

**SUPPORTING STATEMENT FOR
US Department of Labor’s
Request for a Medical or Religious Exception or Delay
to the COVID-19 Vaccination Requirement**

OMB CONTROL NO. 1225-0092

This Information Collection Request (ICR) seeks to revise a currently approved information collection request (ICR).

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Consistent with guidance from the Centers for Disease Control and Prevention (CDC), guidance from the Safer Federal Workforce Task Force established pursuant to Executive Order 13991 of January 20, 2021, *Protecting the Federal Workforce and Requiring Mask-Wearing*, and Executive Order 14043 of September 9, 2021, *Requiring Coronavirus Disease 2019 Vaccination for Federal Employees*, the request for this collection of information is essential to implement DOL’s health and safety measures regarding federal employee medical exemptions to the COVID-19 mandatory vaccinations. The Rehabilitation Act of 1973, as amended, requires Federal Agencies to provide reasonable accommodations to qualified employees with disabilities unless that reasonable accommodation would impose an undue hardship on the employee’s Agency. See 29 U.S.C. 791; 29 C.F.R. Part 1614; see also 20 C.F.R. Part 1630 and Executive Order 13164 of July 26, 2000, *Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation*. Section 2 of E.O. 14043 mandates that each agency “implement, to the extent consistent with applicable law, a program to require COVID-19 vaccination for all of its Federal employees, with exceptions only as required by law.” This medical exemption form is necessary for DOL to determine legal exemptions to the vaccine requirement under the Rehabilitation Act.

Additionally, the Department of Labor is proposing to add student volunteers as respondents who may request a medical exception or delay to the COVID-19 Vaccination Requirement. Since student volunteers are not Federal employees, they are considered members of the public under the PRA. Therefore, the Department must account for the burden on the student volunteer in addition to the burden on the doctor completing the form on behalf of the student volunteer. As

a result, the Department must account for the burden on the student volunteers to complete Part I of the form.

The Department of Labor is also proposing to add a new instrument to this ICR. DOL is proposing to add the form Request for a Religious Exception or Delay to the COVID-19 Vaccination Requirement. This religious exemption form is necessary for DOL to determine legal exemptions to the vaccine requirement from student volunteers under Title VII of the Civil Rights Act of 1964.

As discussed above, student volunteers are considered members of the public under the PRA. As a result, the Department must account for the burden to complete the form in order to collect this information from student volunteers. Of the estimated 100 student volunteers the Department is anticipating this summer, DOL is estimating that 10% may request a religious accommodation.

A Notice Regarding Injunctions

The vaccination requirement issued pursuant to E.O. 14043, is currently the subject of a nationwide preliminary injunction. While that injunction remains in place, DOL will not process requests for a medical or religious exceptions from the COVID-19 vaccination requirement pursuant to E.O. 14043. DOL will also not request the submission of any medical or religious information related to a request for an exception from the vaccination requirement pursuant to E.O. 14043 while the injunction remains in place. But DOL may nevertheless receive information regarding a medical exception. That is because, if DOL were to receive a request for an exception from the COVID-19 vaccination requirement pursuant to E.O. 14043 during the pendency of the injunction, DOL will accept the request, hold it in abeyance, and notify the volunteer who submitted the request that implementation and enforcement of the COVID-19 vaccination requirement pursuant to E.O. 14043 is currently enjoined and that an exception therefore is not necessary so long as the injunction is in place.

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.

This information is being requested to promote the federal workforce, the safety of federal buildings, and others on site at agency facilities or those interacting with the public consistent with the COVID-19 Workplace Safety: Agency Model Safety Principles established by the Safer Federal Workforce Task Force and guidance from the CDC. To request a medical exemption from the COVID-19 vaccination requirement, an employee and student volunteers must complete Section I of the medical exemption form, and their medical provider must complete Sections II and III. As mentioned in Question 1, the Department must account for the time burden on student volunteers to complete Section I of the medical exemption form. To request a religious exemption from the COVID-19 vaccination requirement, a student volunteer would need to complete the form.

For the medical exemption form, the DOL's Civil Rights Center's Reasonable Accommodation Resources Center (CRC/RARC) or the requestor's Workplace Equality Compliance Officer (WECO) would receive this form from the requester with the medical provider's certification.

For the religious exemption form the DOL's Civil Rights Center's Reasonable Accommodation Resources Center (CRC/RARC) or the DOL Religious Exceptions Working group would receive this form. In both cases, these forms would be used to make a recommendation about the ability to accommodate employees to the supervisor and employee based on the medical information provided in the form. It should be noted that, in some cases, the nature of the employee's job may be such that an agency determines that no safety protocol other than vaccination is adequate. These processes are currently documented on DOL's internal website for COVID-19 Guidance and Resources.

Both forms will also ensure the information collected is consistent throughout DOL and minimize the need to seek additional evidence. PRA clearance is being requested for the forms to be used by:

- Federal employees to request medical exemption from COVID-19 vaccine mandates.
- Student volunteers to request medical or religious exemption from COVID-19 vaccine requirements.¹
- Selectees who have accepted a position as a Federal employee to request a medical or religious exemption from COVID-19 vaccine mandates.
- Federal employee's medical provider for medical certification of COVID-19 Vaccine exemption (medical exemption form only).
- DOL staff to process the request and enforce the COVID-19 vaccine mandates.

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, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

This information collection is electronic or paper-based and will require the respondent to fill out the required fields of the form and submit the completed form to the agency's designated point of contact, DOL's CRC/RARC or the requestor's WECO for the medical exemption form and DOL's CRC/RARC or the Religious Exemptions Working group for the religious exemption form. A link to this form or a PDF version may be emailed to respondents who could then print it out to complete it manually or complete it electronically.

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 A2 above.

The information provided on the request for a medical or religious accommodation is not available from another source.

¹ The collection of the religious exemption form from Federal employees does not require OMB approval.

A doctor could submit a separate letter, test results, or medical notes to meet the requirement. Under this scenario, DOL believes that the burden on the medical professional remains unchanged.

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

This information collection request has no identified specific impact on small businesses and organizations.

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.

Not collecting this information would inhibit DOL's ability to meet the mandates of the Safer Federal Workforce Task Force and DOL's specific established COVID-19 workplace safety protocols.

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 that can be generalized to the universe of study;**
- **requiring the use of 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 which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

- **requiring respondents to submit proprietary, trade secret, 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 are no special circumstances involved in the collection of this information.

8. If applicable, 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 collection prior to submission to OMB. 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 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.

The Department's notice soliciting public comment on the proposed revision to 1225-0092 and providing 60 days for that purpose as required by 5 CFR 1320.8 (d) was published in the Federal Register on March 8, 2022 (87 FR 13004).

The Department received 3 comments through regulations.gov. While none of the comments received specifically address the hour burden of the collection, 2 of the comments may be responsive to the request for comment on: "(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. The Department reviewed and considered the comments and provided the responses below.

One commenter said that religious exemptions are a valid reasoning to not get the COVID-19 vaccine, and that the vaccine shouldn't be mandated. The Department provided a note on the current injunction in Question 1 above, and summarizes the injunction in part here:

"The vaccination requirement issued pursuant to E.O. 14043, is currently the subject of a nationwide preliminary injunction. While that injunction remains in place, DOL will not process requests for a medical or religious exceptions from the COVID-19 vaccination requirement pursuant to E.O. 14043. DOL will also not request the submission of any medical or religious

information related to a request for an exception from the vaccination requirement pursuant to E.O. 14043 while the injunction remains in place.”

Another commenter, generally speaking, is concerned that the religious exemption will be used in bad faith by people who do not want to get vaccinated. DOL’s response is the following:

“In compliance with applicable law, decisions regarding religious accommodations/exceptions are made on a case-by-case basis depending on the facts of each request.”

The third comment received does not address either the medical or religious exception or delay of the COVID-19 Vaccination Requirement. Since this comment is not germane to the collection, we believe no further response is needed.

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

No gifts or payments of any kind have been provided to any individuals who are connected to this collection.

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

For current employees, this collection is covered under DOL/CENTRAL-6, Supervisor’s/Team Leader’s Records of Employees, and has an approved Privacy Act Statement on applicable forms. For selectees, the information is covered by OPM/GOVT-10, - Employee Medical File System Records. For student volunteers, the information is covered by DOL/OASAM-38. DOL/CENTRAL-6 is available at: <https://www.dol.gov/agencies/sol/privacy/central-6>.

OPM/GOVT-10 is available at <https://www.opm.gov/information-management/privacy-policy/sorn/opm-sorn-govt-10-employee-medical-file-systems-records.pdf>.

DOL/OASAM-38 is available at <https://www.govinfo.gov/content/pkg/FR-2022-03-24/pdf/2022-06209.pdf>. Electronic records in this system of records are stored on security measure protected (for example, e-authentication, password, restricted access protocol, etc.) databases, electronically on e-media devices (computer hard drive, magnetic disc, tape, digital media, CD, DVD, etc.). Paper copies of records are stored within secured or locked facilities.

The Privacy Act Statement also describes and references confidentiality protections under the Rehabilitation Act of 1973, as amended.

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. This 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.

The questions included on the medical exemption form are consistent with OMB's guidance for requesting a medical exemption. The questions included on the religious exemption form are consistent with OMB's guidance for requesting a religious exemption.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. 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 the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.¹**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. 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 13.**

The Department is requesting the same amount of burden in the currently approved ICR: 250 respondents, 10 minutes per response for a total of 42 hours. Additionally, the Department of Labor is proposing that student volunteers requesting a medical exception or delay to the COVID-19 Vaccination Requirement be required to complete this form. DOL estimates that there may be 100 student volunteers with the Department beginning this summer. While 40 volunteers are expected through the Secretary's formal program, many offices bring on volunteers through a variety of other methods. DOL is estimating that 10% may request a medical accommodation, for a total of 10 respondents.

The estimated time burden for a student volunteer to complete the form is 15 minutes. There would be 10 minutes of burden placed on the doctor completing the form for the student volunteer. However, since student volunteers are not Federal employees, the time it takes student volunteers to complete the entire form must be accounted for in the burden assessment and requires approval by OMB. As a result, the Department of Labor is requesting approval for an additional 10 respondents, with an equal number of responses, and an additional 2.5 hours of

time burden, for respective totals of 260 respondents with an equal number of responses (160 responses x 10.2692308 minutes (average) for a total annual burden of 44.5 hours (rounded to 45 hours in ROCIS).

The Department of Labor is also proposing to add a new instrument to this ICR. As described in detail in Question 1 above, DOL is proposing to add the form Request for a Religious Exception or Delay to the COVID-19 Vaccination Requirement. As with the medical exemption noted above, the collection of this form from Federal employees does not require OMB approval. As student volunteers are not considered to be Federal employees, the Department must also account for the burden to complete the form to obtain approval from OMB in order to collect this information from student volunteers. Of the estimated 100 student volunteers the Department is anticipating this summer, DOL is estimating that 10% may request a religious accommodation, for a total of 10 respondents. The Department estimates that it will take respondents 15 minutes to fill out the form. Therefore, the Department of Labor is requesting approval for 10 respondents, with an equal number of responses, and 2.5 hours of time burden, for this form (rounded to 3 in ROCIS). Accordingly, the total estimated burden for this ICR is 270 respondents, with an equal number of responses, and 48 burden hours.

The hour burden on the respondents and the monetized value of the time burden is broken out in the chart below.

Estimated Annualized Respondent Cost and Hour Burden

Activity	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage Rate	Monetized Value of Respondent Time
Medical Exception Form Part 2 Medical Provider	260	1	260	10/60	43	\$ 103.06*	\$4,466
Medical Exception Form, Part I (Student Volunteers)	10	1	10	5/60	1	\$43.04*	\$43.04
Religious Exception (Student Volunteers)	10	1	10	15/60	3 (rounded)	\$43.04*	\$107.60
Unduplicate d Total	270	1	270		48 (rounded)		\$4,617 (rounded)

					d in ROCIS)		
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* National estimate for Family Medicine Physicians mean hourly wage
<https://www.bls.gov/oes/current/oes291215.htm>.

** Current Basic hourly rate for a GS 12 Step 1 in the Washington DC commuting area.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers 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 service 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 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 purchasing or 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.**

There are no annualized costs to respondents other than the labor burden costs addressed in Section 12 of this document to complete this collection.

14. Provide estimates of the 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), 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 into a single table.

There is no cost to the Federal government.

15. Explain the reasons for any program changes or adjustments.

The Department is proposing to add the form "Request for a Religious Exception to the COVID-19 Vaccination Requirement" to make it available to student volunteers who are members of the public under the PRA. The Department estimates that 10 student volunteers may use the form and it will take 15 minutes to complete. The Department has also added respondents and time burden for the "Request for a Medical Exception to the COVID-19 Vaccination Requirement" to make the form available for student volunteers. The Department has added an additional 10 respondents and estimate it will take 15 minutes (divided between the student volunteer (5 minutes) and the doctor (10 minutes)) to complete the entire form.

16. For collections of information whose results will be published, outline plans for tabulations, 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.

DOL will not publish the results of this information collection.

However, data regarding the number of employees who have been granted or denied medical accommodations will be provided to the CDC in an aggregate form. Also, DOL is required to report to OMB on the total number of employees who are fully vaccinated, partially vaccinated, requesting reasonable accommodations, or not vaccinated.

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 OMB expiration date will be displayed on every data collection instrument.

18. Explain each exception to the certification statement.

N/A.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.