

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 statute. 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 OSC's website (www.justice.gov/crt/about/osc) and respondents may view, save, or print the form in English, Spanish, Chinese, Vietnamese, Arabic, Haitian Creole, Korean, Russian, and Tagalog. As of May 16, 2016, charging parties may also complete and file a charge online in English and Spanish, and OSC will be adding additional languages in the near future. Charging parties continue to have the option of filing the form by paper, as well.
- 4. Efforts to Identify Duplication:** The form can be completed and submitted online in English and Spanish, and is currently downloadable from OSC's website in nine additional languages. The form is often distributed to potential charging parties at their request. All completed charge forms received are assigned a number and all pertinent tracking information is inputted into 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 with which OSC has a Memorandum of Understanding providing for cross referrals (OSC has over fifty MOU partners), the completed form will be forwarded to the appropriate agency, thus avoiding any duplicative requests for information. OSC will also refer Respondents to non-MOU partner agencies where appropriate.

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 is applicable to this information collection.
8. **Consultations Outside the Agency:** The Department published a notice in the Federal Register on April 25, 2016, at 81 Fed. Reg. 79, page 24129, allowing for a 60-day comment period. We received no comments. OSC is not changing the collection but as noted above, as of May 16, 2016, the public can file charges entirely online in English and Spanish, and OSC is working to add additional languages in the near future.
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 under this statute for citizenship status or national origin discrimination against unauthorized workers. 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.
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| a. | Number of respondents | 210 |
| b. | Number of responses per each respondent | 1 |
| c. | Total annual responses | 210 |
| d. | Number of hours per response | <u>0.50 hours</u> |
| e. | Total annual reporting burden | 105 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:
Printing cost = 210 x \$0.60 (6 pages @ \$0.10) = \$126 |
| 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 2016 GS Salary Table for GS8 step 1 to GS15, Step 10):
Collection and processing cost = 210 x 1 x \$50 = \$10,500 |
| c. | Total estimated cost to the Federal government = \$10,626 |
- 15. Changes in Burden:** Revision of a currently approved collection. The estimated change in burden is due to the number of estimated number of respondents, which has been reduced from the prior approval.
- 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.