SUPPORTING STATEMENT
Internal Revenue Service (IRS)
Employee Plans Compliance Resolution System (EPCRS)
Revenue Procedure 2021-30, including Forms 8950, 8951, 14568,
14568-A through I
OMB No. 1545-1673

1. <u>CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION</u>

Revenue Procedure ("Rev. Proc.") 2021-30 and its successors update 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 (the "Code"), but that have not met these requirements for a period of time. This system, 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 the Self-Correction Program ("SCP"), the Voluntary Correction Program ("VCP"), and the Audit Closing Agreement Program ("Audit CAP").

Rev. Proc. 2021-30 modified and superseded Rev. Proc. 2019-19, the most recent prior consolidated statement of the correction programs under EPCRS. The update to Rev. Proc. 2019-19 is a limited update and did not result in changes to information collections. The collection of information in Rev. Proc 2021-30 is in sections 4.05, 6.02(5)(d), 6.09(5), 6.09(6), 10, 11, 13.01, Appendix A, sections .05(8)(c) and .05(9)(c), and Appendix B, sections 2.01-2.07.

<u>Self-Correction Program</u>
SCP permits a plan sponsor to correct certain non-egregious plan failures without contacting the IRS or paying a fee. To be eligible for SCP, the plan sponsor or administrator must have established practices and procedures (formal or informal) designed to promote and enable compliance with the law. A plan document alone does not constitute evidence of established procedures. SCP is available to correct operational problems, certain plan documents problems, and certain problems with participant loans.

Rev. Proc. 2021-30 Part IV defines the types of plan failures available for correction under SCP, and details the principles and rules for correcting failures. When using SCP, the plan sponsor should keep adequate records to show correction in the event the plan is audited. This information collection requirements are outlined in Rev 2021-30 Section 4.04.

<u>Voluntary Correction Program</u>
VCP permits a plan sponsor to pay a limited fee and receive IRS approval for correction of certain plan failures. VCP is used for failures that do not qualify under SCP, for plans not currently under audit. Rev. Proc. 2021-30 Part V details the VCP procedures and

requirements.

The plan sponsor makes a submission to IRS that includes: a completed Form 8950; VCP user fee; identification of the mistakes; proposed corrections using the general correction principles in Rev. Proc. 2021- section 6; proposed for changes to administrative procedures to ensure mistakes do not recur; and a Form 14568 and associated schedules, and/or narrative descriptions described in Rev. Proc. 2021-30 section 11.

Form 8950 is an application for the VCP and must be filed using Pay.gov. The Form 14568, Model VCP Compliance Statement, can be used to report any failure. Form 14568A-I, Model VCP Compliance Statement Schedules, can be used to report and resolve some very specific and common failures. The 14568 series forms include all the necessary information, including description of failures, corrections, and changes in administrative procedures. Plan sponsors can also provide these descriptions in a narrative format as described in Rev. Proc 2021-30 Section 11.

Under Rev. Proc. 2021-30, Section 11.10, the plan sponsor must save their files, including the IRS compliance statement and the documents that prove corrections were completed before the deadline, and store them with their plan document.

Plan sponsors use Form 8951 to make additional VCP fee payments. Additional payments may be required, for example, if the initial payment was declined by the applicant's bank, or the original fee paid was less than the amount required.

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.

Audit Closing Agreement Program

The Audit CAP permits a plan sponsor to correct a plan failure prior to entering into a Closing Agreement with IRS and pay a sanction negotiated with the IRS. The Audit CAP is used when a failure, not corrected through SCP or VCP, is identified during an audit.

Rev. Proc 2021-30 Part VI details the Audit CAP requirements and sanctions. The collections under the Audit CAP are exempt from the Paperwork Reduction Act requirements under 5 CFR 1320.4(a)(2), as the collections occur during the conduct of an audit.

2. USE OF DATA

This information will be used by the IRS 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

All VCP submissions must be filed using the Pay.gov website, https://www.pay.gov/, and all user fees must be submitted using the Pay.gov, as well. For the SCP recordkeeping requirements, there are no plans for electronic collection as these are maintained by the plan sponsor.

4. <u>EFFORTS TO IDENTIFY DUPLICATION</u>

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

5. <u>METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES</u>

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. <u>CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES</u>

Consequences would be that the IRS would not be able to issue closing agreements and compliance statements to allow individual plans to continue to maintain their tax favored status. A less frequent collection of tax information could adversely affect the government's effectiveness and would reduce the oversight of the public in ensuring compliance with Internal Revenue Code and hinder the IRS from meeting its mission.

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

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

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

In response to the Federal Register notice dated August 9, 2022 (87 FR 48558), the agency received no comments during the comment period for these revenue procedures.

9. <u>EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS</u>

No payment or gift has been 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 and/or recordkeeping burden for the entire information collection is 190,941 hours.

Approximately 4300 plan sponsors file Form 14568 (Model VCP Compliance Statement) and associated statement schedules A-I (and/or attachments of separate narrative documents) with the IRS for an average response time of 20.03 hours for a total of 86,148 annual burden hours.

Approximately 5000 employers or plan sponsors, including a sole-proprietors, partnerships, or corporations file Form 8950 Application for Voluntary Correction Program (VCP) 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.

Approximately 1075 plan sponsors or employers will use the Self-Correction Program and maintain records in accordance with Rev. Proc 2021-30 with an average response time of 5.25 hours for a total response time of 5,643 hours.

The estimated frequency of responses is occasional.

The burden estimate is as follows:

EPCRS Program	Authority	Description	# of Respondents	#Responses per Respondent	Annual Responses	Hours per Response	Total Burden
SCP	Rev. Proc. 2021-30	Recordkeeping	1075	1	1075	5.25	5643
VCP	Revenue Procedure 2021-30	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 And/or attachment in lieu of schedule	4300	1	4300	20.03	86148
VCP	IRC §§401(a) , 403(a), 403(b), 408(k), or 408(p)	Form 8950	5,000	1	5,000	9.81	49,050
VCP	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		0		0

Note: *The Audit CAP burden is not captured as it is exempt under 5 CFR 1320.4(a)(2).*

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

From our Federal Register notice dated August 9, 2022, no public comments were received on the estimates of cost burden that are not captured in the estimates of burden hours, i.e. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the information. Therefore, IRS estimates the cost to respondents to be nominal.

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 Form 8950 and 8951 is summarized in the table below. 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 for Form 14568 and schedules. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

Product	Aggregate Cost per Product (factor applied)		Printing and Distribution		Government Cost Estimate per Product
Form 8950	20,487	+	0	=	20,487
Instructions 8950	16,097		0		16,097
Form 8951	20,487		0		20,487
Grand Total	**57,071**		**0**		**57,071**
Table costs are based on 2021 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

There are no changes to the regulation that would affect burden at this time.

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

The agency believes that displaying the OMB expiration date is inappropriate because it would cause confusion by leading taxpayers to believe that the form sunsets as of the expiration date. Taxpayers may not be aware that the IRS 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 for this collection.

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 a 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.