

SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION

- 1. Explain the circumstances that make the collection of information necessary. What is the purpose for this information collection? Identify any legal or administrative requirements that necessitate the collection. Include a citation that authorizes the collection of information. Specify the review type of the collection (new, revision, extension, reinstatement with change, reinstatement without change). If revised, briefly specify the changes. If a rulemaking is involved, list the sections with a brief description of the information collection requirement, and/or changes to sections, if applicable.**

Section 102(c) of the Rehabilitation Act of 1973 (Rehabilitation Act) delineates the procedures under which an applicant or individual who is eligible for vocational rehabilitation (VR) services can appeal an adverse action of the State VR unit or agency regarding the provision of VR services. The procedures must allow an applicant or eligible individual the opportunity to request mediation, an impartial due process hearing, or both.

Section 102(c)(8)(A) of the Rehabilitation Act requires the Commissioner of the Rehabilitation Services Administration (RSA) to report on appeal activities each year when the Annual Report required by section 13 of the Rehabilitation Act is sent to Congress. Section 102(c)(8)(B) specifies the data to be reported as follows:

1. a copy of the standards used by State reviewing officials for reviewing decisions made by impartial hearing officers;
2. information on the number of hearings and reviews sought from the impartial hearing officers and the State reviewing officials, including the type of complaints and the issues involved;
3. information on the number of hearing decisions made that were not reviewed by the State reviewing officials; and
4. information on the number of hearing decisions that were reviewed by the State reviewing officials, and based on such reviews, the number of hearing decisions that were—
 - i) sustained in favor of an applicant or eligible individual;
 - ii) sustained in favor of the designated State unit;
 - iii) reversed in whole or in part in favor of the applicant or eligible individual; and
 - iv) reversed in whole or in part in favor of the designated State unit.

As noted above, each State's due process procedures must ensure that all applicants and eligible individuals have the opportunity to request mediation and/or an impartial due process hearing. If an individual is aggrieved by the final decision of the State VR agency's due process procedures, he or she may file a civil action in any State or Federal district court of competent jurisdiction pursuant to section 102(c)(5)(J) of the

Rehabilitation Act. The RSA-722 also collects information from States on mediations and civil actions, such as the numbers of mediations or civil actions that were initiated or carried over from the previous year, the number of disputes that were resolved prior to a written mediation agreement, the number of disputes resulting in a written mediation agreement, the number of civil actions that were resolved in the individual's favor, and the number of civil actions that were resolved in the agency's favor.

Section 102(c)(8)(A) also requires the RSA Commissioner to collect copies of the final decisions of impartial hearing officers conducting hearings and of State officials conducting reviews pursuant to section 102(c)(5) of the Rehabilitation Act. In the past, these files were submitted in hard copy. RSA now plans to establish an e-mail address where this information can be submitted in a redacted, password-protected file. Any revisions to an agency's appeal procedures or standards for review will now also be submitted through e-mail.

The Annual Report on Appeals Process (RSA-722) is the information collection used by States to report data required by section 102(c) of the Rehabilitation Act to the Commissioner on an annual basis. Previously, VR agencies were asked to submit the RSA-722, along with supporting documentation, within 30 days after the close of the fiscal year. To provide more flexibility, consistent with the Uniform Guidance requirements for annual reports at 2 C.F.R. § 200.329(c)(1), RSA is extending this deadline, so that the RSA-722 will be required to be submitted within 90 days of the close of the fiscal year.

This is a request to obtain approval for an extension of the use of this information collection.

2. **Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

As stated, RSA collects this information annually from State VR agencies and includes it in the Annual Report to Congress. RSA also uses the data to monitor whether appeal processes in a State are operating according to each unit or agency's State Plan for the VR program.

3. **Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision of adopting this means of collection. Please identify systems or websites used to electronically collect this information. Also describe any consideration given to using technology to reduce burden. If there is an increase or decrease in burden related to using technology (e.g. using an electronic form, system or website from paper), please explain in number 12.**

VR agencies complete and submit Form RSA-722 through RSA's website, accessing the data collection directly through the internet by using the following URL:

<https://rsa.ed.gov>. RSA requests VR agencies submit copies of the final impartial hearing decisions and State reviews, as well as revisions to their appeal procedures and standards for review, by e-mail.

- 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.**

RSA does not collect these or similar data and information through any other reporting instrument.

- 5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden. A small entity may be (1) a small business which is deemed to be one that is independently owned and operated and that is not dominant in its field of operation; (2) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; or (3) a small government jurisdiction, which is a government of a city, county, town, township, school district, or special district with a population of less than 50,000.**

Respondents are State VR agencies; therefore, "small businesses or other small entities" are not impacted by this information collection.

- 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.**

RSA is required to collect the data obtained through Form 722 annually. A less frequent collection would put RSA in violation of the reporting mandate in section 102 of the Rehabilitation Act and preclude this information from being reported to Congress annually.

- 7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**

- **requiring respondents to 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 than can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or that unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There is nothing in the RSA-722 and its instructions that require the collection to be conducted in any manner listed above.

8. **As applicable, state that the Department has published the 60 and 30 Federal Register notices as required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB.**

Include a citation for the 60 day comment period (e.g. Vol. 84 FR ##### and the date of publication). Summarize public comments received in response to the 60 day notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. If only non-substantive comments are provided, please provide a statement to that effect and that it did not relate or warrant any changes to this information collection request. In your comments, please also indicate the number of public comments received.

For the 30 day notice, indicate that a notice will be published.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

During its initial development, this information collection was shared with State VR agencies, the respondents themselves. There was agreement on the collection submitted at that time, and no changes were made, except those required by amendments to the Rehabilitation Act made by the Workforce Innovation and Opportunity Act in 2014. RSA has sought additional comment on the form as it has requested subsequent extensions through the publication of *Federal Register* notices.

On December 23, 2020, RSA published a 60-day Federal Register Notice (85 FR 83922) to allow public comment on this request for Office of Management and Budget's approval of the extension of this information collection. We received four comments to the publication of this information collection, only two of which are relevant. These comments are analyzed in a separate attachment to this package. No changes were made in the form and instructions or in burden hours based upon these comments.

This is the request for the 30-day Federal Register notice inviting public comment.

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

There are no payments or gifts provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If personally identifiable information (PII) is being collected, a Privacy Act statement should be included on the instrument. Please provide a citation for the Systems of Record Notice and the date a Privacy Impact Assessment was completed as indicated on the IC Data Form. A confidentiality statement with a legal citation that authorizes the pledge of confidentiality should be provided.¹ If the collection is subject to the Privacy Act, the Privacy Act statement is deemed sufficient with respect to confidentiality. If there is no expectation of confidentiality, simply state that the Department makes no pledge about the confidentiality of the data. If no PII will be collected, state that no assurance of confidentiality is provided to respondents. If the Paperwork Burden Statement is not included physically on a form, you may include it here. Please ensure that your response per respondent matches the estimate provided in number 12.

Because the RSA-722 contains aggregated data, the data cannot be used to identify individuals who are applicants or eligible individuals for services from VR agencies. In addition, VR agencies are asked to redact PII from the copies of appeals they are required

¹ Requests for this information are in accordance with the following ED and OMB policies: Privacy Act of 1974, OMB Circular A-108 – Privacy Act Implementation – Guidelines and Responsibilities, OMB Circular A-130 Appendix I – Federal Agency Responsibilities for Maintaining Records About Individuals, OMB M-03-22 – OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002, OMB M-06-15 – Safeguarding Personally Identifiable Information, OM:6-104 – Privacy Act of 1974 (Collection, Use and Protection of Personally Identifiable Information)

to submit. Because this information collection does not collect PII, there is no need to include an assurance of confidentiality.

11. **Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. The justification should include the reasons why the agency considers the questions necessary, the 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 contained in the RSA-722.

12. **Provide estimates of the hour burden for this current information collection request. The statement should:**

- **Provide an explanation of how the burden was estimated, including identification of burden type: recordkeeping, reporting or third party disclosure. Address changes in burden due to the use of technology (if applicable). Generally, estimates should not include burden hours for customary and usual business practices.**
- **Please do not include increases in burden and respondents numerically in this table. Explain these changes in number 15.**
- **Indicate the number of respondents by affected public type (federal government, individuals or households, private sector – businesses or other for-profit, private sector – not-for-profit institutions, farms, state, local or tribal governments), frequency of response, annual hour burden. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burden in the table below.**
- **Provide estimates of annualized cost to respondents of the hour burdens for collections of information, identifying and using appropriate wage rate categories. [Use this site](#) to research the appropriate wage rate. 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. If there is no cost to respondents, indicate by entering 0 in the chart below and/or provide a statement.**

Provide a descriptive narrative here in addition to completing the table below with burden hour estimates.

Estimated Annual Burden and Respondent Costs Table

Information Activity or IC (with type of respondent)	Sample Size (if applicable)	Respondent Response Rate (if applicable)	Number of Respondents	Number of Responses	Average Burden Hours per Response	Total Annual Burden Hours	Estimated Respondent Average Hourly Wage	Total Annual Costs (hourly wage x total burden hours)
			78	1	2	156	\$35.00	\$5,460
Annualized Totals			78	1	2	156	\$35.00	\$5,460

Please ensure the annual total burden, respondents and response match those entered in IC Data Parts 1 and 2, and the response per respondent matches the Paperwork Burden Statement that must be included on all forms.

There are 78 state VR agencies in the United States and its territories. The 78 respondents submit the RSA-722 once a year. The annual burden is estimated at two hours per agency, or 156 hours, because the number of individuals who file appeals has proven to be relatively small. One hour is used to collect data throughout the year by maintaining the equivalent of a tally and the other hour is devoted to recording and checking data on the RSA-722.

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

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and acquiring and maintaining record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**

- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices. Also, these estimates should not include the hourly costs (i.e., the monetization of the hours) captured above in Item 12.**

Total Annualized Capital/Startup Cost: N/A

Total Annual Costs (O&M): N/A

Total Annualized Costs Requested: N/A

States and territories incur no additional annualized costs as described in this item when submitting the RSA-722.

- 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 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.**

Annualized Estimated Respondent Costs:

Annual Operating Costs

(156 hours x \$35 per hour)	\$ 5,460.00
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Total Annualized Respondent Cost	\$ 5,460.00
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Total cost to the Federal government:

20 hours for processing 78 reports x \$50 an hour + \$500 equipment costs = \$1,500

RSA estimates that one GS-13 staff person will require approximately 15 minutes to review and approve each RSA-722 submission, totaling 20 hours of review time. RSA is now using an hourly cost of \$50.00 for each hour of review, based on an hourly rate of the staff responsible for this activity. The annual cost burden for review and approval of the 78 RSA-722 reports submitted by the VR agencies is estimated at \$1,500.00; this cost includes \$500 in computer costs.

- 15. Explain the reasons for any program changes or adjustments. Generally, adjustments in burden result from re-estimating burden and/or from economic phenomenon outside of an agency's control (e.g., correcting a burden estimate or an organic increase in the size of the reporting universe). Program changes result from**

a deliberate action that materially changes a collection of information and generally are result of new statute or an agency action (e.g., changing a form, revising regulations, redefining the respondent universe, etc.). Burden changes should be disaggregated by type of change (i.e., adjustment, program change due to new statute, and/or program change due to agency discretion), type of collection (new, revision, extension, reinstatement with change, reinstatement without change) and include totals for changes in burden hours, responses and costs (if applicable).

Provide a descriptive narrative for the reasons of any change in addition to completing the table with the burden hour change(s) here.

	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate
Total Burden			-2 hours
Total Responses			-1
Total Costs (if applicable)			-\$570

This request for an extension of this information collection involves 156 rather than 158 respondent burden hours. This decrease has occurred because there are now 78 rather than 79 State VR agencies, since the Kentucky general VR agency and the Kentucky blind VR agency have now combined.

However, there is no additional burden change based upon RSA providing agencies with an online method to submit copies of appeals that were previously submitted in hard copy. In addition, in the previous request for this information collection, RSA had mistakenly attributed \$500 in computer equipment costs to the State agency cost. This cost should have been attributed to the Federal cost. Therefore, the cost to the Federal government has increased from \$1,000 to \$1,500.

- 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.**

States must collect their data on an ongoing basis and must provide their data to RSA no later than 90 days following the end of the fiscal year (September 30 of each year). The data are then included in a larger Annual Report to Congress on the activities conducted under the Rehabilitation Act. No complex analytical techniques will be used.

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

The expiration date will be displayed.

18. Explain each exception to the certification statement identified in the Certification of Paperwork Reduction Act.

There are no exceptions to the certification statement.