



U.S. OFFICE OF PERSONNEL MANAGEMENT

Notice of Submission for Approval: Information Collection 3206-0182; Declaration for Federal Employment, Optional Form (OF) 306.

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Federal Investigative Services (FIS), U.S. Office of Personnel Management (OPM) is notifying the general public and other federal agencies that OPM is seeking Office of Management and Budget (OMB) approval of a revised information collection, control number 3206-0182, Declaration for Federal Employment, Optional Form (OF) 306. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104-13, 44 U.S.C. chapter 35), as amended by the Clinger-Cohen Act (Pub. L. 104-106), OPM is providing an additional 30 days for public comments. OPM previously solicited comments for this collection, with a 60-day public comment period, at 79 FR 47693 (August 14, 2014).

DATES: Comments are encouraged and will be accepted until [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESS: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting Federal Investigative Services, U.S. Office of Personnel Management, 1900 E Street NW, Washington, DC 20415, Attention: Donna McLeod or by electronic mail at FISFormsComments@opm.gov.

SUPPLEMENTARY INFORMATION:

This notice announces that OPM has submitted to OMB a request for review and clearance of a revised information collection, control number 3206-0182, Declaration for Federal Employment, Optional Form (OF) 306. The public has an additional 30-day opportunity to comment.

The Declaration for Federal Employment Optional Form (OF) 306 is completed by applicants who are under consideration for Federal or Federal contract employment. It collects information about an applicant's selective service registration, military service, and general background. The information collected on this form is mainly used to determine a person's acceptability for Federal and Federal contract employment, and his or her retirement status and life insurance enrollment. The information on this form may be used in conducting an investigation to determine a person's suitability or ability to hold a security clearance, and it may be disclosed to authorized officials making similar, subsequent determinations.

The OF 306 asks for personal identifying data and information about violations of the law past convictions, imprisonments, probations, parole, military court martial, delinquency on a Federal debt, Selective Service Registration, United States military service, Federal civilian or military retirement benefits received or applied for, and life insurance

enrollment.

The 60-day Federal Register Notice was published on August 14, 2014 (Federal Register Notices/Volume 79, Number 157, pages 47693-47694). Comments were received from an employee of the Department of Homeland Security (DHS), an employee of the Equal Employment Opportunity Commission (EEOC), and advocacy groups National Employment Law Project (NELP), William E. Morris Institute for Justice, Civil Rights Restoration Clinic/ Rogers College of Law/ University of Arizona, Sargent Shriver National Center on Poverty Law, NAACP Legal Defense and Educational Fund, Inc. (LDF), and Center for Community Change (CCC).

OPM accepted, with modifications, a commenter's recommendation to add 'Males Only' verbiage to Item 7, Selective Service Registration instructions. OPM amended the verbiage from 'Are you a male born after December 31, 1959?' to 'Were you born a male after December 31, 1959?' OPM did not accept a commenter's recommendation to provide additional instructions regarding the use of the blank space provided with item 16. Instructions on the form already explain the use of this area.

OPM did not accept recommendations from NELP, William E. Morris Institute for Justice, Civil Rights Restoration Clinic/ Rogers College of Law/ University of Arizona, Sargent Shriver National Center on Poverty Law, and CCC, to remove Item 9, the criminal history question, or delay presentation of the question to the applicant. Recommendations to remove or delay presentation of the question indicated that the change would provide fairness to all applicants during the hiring process. OPM did not accept this recommendation because it is not consistent with governing policies or current regulation. In accordance with 5 CFR 731.103(d), agencies may begin to determine an

applicant's suitability at any time during the hiring process. It is generally more practical and cost-effective to first ensure that the applicant is eligible for the position, deemed by OPM or the Delegated Examining unit to be among the best qualified, and/or within reach of selection. However, in certain circumstances, such as filling law enforcement positions, an agency may choose to initiate a preliminary suitability review at the time of the application. We note that feedback received from federal agencies in response to a recent survey conducted by OPM revealed that that most agencies request completion of the OF 306 after the tentative offer of employment. OPM is currently conducting a review of 5 CFR part 731 regarding application of the OF 306. If it is determined that future changes to the regulation support the recommendation to delay presentation of the OF 306 to applicants, the appropriate instructional changes to the form will be made at that time.

NAACP LDF recommends removal of Items 9 through 11 or to require completion of the OF 306 at the end of the hiring process, to ensure that qualified applicants with criminal records, particularly persons of color, have equal opportunities to compete for and obtain federal employment. In addition, NAACP LDF also questioned the timeframes required to report felonies, firearms or explosive violations, misdemeanors, and all other offenses in the past seven years; and the timeframe identified to collect military court-martial information. According to NAACP LDF, the types of prior convictions and the timeframes included in these questions are overbroad. In addition NAACP LDF indicated that the questions are duplicative of questions presented on forms required by applicants for public trust and national security positions.

OPM did not accept these recommendations. In accordance with 5 CFR

731.103(d) and as explained above, agencies are provided the flexibility to determine the appropriate timing to collect information required by the OF 306. It is important to reiterate that in most situations, agencies present the OF 306 only after the conditional offer of employment is made to the applicant.

In regard to the timeframe identified to collect information for items 9-11, questions as shown on the OF 306 have been carefully considered and deemed appropriate to inform assessment of suitability for Federal employment or fitness to perform work for the government under a contract. Questions 9-11 are carefully tailored for this purpose. They do not ask about arrests. Nor do they ask about charges without dispositions, except when the charges are current. They ask only about convictions, imprisonment, parole, and probation for criminal offenses within the past seven years. Seven years is a reasonable scope for questions about recent convictions, imprisonment, parole, and probation that may affect suitability or fitness to work for or on behalf of the Federal government.

OPM disagrees with the comment that questions 9-11 are cumulative of questions on the Questionnaire for Public Trust Positions and the Questionnaire for National Security Positions. The OF 306 may be used for preliminary suitability screening or for making an objection to a candidate or requesting to pass over a candidate. The Questionnaire for Public Trust Positions and the Questionnaire for National Security Positions are forms used to initiate background investigations that typically occur later in the hiring process.

A commenter recommended OPM add the following language to the introductory paragraph associated with questions 9, 10, and 11: “For Questions 9, 10, and 11,

consideration will include assessing, at least, the nature of the crime, the time elapsed since the criminal conduct occurred, and the nature of the specific job in question.” The instruction for questions 9 through 13 already includes an advisement that the circumstances of each event listed will be considered and in most cases, the respondent can still be considered for Federal jobs.

A commenter also recommended that OPM direct agencies to afford screened-out applicants an opportunity to fully explain the circumstances of their conviction or charge in light of these factors. OPM did not accept this recommendation. OPM has already provided extensive guidance to agencies regarding suitability assessments and consideration of information collected during the hiring process; and the commenter’s reference to screen-outs appears to misconstrue the individualized nature of Federal hiring and suitability decisions. As stated in the form instructions, “In most cases you can still be considered for Federal jobs” if you have a conviction record.

A commenter recommended OPM amend the instruction for question 11, “Are you currently under charges for any violation of the law?” from requiring an explanation of the violation to requiring an explanation of the charges. OPM accepted this recommendation. The wording change will help elicit truthful responses in cases where the respondent contests whether a “violation” actually occurred..

A commenter recommended OPM highlight the instructions in Item 16, Continuation Space/Agency Optional Questions. OPM did not accept this recommendation. Instructions are provided on the form regarding the purpose of the Continuation Space/Agency Optional Questions. OPM accepted a commenter’s recommendation to amend instructional verbiage in Item 17 to clarify that the instruction

applies to individuals who are applying for a position and have not yet been selected as well as individuals who have received a tentative or condition offer of employment.

This ICR requests categorizing this form as a common form. Once OMB approves the use of this common form, all Federal agencies using the form not in connection with OPM's own use investigation may request the use of this common form without additional 60 or 30 day notice and comment requirements. At that point, each such agency will account for its number of respondents and the burden associated with the agency's use.

ANALYSIS:

Agency: Federal Investigative Services, U.S. Office of Personnel Management

Title: Declaration for Federal Employment, Optional Form (OF) 306.

OMB Number: 3206-0182

Affected Public: Applicants who are under consideration for Federal or Federal contract employment.

Number of Respondents: 265,385

Estimated Time Per Respondent: 15 minutes

Total Burden Hours: 66,346

U.S. Office of Personnel Management

Beth Cobert
Acting Director

[FR Doc. 2015-21627 Filed: 8/28/2015 08:45 am; Publication Date: 8/31/2015]