

SUPPORTING STATEMENT

Internal Revenue Service

Employee Plans Compliance Resolution System

(EPCRS UPDATE OF REV. PROCS. 2018-52 and 2016-51, including Forms 8950, 8951, 14568,

14568-A through I)

OMB No. 1545-1673

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This revenue procedure updates the comprehensive system of correction programs for sponsors of retirement plans that are intended to satisfy the requirements of § 401(a), 403(a), 403(b), 408(k), or 408(p) of the Internal Revenue Code, but that have not met these requirements for a period of time. This system (<http://www.irs.gov/Retirement-Plans/EPCRS-Overview>), the Employee Plans Compliance Resolution System (EPCRS), permits Plan Sponsors to correct these failures and thereby continue to provide their employees with retirement benefits on a tax-favored basis. The components of EPCRS are:

- o Self-Correction Program (SCP) – permits a plan sponsor to correct certain plan failures without contacting the IRS or paying any fee.
- o Voluntary Correction Program (VCP) – permits a plan sponsor to, any time before audit, pay a fee and receive IRS approval for correction of plan failures.
- o Audit Closing Agreement Program (Audit CAP) – permits a plan sponsor to pay a sanction and correct a plan failure while the plan is under audit.

Rev. Proc. 2018-52, 2018-42 I.R.B. 611, which modified and superseded Rev. Proc. 2016-51, 2016-42 I.R.B. 465, the prior consolidated statement of the correction programs under EPCRS. Rev. Proc. 2018-52 provides that beginning January 1, 2019, Plan Sponsors may file a VCP submission with the IRS (including payment of applicable user fees) using the www.pay.gov website. On or after April 1, 2019, Plan Sponsors are required to use the www.pay.gov website when filing a VCP submission and paying applicable user fees. To ease the transition to the new submission procedures, from January 1, 2019, through March 31, 2019, Plan Sponsors are permitted to continue to file paper VCP submissions with the IRS in accordance with the procedures in sections 10 and 11 of Rev. Proc. 2016-51. The IRS will not accept paper VCP submissions postmarked on or after April 1, 2019. In addition, beginning April 1, 2019, the IRS no longer will process user fees paid with a paper check.

In order to provide new procedures for filing a VCP submission and paying applicable user fees on the www.pay.gov website, section 10 includes several modifications. Section 10.01 is revised to set forth the requirements for satisfying the VCP procedures. In addition to satisfying the terms of a compliance statement, the Plan Sponsor must file the submission and pay the applicable user fee using the www.pay.gov website. Many of

the procedures for filing the VCP submission are set forth in section 11. Although the Plan Sponsor is responsible for filing the VCP submission and paying the user fee using the www.pay.gov website, section 10.01 clarifies that a Plan Sponsor may designate an authorized representative to file the VCP submission if certain requirements are satisfied.

Section 11 sets forth filing procedures for VCP submissions. These procedures have been modified to reflect electronic filing of VCP submissions and payment of applicable user fees using the www.pay.gov website. An electronic VCP submission filed using the www.pay.gov website must include many of the same materials as a VCP submission filed on paper pursuant to Rev. Proc. 2016-51.

For a description of the modifications to Rev. Proc. 2016-51, see section 2 of Rev. Proc. 2018-52.

2. USE OF DATA

This information will be used to issue closing agreements and compliance statements to allow individual plans to continue to maintain their tax favored status. As a result, favorable tax treatment of the benefits of the eligible employees are retained.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Regulations, Notices and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

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

The EPCRS has made it easier for retirement plans to stay within complex rules and to reduce barriers that discourage some businesses, particularly small businesses, from adopting such employee benefits. The IRS has streamlined its system of voluntary correction programs designed to help retirement plan sponsors and administrators retain the favorable tax status of their plans, including simplifying the fee structure for voluntary submissions. This system has made it easier for employee retirement plans to come into compliance with the law and to protect the retirement benefits of participating employees.

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

Rev. Proc. 2018- 52 provides that the IRS will no longer accept paper VCP submissions

or process user fees paid with a paper check beginning April 1, 2019. This is due in part to an IRS mandate that user fees be paid through the www.pay.gov website, as well as the closing of a service center in Covington, KY. Rev. Proc. 2018-52 modified Rev. Proc. 2016-51 to reflect the new requirement to file VCP submissions and pay user fees using the www.pay.gov website. The consequences are that because EPCRS no longer accept paper VCP applications or process user fees paid with a paper check, the paperwork, required to be filed with the IRS under EPCRS, will be reduced.

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

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

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

Rev. Proc. 2016-51 modified and superseded Rev. Proc. 2013-12, which was the prior consolidated statement of the correction program under EPCRS. Rev. Proc. 2018-52 modified and superseded Rev. Proc. 2016-51 and updated the comprehensive system of correction programs for sponsors of retirement plans that were intended to satisfy the requirements of § 401(a), 403(a), 403(b), 408(k), or 408(p) of the Internal Revenue Code (the “Code”), but that had not met the requirements for a period of time.

Rev. Proc. 2018-52 and Rev. Proc. 2016-51 also requested public comments.

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding the Revenue Procedures and Forms 8950, 8951, 14568, and Forms 14568-A thru 14568-I.

In response to the Federal Register notice dated May 31, 2019 (84 FR 25336), we received no comments during the comment period.

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

No payment or gift will be provided to any respondents.

10. **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Submissions for closing agreements and compliance statements under this revenue procedure are considered tax returns and tax return information, which are confidential as

required by 26 U.S.C. §6103. In general, certain matters relating to taxability and deductibility are disclosable under 26 U.S.C. §6110.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Business Master File (BMF)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.046-Customer Account Data Engine Business Master File. The Internal Revenue Service PIAs can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The estimated total annual reporting or recordkeeping burden for the entire information collection is 190,941 hours.

Approximately 4300 Plan Sponsors file Form 14568 and A-I with the IRS for an average response time of 20.03 hours for a total of 86,148 annual burden hours.

Form 8950 Application for Voluntary Correction Program (VCP), is filed by approximately 5000 employers or plan sponsors, including a sole proprietors, partnerships, or corporations with a per response time of 9.81 hours for a total annual time of 49,050.

Form 8951 is to provide a user fee is required with each VCP submission. 5,000 are submitted each year with a response time of 10.02 hours and a total response time of 50,100 annual burden hours.

The estimated frequency of responses is occasional.

The burden estimate is as follows:

Authority	Description	# of Respondents	#Responses per Respondent	Annual Responses	Hours per Response	Total Burden
Revenue Procedure 2015-27	Form 14568 Form 14568-A Form 14568-B Form 14568-C Form 14568-D Form 14568-E Form 14568-F Form 14568-G Form 14568-H Form 14568-I	4300	1	4300	20.03	86148
Revenue Procedure 2015-28		1075	1	1075	5.25	5643
IRC §§401(a) , 403(a), 403(b), 408(k), or 408(p)	Form 8950	5,000	1	5,000	9.81	49,050
IRC §§401(a) , 403(a), 403(b), 408(k), or 408(p)	Form 8951	5,000	1	5,000	10.02	50,100
Totals				15,375		190,941

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO TAXPAYERS

Estimates of the annualized cost to respondents for the hour burdens shown above are not available at this time. These various burdens do not necessarily represent a net additional burden to taxpayers, since the closing agreement or compliance statement, if followed, will negate the need for the individual employees (taxpayers) of the employer to have to deal with the Service with respect to the items addressed in the closing agreement or compliance statement between the Service and his or her employer.

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized start up expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as; complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per

product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries and other outlets. The result is the Government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

Product	<u>Aggregate Cost per Product (factor applied)</u>		<u>Printing and Distribution</u>		<u>Government Cost Estimate per Product</u>
Form 8950	12,758	+	0	=	12,758
Instructions	10,024				10,024
Grand Total	22,782				22,782
Table costs are based on 2016 actuals obtained from IRS Chief Financial Office and Media and Publications					
* New product costs will be included in the next collection update.					

Product	<u>Aggregate Cost per Product (factor applied)</u>		<u>Printing and Distribution</u>		<u>Government Cost Estimate per Product</u>
Form 8951	12,758	+	0	=	12,758
Instructions	0				2,734
Grand Total	12,758				12,758
Table costs are based on 2016 actuals obtained from IRS Chief Financial Office and Media and Publications					
* New product costs will be included in the next collection update.					

15. REASONS FOR CHANGE IN BURDEN

The collection of information in this revenue procedure is in sections 4.05, 6.02(5)(d), 6.09(5), 6.09(6), 10.,11, 13.01, sections .05(8)(c) and .05(9)(c) of Appendix A, and sections 2.01-2.07 of Appendix B. This information is required to enable the Commissioner, Tax Exempt and Government Entities Division of the IRS to consider the issuance of various types of closing agreements and compliance statements. This information will be used to issue closing agreements and compliance statements to allow individual plans to continue to maintain their tax favored status. As a result, favorable tax treatment of the benefits of the eligible employees is retained. The likely respondents are individuals, state or local governments, businesses or other for-profit institutions, nonprofit institutions, and small businesses or organizations.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that this revenue procedure sunsets 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

There are no exceptions to the certification statement.

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 the 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.