in any written reports. All the information that we get from the interview will be kept in

a locked and secured place to which only a few people have access. Paper files will be destroyed 3 years after the end of this project. Because the interview is part of a study receiving funding from the Office on Women’s Health (OWH), OWH staff members could have access to some of the information and/or records resulting from this study. However, none of the information that LTG Associates, Inc. will provide to OWH staff members will have any identifying information. Within the bounds of our contract and applicable rules and regulations, we will do our best to ensure the strict confidentiality of all personally identified information. The government has the right to all information arising from this work. However, their interests would not be served to have identified data from the interviews we are conducting as they reasonably believe that they would not get good information from respondents like you.”

**11. Justification for Sensitive Questions**

Because the proposed research focuses on lactation support provided to female employees returning to work after having a baby, some of the questions *de facto* will focus on individual breastfeeding experiences at work. Some women may consider this information private, in which case they can decline participation in the project in the first place or can decline to answer specific questions that they find too sensitive. The demographics questions will include two separate questions on race and ethnicity, which OMB considers to be sensitive. HHS requires that race and ethnicity be collected in all HHS data collection instruments and it is important to ask these questions of the participants in the proposed project since they may be disproportionately affected by the lack of access to breastfeeding accommodations at work. There are also some documented cultural and racial differences in breastfeeding practices within and among U.S.-based populations. The research team will NOT collect a respondent’s social security number (SSN).

**12. Estimates of Annualized Hour and Cost Burden**

A formal pretest of the interview guides are planned for in the research plan and will be conducted with 10 respondents. The hour burden estimates in Table 12 A below were derived from the investigators’ experience with similar projects.

**12A. & 12.B Estimated Annualized Burden Hours**

<b>Form Name</b>	<b>Number of Respondents</b>	<b>Number of Responses per Respondent</b>	<b>Average Burden per Response (in hours)</b>	<b>Total Burden Hours</b>	<b>Wages</b>	<b>Total Respondent Cost</b>
<b>Women who Expressed Milk at Work Interview</b>	<b>60</b>	<b>1</b>	<b>1</b>	<b>60</b>	<b>\$22.50</b>	<b>\$1,350</b>

Form Name	Number of Respondents	Number of Responses per Respondent	Average Burden per Response (in hours)	Total Burden Hours	Wages	Total Respondent Cost
<b>Form</b>						
<b>HR Interview Form</b>	<b>60</b>	<b>1</b>	<b>1</b>	<b>60</b>	<b>\$53.50</b>	<b>\$3,210</b>
<b>Employer / Supervisor Interview Form</b>	<b>60</b>	<b>1</b>	<b>1</b>	<b>60</b>	<b>\$33.50</b>	<b>\$2,010</b>
<b>Total</b>	<b>180</b>	<b>-</b>	<b>-</b>	<b>180</b>		<b>\$6,570</b>

### Estimated Annualized Burden Costs

Source: Bureau of Labor Statistics. Occupational Employment Statistics - May 2015 National Industry-Specific Occupational Employment and Wage Estimates. Washington, DC: U.S. Department of Labor. Accessed December 14, 2016 from <https://www.bls.gov/oes/current/oesrci.htm#62>

Notes: Annual mean wage for ES and MS teacher is \$58,000; a mean hourly wage is estimated at \$28; Estimate not released for First-Line Supervisors of Production and Operating Workers (used Miscellaneous category instead)

### **13. Estimates of other Total Annual Cost Burden to Respondents or Recordkeepers/Capital Costs**

There are no anticipated costs for capital and maintaining capital associated with this information collection for participants. The research team will support the cost of information collection generated by the proposed project. Participants will not be asked to purchase computers or software and to store records in their facilities.

### **14. Annualized Cost to Federal Government**

- Total cost to the Federal Government for this information collection. Provide estimates of all annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

### **Estimate costs for contracted data collection by adding the contract costs plus**

HHS Public Health Advisor GS 13	50 hours	50.00/hour	\$2500
Estimated Total Cost of Information Collection (Contractor + Federal Staff)			\$21,206.75

the personnel costs of federal employees involved in oversight and/or analysis.

**15. Explanation for Program Changes or Adjustments**

This is a new data collection.

**16. Plans for Tabulation and Publication and Project Time Schedule**

<b>Step</b>	<b>Dates</b>	<b>Benchmark/Products</b>
<b>Outreach and Interviews</b>	<b>1/30/17-6/10/17</b>	<b>Data collection completed</b>
<b>Data Management and Analysis</b>	<b>3/10/17-8/1/17</b>	<b>Continuous data management; analysis completed</b>
<b>Draft report</b>	<b>8/15/17</b>	<b>Draft to OWH</b>
<b>Draft Briefing</b>	<b>9/1/17</b>	<b>Draft briefing outline and slide deck to OWH</b>
<b>Final Report</b>	<b>9/15/17</b>	<b>Incorporating OWH feedback</b>
<b>Briefing Conducted</b>	<b>9/25/17</b>	<b>Incorporating OWH feedback</b>
<b>Project Close-out</b>	<b>9/29/17</b>	<b>Documents and data delivered</b>

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

Not applicable.

**18. Exceptions to Certification for Paperwork Reduction Act Submissions**

There are no exceptions to the certification.