

## **Supporting Statement for Paperwork Reduction Act Submission**

### **OMB Control Number 3037-0013**

#### **ANNUAL Representations and Certification 41 CFR 51-4.3 July 22, 2015**

#### **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.

The Committee for Purchase from People Who Are Blind or Severely Disabled (Committee) was established by the Javits-Wagner-O'Day (JWOD) Act. Public Law 92-28, June 23, 1971 (85 Stat. 77, 41 U.S.C 8501-8506). Through the Act the Committee administers the AbilityOne Program promoting employment and training opportunities for people who are blind or severely disabled. The Act directs the Committee to maintain a Procurement List of goods and services provided by qualified nonprofit agencies employing people who are blind or severely disabled. Federal entities desiring to procure items on the Procurement List must obtain them from the qualified nonprofit agencies. The Act prescribes three conditions which must be met for an agency to qualify to participate under the Act; they are: be a nonprofit agency organized under the laws of the United States or any State; comply with applicable occupational health and safety standards; and employ people who are blind (in the case of an agency for people who are blind) or people who have other severe disabilities (in the case of an agency for people with other severe disabilities) for not less than 75% of the total work hours of direct labor performed in the agency in each fiscal year (8501(6) & (7)). The Committee is also charged with making rules and regulations necessary to carry out the other provisions of the Act (8503(d)) and studying and evaluating its activities to ensure effective and efficient administration of the act (8503(e)). A copy of Title 41 of the code Sections 8501 through 8506 is enclosed.

Regulations which implement the Act have been published as Chapter 51, Title 41, Code of Federal Regulations. Part 4 of these regulations prescribes certain procedures to be followed by nonprofit agencies serving the blind or people with severe disabilities in qualifying for participation under the Act. Section 51-4.3 requires the submission of an annual certification by nonprofit agencies and other actions to maintain their qualification to participate in the AbilityOne Program. A copy of Part 4 of the regulations is enclosed.

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. [Be specific. If this collection is a form or a questionnaire, every question needs to be justified.]

This single form will replace the two current annual certifications and be used by the Committee to ensure compliance with the Act and the implementing regulations. Without this information the Committee would be unable to assure that the participating nonprofit agencies meet the requirements of the JWOD Act and the implementing regulations. The data on the form is also used to collect information so that the Committee can report on the status and changes in the AbilityOne Program to the President as required in the Act.

Section 6 of the form contains 17 questions that are directly related to the requirements that the nonprofit agencies must meet to maintain their qualification to participate in the Program (41 CFR 51-4.3). Section 7 contains seven questions that deal with ensuring that the participating nonprofit agencies are meeting general stewardship requirements and that the Committee is aware of management changes. Section 8 contains 5 questions that are identical with questions asked of all Federal contractors via the System Award Management to ensure that the Committee is aware of any potential issues that would prevent contracts being issued to nonprofits.

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 [and specifically how this collection meets GPEA requirements.].

The Committee will provide the form in electronic format. While the information in sections nine through 14 is transmitted electronically by the nonprofits on a quarterly basis to the central nonprofit agencies (CNAs) (National Industries for the Blind (NIB) and SourceAmerica) who at the end of the fiscal year prepare the completed form for the nonprofit agency to review, finish and sign. The other sections may require the nonprofits to submit written responses depending on how the agency answers the representations. In addition, the form requires the signatures of two individuals and at this time the majority of nonprofit agencies don't have electronic signature capability. Therefore, at this time this form must still be transmitted in part via paper or fax.

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.

The information collected on this form was developed in conjunction with the two CNAs, NIB and SourceAmerica and a number of executives from nonprofit agencies. This

information is not available from any other source. No other Federal agency has a requirement to collect this information.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

No methods are used to minimize the burden as the majority of the information required to complete the form is already maintained. The information requested on this form is limited to that required to assure compliance with 41 U.S.C. 8501-8506 and the implementing regulations 41 CFR 51.

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 form was less frequent, the Committee would be unable to determine that the nonprofit agencies meet the requirement of the JWOD Act that 75% of the direct labor be performed by people who are blind or significantly disabled. Requiring certified signatures will ensure the nonprofit agencies submit accurate data.

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 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 which 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.

None. If a nonprofit agency failed to meet the requirement of the JWOD Act that 75% of the direct labor be performed by people with severe disabilities, then the agency could be required to report information more frequently. However, that requirement would not be more frequent than quarterly.

The data is as of the end of each Federal Fiscal year, September, 30, but is not due to the Committee until December first.

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 in response to the PRA statement associated with the collection over the past three years] 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. [Please list the names, titles, addresses, and phone numbers of persons contacted.]

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 agency's 60 day notice was published in the Federal Register on May 15, 2015 on page 27930. A copy is attached.

One comment was received during the 60 day comment period. The commenter raised four issues; concerning the ability of board of director members to be able to certify the information on the form, objecting to the use of the term "competitive placements", objecting to the reference to 2 CFR Part 230, and the accuracy of the burden estimate.

The Committee has analyzed the comments and does not believe that the form needs any changes. The initial comment states that Boards are comprised of volunteers and that many of them don't have an in depth knowledge of the federal contracting requirements. Nonprofit agency board members have responsibilities to oversee the operations of the nonprofit including its participation in the AbilityOne Program. The by-laws of the agency that the comment came from states that the board of directors is responsible for the management of the nonprofit agency. Therefore, the senior board officers have the responsibility to understand the information that is required to be reported to maintain qualifications in the AbilityOne program and that the document is accurate, complete and current to the best of his/her knowledge and belief.

The Committee has used the term "competitive placements" on its Annual certification form since 1980; therefore, the term does not change from previous submittals required of all qualified nonprofit agencies. The definition of competitive placements is in agreement with the definition used by the Department of Education and the Department of Labor Office of Disability Employment Policy.

The Committee disagrees with the commenter's assertion that cost principles for nonprofit agencies (2 CFR part 230) does not apply to AbilityOne nonprofit agencies.

AbilityOne nonprofit agencies are subject to complying with the cost principles outlined in 2 CFR Part 230. The Committee's pricing policies and procedures refer to OMB Circular A-122 which is now 2 CFR Part 230. The Committee's procedure for establishing a recommended fair market price for products states: "Apply cost principles in accordance with OMB A-122. Direct and indirect costs shall be reasonable, allocable, and consistent with applicable accounting practices and standards."

The commenter argues that the burden is grossly understated because reporting time has been segregated from data collection time. The 60 day notice stated that there was a separated burden for recordkeeping. While the commenter participated in the pilot test of the form that the Committee conducted, he did not request any additional information as a result of the 60 day notice. If he had he would have received detailed information on the recordkeeping burden and the results of the time that it took the agencies completing the form, an average of 4.1 hours. In addition, the burden to gain the knowledge of the FAR needed to complete the form is not a result of the form, rather it is a basic requirement of being a Federal contractor and being able to meet the contractual requirements. With respect to the FAR, the form is simply confirming that the nonprofit agencies understand and are meeting their contractual requirements.

The burden noted in the 60 day notice is 8 hours. This is an increase of 2 hours from the previous annual certification and based on the maximum time observed in the pilot study.

This form was originally developed by a task force consisting of representatives of the Committee staff, Departments of Labor and Education; the central nonprofit agencies and executives of nonprofit agencies. It has been briefed at both CNA national conferences as well as regional conferences during the last year and has been piloted with 59 agencies that volunteered.

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

No payment or gift will be provided to respondents.

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

There is no assurance of confidentiality provided to respondents other than information protected by the Freedom of Information Act.

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.

There is no data of a sensitive nature collected. All data will be maintained in the Committee's Procurement List Information Management System database. There are no personal identifiers and the information complies with the Privacy Act of 1974.

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.
- \* If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
- \* 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 14.

The respondent universe consists of only those nonprofit agencies currently producing a product or providing a service to the Federal Government under the AbilityOne Program. There are currently 559 nonprofit agencies serving people with severe disabilities in the Program and it is anticipated that less than 10 additional nonprofit agencies will be added over the next three year period.

The data requested on the form is required to be maintained by the nonprofit agencies under OMB control number 3037-005 and should be readily available in each nonprofit agency from existing records. The participating nonprofit agencies take information from their records and transmit it electronically to their CNA who compiles the data and creates the completed form for the nonprofit agency. The CNA then transmits the data electronically to the Committee.

The burden for the previous annual certification was 6 hours. In developing this form the Committee and the CNA conducted a pilot study using 2014 data and asking 59 nonprofits to complete the form and then answer questions. One of the questions was how long it took the agency to complete the form. The duration ran from one to eight hours with an average of four hours. Given that this time did not include the quarterly transmittal of data to the CNAs the decision was made to increase the burden on the new form to 8 hours.

The cost of this burden is estimated to be \$182,400 based on 6 hours' time \$40 an hour times 570 agencies. The burden for actually collecting and maintaining the data is reported under OMB control 3037-0005.

13. Provide an estimate of the total annual [non-hour] 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 services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. 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.

The collective estimated cost to respondents is expected to not exceed \$10,000. The only capital expenses involved with reporting this form are computers, fax machines and internet connections which almost all nonprofit agencies already use for other business requirements. Only in extremely rare cases does a nonprofit need to purchase equipment exclusively to meet this requirement. The operations and maintenance of this equipment in most cases must be done for other business requirements.

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.

With the data now being transmitted electronically to an existing Committee database the only additional cost to the Federal government is to analyze the data. This is estimated to be \$7,500 annually based on the need for 100 hours to cover the analysis and reporting of the data.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the

OMB Form 83-I.

This is a new form requiring the submittal of new information and thus requires more time to complete. In addition, the number of participating nonprofits has decreased since 2012 when the previous annual certifications were approved..

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.

The data is compiled and used to report Program growth and changes to the Committee members. Some of the compiled information is included in the Committee's annual report, which is required by the Act, to show the overall size and growth of the AbilityOne Program.

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.

No request to exclude the expiration date is being requested.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

There are no exceptions identified in item 19 of OMB Form 83-I.

**B. Collections of Information Employing Statistical Methods**

This collection does not employ statistical methods.

Enclosures