



[Billing Code 6570-01]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities

AGENCY: Equal Employment Opportunity Commission

ACTION: Notice of Information Collection – Revised: Demographic Information on Applicants for Federal Employment

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, the Equal Employment Opportunity Commission (Commission or EEOC) announces that it intends to revise a Commission form (Demographic Information on Applicants, OMB No. 3046-0046) to include disability status data.

DATE: Written comments on this notice must be submitted on or before [Insert date 30 days after publication in the Federal Register].

ADDRESSES: Comments should be sent to the Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street, NE., Washington, DC 20507. As a convenience to commenters, the Executive Secretariat will accept comments totaling six or fewer pages by facsimile (“FAX”) machine. This limitation is necessary to assure access to the equipment. The telephone number of the fax receiver is (202) 663-4114. (This is not a toll-free number). Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663-4070 (voice) or (202) 663-4074 (TTD). (These are not toll-free telephone numbers.) Instead of sending written comments to the EEOC, you may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. All comments received through this portal will be posted without change, including any personal information you provide. Copies of comments submitted by the public to the EEOC directly or through the Federal eRulemaking Portal will be available for review, by advance appointment only, at the Commission's library between the hours of 9:00 a.m. and 5:00 p.m. or can be reviewed at [http:// www.regulations.gov](http://www.regulations.gov). To schedule an appointment to inspect the comments at EEOC's library, contact the library staff at (202) 663-4630 (voice) or (202) 663-4641 (TTY). (These are not toll-free numbers.)

FOR FURTHER INFORMATION CONTACT: Barbara Dougherty, Federal Sector Programs, Office of Federal Operations, 131 M Street, NE, Washington, DC 20507, (202) 663-4770 (voice); (202) 663-4593 (TTY).

SUPPLEMENTARY INFORMATION:

Pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and OMB regulation 5 CFR § 1320.8(d)(1), the Commission sought public comment on revising its form for use by federal agencies in gathering demographic information on applicants for federal employment

through a 60-day notice published February 15, 2013. Comments were particularly invited on whether this collection of information will enable the Commission and federal agencies to:

- (1) Evaluate whether the proposed data collection tool will have practical utility by enabling a federal agency to determine whether recruitment activities are effectively reaching all segments of the relevant labor pool in compliance with the laws enforced by the Commission and whether the agency's selection procedures allow all applicants to compete on a level playing field regardless of race, national origin, sex or disability status;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on applicants for federal employees who choose to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Four comments were received. The first commenter was pleased that the revised form used more expansive language and definitions for impairments than that used by OPM's Standard Form 256, thereby taking the focus off the medical condition and putting it on the functional limitation. That commenter believed it would be helpful if EEOC and OPM agreed to revise the SF-256 so that it used the terms and definitions in the revised applicant flow form. A second commenter, however, noted that the list of conditions collected in Section 5.A of the form are similar, but not identical, to the list of targeted/severe disabilities listed on SF-256, while the information in Section 5.C of the form appeared to be similar to the list of non-targeted disabilities on SF-256. That commenter believed it essential that the information collected of applicants mirror the information collected from employees on SF-256 to ensure an appropriate comparison of the two populations. The commenter recommended that the list of disabilities on the applicant flow form be identical to the SF-256.

We have revised the form so that the types of disabilities listed on the form more closely match those listed on the SF-256. We have updated some of the listed disabilities to include terms that are simpler to understand (for examples, removing much of the parenthetical language used in the SF-256 that describes missing extremities or paralysis). The Commission concurs that the applicant flow form and the SF-256 should mirror each other in order to provide for effective data collection. We address that issue below, in our responses to the fourth commenter.

A third commenter had specific suggestions for revising the language used in section 5.A of the form. It urged that the term "severe" be replaced with the term "significant," as the term "severe" often is associated with negative or stigmatizing views about disability. The commenter was concerned that many individuals with disabilities might not identify themselves as having a "severe" condition. The commenter also requested that we drop the word "severe" from our description of "severe intellectual disability," noting that while individuals with intellectual disabilities may experience a variety of limitations, all such disabilities contain

impairments in functioning that are of such significance that they warrant being included on the list of targeted disabilities. The commenter also requested that we replace the term “psychological” with “psychiatric” when describing disorders such as bipolar, schizophrenia, PTSD, and major depression.

We find the recommendations suggested by this commenter reasonable and have adopted them in the revised form. We have replaced “severe” with “significant” and changed “psychological” to “psychiatric.” We have removed “severe” from the description of intellectual disability.

Finally, the commenter questioned the utility of including Section 5.B, the questions derived from the American Community Survey (ACS). The commenter believed that the questions fail to identify many individuals with disabilities with other types of functional limitations. It requested the addition of another question in that section that would state: “difficulty with everyday activities such as interacting with others, thinking, preparing food, taking medications, or managing finances.”

A fourth commenter had a series of concerns with our proposed applicant flow form. Similar to the third commenter, this commenter took issue with including Section 5.B on the form. It believed the limited list of functional limitations presented in this section does not reflect likely workplace concerns and does not collect information that would be useful in tracking information on applicants with disabilities. The commenter was concerned that applicants might be dissuaded from responding truthfully to questions regarding their difficulty in concentrating, remembering, or making decisions. Including such questions would, in this commenter’s opinion, undermine the EEOC’s goal of providing more accurate information about applicants and employees with disabilities. Moreover, the commenter believed that the ACS questions, which include questions on one’s bathing or dressing limitations, might be considered intrusive and potentially inappropriate in the context of applicant data collection.

In response to these comments, we have revised the form to remove the ACS questions. While the ACS questions provide meaningful data concerning functional limitations, the questions would in part duplicate the inquiry in section 5.A. Additionally, after discussions with OMB and OPM, we believe that the data collected through the ACS questions would be best compared to data collected from the onboard federal workforce rather than from applicants for employment. During these conversations, OPM stated that it would determine the feasibility of surveying the federal workforce to obtain ACS disability data.

The fourth commenter generally supported the efforts of the Commission to change the form in order to obtain a broader range of data regarding applicants for employment. However, the commenter had concerns regarding the format utilized in the proposed form. First, in order to avoid confusion, this commenter recommended using the term “disabilities and/or health conditions.” The commenter was also concerned with creating different classes of disabilities, by listing some specifically while not listing others. The commenter further noted that many applicants with disabilities not on the list in Section 5.A could still be considered for employment under the special hiring authority set out in Schedule A at 5 C.F.R. § 213.3102(u). The commenter was concerned that by separating the disabilities in Section 5.C from those in

Section 5.A, the form might undermine efforts to ensure that all members of the disability community are aware of their eligibility for hiring under Schedule A.

The fourth commenter was also concerned that the proposed form's lack of specificity regarding the types of other disabilities and health conditions traditionally collected by the Federal government through SF-256 would make it difficult to link current data with historical data. This commenter recommended asking applicants for employment to identify their specific disabilities or serious health conditions even if they did not fall within the list generally known as targeted disabilities in Section 5.A. The commenter believed this important for several reasons. According to the commenter, collecting information about all disabilities and serious health conditions allows linkages with other data (including data from the SF-256) in such a way that appropriate comparisons may be made. The current SF-256 asks employees to identify whether they have many different types of disabilities and health conditions. The commenter was concerned that by not collecting the same type of specific disability and health conditions data for applicants, future comparisons of the data related to hiring rates would not be possible and trend analysis would be undermined. Moreover, this commenter believed that the designation of which disabilities are considered significant or targeted disabilities may change over time, and that by collecting only summary information on the non-targeted disabilities, future comparisons of data might be precluded. Finally, the commenter stated that failing to collect information on specific non-targeted disabilities would run counter to the broad definition of disability established by the ADA Amendments Act.

In response to the concerns raised by the fourth commenter, the Commission has made a number of changes in the form. First, the revised form no longer separates out the other serious health conditions in Section 5.C from the list of disabilities in Section 5.A. Instead, we have added the question about disabilities and other serious health conditions to the list set out in the original form in Section 5.A. This should alleviate any concerns that non-targeted disabilities or health conditions are being treated differently than the targeted disabilities. We have also included a paragraph on the form directly under the newly revised Section 5.A which explains that, if an applicant has checked any of the boxes listed in the new Section 5.A, he or she may be eligible for hiring under Schedule A, with a link for more information on Schedule A hiring. Thus, applicants who check the "other disability or serious health condition" box will know that they may be able to utilize Schedule A hiring authority.

Second, we have created a new optional Section 5.A.1, which would provide those applicants who wish to identify their other disabilities or serious health conditions the option of doing so. Section 5.A.1 consists of a list of disabilities and other serious health conditions that the applicant may indicate that he or she currently has. This list corresponds closely to the other disabilities and health conditions currently listed on the SF-256. By allowing for an option specifically to identify the types of disabilities or serious health conditions listed in 5.A.1, the form now provides an opportunity for disability data collection between applicants to the federal workforce and those hired by the federal government. However, by keeping this list optional and available only if the applicant checks the appropriate box in Section 5.A, and by providing the option for the applicant to indicate that he or she does not wish to identify a disability or serious health condition, the Commission believes it will receive more accurate data on the total number of applicants with disabilities. To the extent there are differences between the new applicant

flow form and the current SF-256, our understanding is that OPM will review and consider modifications to the SF-256 in the near future so that the two forms will be effective in collecting data.

Finally, this commenter voiced its support for the way the form collects information on intellectual disabilities, in particular the distinction made between intellectual disabilities, developmental disabilities and traumatic brain injury. The commenter believes that the separation of these types of disabilities will result in increased self-identification rates and therefore more accurate data. The commenter also suggested adding a parenthetical pointing out that the Commission, by breaking out certain types of disabilities from the category of “intellectual disabilities,” does not mean that the term “intellectual disabilities” will have a narrower scope for other purposes.

We do not believe that adding developmental disability and traumatic brain injury to our list of disabilities in Section 5.A would lead applicants to believe that we are narrowing the scope of the term intellectual disability. The Commission therefore has not added the parenthetical.

Overview of This Information Collection

Collection Title: Demographic Information on Federal Job Applicants

OMB Control No.: 3046-0046

Description of Affected Public: Individuals submitting applications for federal employment.

of Annual Responses: 5,800

Estimated Time Per Respondent: 3 minutes

Total Annual Burden Hours $(5,800 \times 3)/60 = 290$

Annual Federal Cost: None

Abstract: Under section 717 of Title VII and 501 of the Rehabilitation Act, the Commission is charged with reviewing and approving federal agencies plans to affirmatively address potential discrimination before it occurs. Pursuant to such oversight responsibilities, the Commission has established systems to monitor compliance with Title VII and the Rehabilitation Act by requiring federal agencies to evaluate their employment practices through the collection and analysis of data on the race, national origin, sex and disability status of applicants for both permanent and temporary employment.

Several federal agencies (or components of such agencies) have previously obtained separate OMB approval for the use of forms collecting data on the race, national origin, sex, and disability status of applicants. In order to avoid unnecessary duplication of effort and a proliferation of forms, the EEOC seeks approval for the use of a common form to be used by all federal agencies.

Response by applicants is optional. The information obtained will be used by federal agencies only for evaluating whether an agency's recruitment activities are effectively reaching all segments of the relevant labor pool, to gauge progress and trends over time with respect to equal opportunity goals, and to track progress toward meeting the recruitment and hiring strategies developed pursuant to EO 13548. The voluntary responses are treated in a highly confidential and anonymous manner, are not shared with those involved in the selection process or the supervisor (if the person is hired) and will not be placed in the employees' personnel file. The information is not provided to any panel rating the applications, to selecting officials, to anyone who can affect the application or to the public. Rather, the information is used in summary form to determine trends over many selections within a given occupational or organization area. No information from the form is entered into an official personnel file.

Burden Statement:

Because of the predominant use of online application systems, which require only pointing and clicking on the selected responses, and because the form requests only eight questions regarding basic information, the EEOC estimates that an applicant can complete the form in approximately 3 minutes or less. Based on past experience, we expect that 5,800 applicants will choose to complete the form.

Once OMB approves the use of this common form, federal agencies may request OMB approval to use this common form without having to publish notices and request public comments for 60 and 30 days. Each agency must account for the burden associated with their use of the common form.

Dated: September 9, 2013

For the Commission

Jacqueline A. Berrien
Chair

DEMOGRAPHIC INFORMATION ON APPLICANTS**OMB No.:**
Expiration Date:**Vacancy Announcement No.:****Position Title:****YOUR PRIVACY IS PROTECTED**

This information is used to determine if our equal employment opportunity efforts are reaching all segments of the population, consistent with Federal equal employment opportunity laws. Responses to these questions are voluntary. Your responses will be treated in a highly confidential manner and will not be shown to the panel rating the applications, to the selecting official, or to anyone else who can affect your application. This form will not be placed in your Personnel file nor will it be provided to your supervisors in your employing office should you be hired. This information will be kept private to the extent permitted by law. See the Privacy Act Statement below for more information

Completion of this form is voluntary and a refusal to provide the information will not subject you to any adverse treatment.

Thank you for helping us to provide better service.

1. How did you learn about this position? (Check One):

- ☐ Agency Internet Site recruitment
- ☐ Private Employment Web Site
- ☐ Other Internet Site
- ☐ Job Fair
- ☐ Newspaper or magazine
- ☐ Agency or other Federal government on campus
- ☐ School or college counselor or other official
- ☐ Friend or relative working for this agency
- ☐ Private Employment Office
- ☐ Agency Human Resources Department (bulletin board or other announcement)
- ☐ Federal, State, or Local Job Information Center
- ☐ Other

2. Sex (Check One):

- ☐ **Male**
- ☐ **Female**

3. Ethnicity (Check One):

- ☐ **Hispanic or Latino** - a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- ☐ **Not Hispanic or Latino**

4. Race (Check all that apply):

- ☐ **American Indian or Alaska Native** - a person having origins in any of the original peoples of North or South America (including Central America), and who maintains tribal affiliation or community attachment.
- ☐ **Asian** - a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, or Vietnam.
- ☐ **Black or African American** - a person having origins in any of the black racial groups of Africa.
- ☐ **Native Hawaiian or Other Pacific Islander** - a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific islands.
- ☐ **White** - a person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

5. Disability/Serious Health Condition

The next questions address disability and serious health conditions. Your responses will ensure that our outreach and recruitment policies are reaching a wide range of individuals with physical or mental conditions. Consider your answers without the use of medication and aids (except eyeglasses) or the help of another person.

A. Do you have any of the following? Check all boxes that apply to you:

- ☐ Deaf or serious difficulty hearing
- ☐ Blind or serious difficulty seeing even when wearing glasses
- ☐ Missing an arm, leg, hand, or foot
- ☐ Paralysis: Partial or complete paralysis (any cause)
- ☐ Significant Disfigurement: for example, severe disfigurements caused by burns, wounds, accidents, or congenital disorders
- ☐ Significant Mobility Impairment: for example, uses a wheelchair, scooter, walker or uses a leg brace to walk
- ☐ Significant Psychiatric Disorder: for example, bipolar disorder, schizophrenia, PTSD, or major depression
- ☐ Intellectual Disability (formerly described as mental retardation)
- ☐ Developmental Disability: for example, cerebral palsy or autism spectrum disorder
- ☐ Traumatic Brain Injury
- ☐ Dwarfism
- ☐ Epilepsy or other seizure disorder
- ☐ Other disability or serious health condition: for example, diabetes, cancer, cardiovascular disease, anxiety disorder, or HIV infection; a learning disability, a speech impairment, or a hearing impairment

If you did not select one of the options above, please indicate why.

- ☐ None of the conditions listed above apply to me.
- ☐ I do not wish to answer questions regarding disability/serious health conditions.

If you have indicated that you have one of the above conditions, you may be eligible to apply under Schedule A Hiring Authority. For more information, please see <http://www.opm.gov/policy-data-oversight/disability-employment/hiring/#url=Schedule-A-Hiring-Authority> .

If an applicant checks the box for “other disability or serious health condition,” the applicant will be taken to Section A.1.

A.1. Other Disability or Serious Health Condition (Optional)

You indicated that you have a disability or a serious health condition. If you are willing, please select any of the conditions listed below that apply to you. As explained above, your responses are not shown to anyone involved in the selection for the position and will not affect your application, nor will they be placed in your personnel file. All responses will remain private to the extent permitted by law.

Please check all that apply:

- ☐ I do not wish to specify my condition.
- ☐ Alcoholism
- ☐ Cancer
- ☐ Cardiovascular or heart disease
- ☐ Crohn's disease, irritable bowel syndrome, or other gastrointestinal impairment
- ☐ Depression, anxiety disorder, or other psychological disorder
- ☐ Diabetes or other metabolic disease
- ☐ Difficulty seeing even when wearing glasses
- ☐ Hearing impairment
- ☐ History of drug addiction (but not currently using illegal drugs)
- ☐ HIV Infection/AIDS or other immune disorder
- ☐ Kidney dysfunction: for example, requires dialysis
- ☐ Learning disabilities or ADHD
- ☐ Liver disease: for example, hepatitis or cirrhosis
- ☐ Lupus, fibromyalgia, rheumatoid arthritis, or other autoimmune disorder
- ☐ Morbid obesity
- ☐ Nervous system disorder: for example, migraine headaches, Parkinson's disease, or multiple sclerosis
- ☐ Non-paralytic orthopedic impairments: for example, chronic pain, stiffness, weakness in bones or joints, or some loss of ability to use parts of the body
- ☐ Orthopedic impairments or osteo-arthritis
- ☐ Pulmonary or respiratory impairment: for example, asthma, chronic bronchitis, or TB
- ☐ Sickle cell anemia, hemophilia, or other blood disease
- ☐ Speech impairment
- ☐ Spinal abnormalities: for example, spina bifida or scoliosis
- ☐ Thyroid dysfunction or other endocrine disorder
- ☐ Other. Please identify the disability/health condition, if willing: _____

Note that under the Rehabilitation Act (Act), information on your disability status can only be used in connection with non-discrimination and affirmative action obligations. The information will be kept confidential in accordance with the Act's provisions and the information will be used only in accordance with the Act.

PRIVACY ACT AND PAPERWORK REDUCTION ACT STATEMENT

Privacy Act Information: This information is provided pursuant to Public Law 93-579 ("Privacy Act of 1974"), for individuals completing Federal records and forms that solicit personal information. The authority is 5 U.S.C. 7201 and the Uniform Guidelines on Employee Selection Procedures, 29 C.F.R. Part 1607. No individual data is ever provided to selecting officials. This form will only be seen by Human Resource personnel and Equal Employment Opportunity officials.

Purpose and Routine Uses: Data summarizing all applicants for a position will be used to determine if we are effectively recruiting and selecting individuals from all segments of the population. Only summary data is reported, and only in a format which can not be broken out by individual applicants.

Effects of Nondisclosure: Providing this information is voluntary. No individual personnel selections are made based on this information.

Paperwork Reduction Act Statement: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et. seq.) requires us to inform you that this information is being collected for planning and assessing affirmative employment program initiatives. Response to this request is voluntary. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The estimated burden of completing

this form is five (5) minutes per response, including the time for reviewing instructions. Direct comments regarding the burden estimate or any other aspect of this form to [INSERT: Agency name and address] and to the Office of Management Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

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