

Supporting Statement for Paperwork Reduction Act Submission
Equal Employment Opportunity Commission
Office of Federal Operations
OMB Control Number 3046-0046

A. Justification

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

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35), and Office of Management and Budget (OMB) regulation 5 C.F.R. § 1320.8(d)(1), the Equal Employment Opportunity Commission (EEOC) announces that it is submitting to OMB a request to approve an existing collection as described below.

The Demographic Information on Applicants form is designed to enable federal agencies to evaluate their employment practices by collecting and analyzing data on the race, national origin, sex and disability status of applicants for both permanent and temporary employment in order to comply with requirements of Equal Employment Opportunity Management Directive 715 (MD-715). MD-715 was promulgated under EEOC's authority under Title VII and the Rehabilitation Act. Federal agencies may or may not elect to use the form. Applicants for federal employment may or may not elect to complete the form. Therefore, federal agencies' and applicants' use of the form is optional.

Currently the Office of Personnel Management (OPM) publishes forms SF 181, Ethnicity and Race Identification, and SF 256, Self-Identification of Disability, for use in obtaining data from federal employees. This collection provides identical information from applicants allowing federal agencies to measure the effectiveness of their recruitment efforts.

EEOC is dedicated to ensuring that all segments of American society are represented within the federal workforce. Collection of this data allows federal agencies to develop outreach and recruiting programs to diversify the workforce. Diversification allows the federal workplace to capitalize on differing viewpoints, thereby improving the overall service provided to the public. The federal government's outreach efforts are important to meeting this goal and without the information received from this collection we will be unable to determine the effectiveness of a federal agency's recruitment program.

2. Indicate how, by whom, and for what purpose the information is to be used.

Federal agency representatives will use this data to determine if their recruitment efforts are reaching all segments of the population, consistent with federal equal employment opportunity (EEO) laws applicable to these agencies and enforced by EEOC.

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.

EEOC will provide this form in electronic format to interested federal agencies.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in Item 2 above.

While some other federal agencies (or components of such agencies) have obtained OMB's approval for the use of forms collecting data on the race, national origin, sex, and disability status of applicants, it is not an efficient use of government resources for each federal agency separately to seek OMB approval. Accordingly, in order to avoid unnecessary duplication of effort and a proliferation of forms, EEOC seeks approval of a common form that can be used by any federal agency that so desires.

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

The collection of this data will not impact small business or other small entities.

6. Describe the consequence 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.

If the collection of this data is not conducted, federal agencies will not be able to evaluate whether recruitment activities effectively are reaching all segments of the relevant labor pool and whether the agencies' selection procedures allow all of the applicants to compete on a level playing field regardless of race, national origin, sex, or disability.

7. Explain any special circumstances that required the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

The collection is consistent with the guidelines in 5 CFR 1320.6.

8. Provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information received and describe actions taken by the agency in response to these comments. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the date elements to be recorded, disclosed, and reported.

The 60-day notice was published in the Federal Register on February 24, 2020; Vol. 85, No. 36, pages 10431-10439.

One positive comment was received. The commenter supported the overall effort of EEOC to eradicate employment discrimination, "even at the recruitment level."

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

No payments or gifts will be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

The voluntary responses are requested pursuant to Public Law 93-579 ("Privacy Act of 1974") for individuals completing federal records and forms that solicit personal information. The authority is Title 5 of the U.S. Code, Sections 1302, 3301, 3304, and 7201.

The voluntary responses play no part in the selection of who is hired. The responses are not provided to any panel rating the applications, selecting officials, anyone who can affect the application, or to the public. Data relating to an individual applicant is not generally provided to officials involved in the selection unless it meets an exception under the Privacy Act. Rather, the information is used in summary form to determine trends over many selections within a given occupational or organizational area. Responses from this form are not placed in an official personnel file.

This collection is also covered by OPM's System of Record Notice (OPM/GOVT-7), which in part states:

Note 1 --These data are maintained under conditions that ensure that the individual's identification as to race, sex, national origin, or disability status does not accompany that individual's application nor is otherwise made known when the individual is under consideration by a selecting official.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

- a. To disclose information to the Equal Employment Opportunity Commission (EEOC), in response to its request for use in the conduct of an examination of an agency's compliance with affirmative action plan instructions and the Uniform Guidelines on Employee Selection Procedures (1978), or other requirements imposed on agencies under EEOC authorities in connection with agency Equal Employment Opportunity programs.
- b. To disclose information to the Merit Systems Protection Board or the Office of the Special Counsel in connection with the processing of appeals, special studies relating to the civil service and other merit systems in the executive branch, investigations into allegations of prohibited personnel practices, and such other functions; e.g., as prescribed in 5 U.S.C. chapter 12, or as may be authorized by law.
- c. By OPM or employing agency maintaining the records to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related workforce studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.
- d. To disclose information to a Federal agency in response to its request for use in its Federal Equal Opportunity Recruitment Program to the extent that the information is relevant and necessary to the agency's efforts in identifying possible sources for minority recruitment.
- e. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
- f. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is party to a judicial or administrative proceeding.
- g. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear, when:
 1. The agency, or any component thereof; or
 2. Any employee of the agency in his or her official capacity; or
 3. Any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or
 4. The United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the agency is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

- h. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.
- i. To disclose information to contractors, grantees, or volunteers performing or working on a contract, service, grant cooperative agreement, or job for the Federal Government.

11. Provide additional information for any questions of a sensitive nature, such as sexual behavior and attitude, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the question necessary, the specific uses to be made of the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

12. Provide estimates of the hour burden of collection of information.

The EEOC continues to estimate that an applicant is able to complete the form in approximately 3 minutes. Applicants have continued to predominantly use online application systems, which require only pointing and clicking on the selected responses to respond to the six questions regarding basic demographic information. For at least the last decade, EEOC has not received any comments questioning the estimated 3-minute completion time. Based on recent experience, we expect that 5,042 applicants will choose to complete the form for vacancies at EEOC annually. Thus, we estimate the average annual burden to be: 252 hours. This total is calculated as follows: 5,042 annual responses x 3 minutes per response = 15,126 minutes. $15,126/60 = 252$ hours. Over the course of the requested three-year approval period (2020-2023) EEOC estimates the applicant burden at 756 hours.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection.

There are no costs to respondents associated with this collection.

14. Provide estimates of annualized cost to the Federal government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expense, and any other expense that would not have been incurred without this collection of information.

The annual cost to the federal agencies is negligible, if any.

15. Explain reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

There are no program changes or adjustments.

16. For collection of information whose results will be published, outline the plans for tabulation and publication.

The data will be compiled and utilized in the federal agencies' MD-715 reports that are submitted in aggregate annually to the EEOC by January 31st.

17. If seeking approval not to display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

EEOC is not requesting that the expiration date not be displayed.

18. Explain each exception to the certification statement identified in item 19 of OMB Form 83-I.

No exceptions.