



BILLING CODE: 4510-27-P

## **DEPARTMENT OF LABOR**

### **Office of the Secretary**

#### **Agency Information Collection Activities; Submission for OMB Review; Comment Request; Application of the Employee Polygraph Protection Act**

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting this Wage and Hour Division (WHD)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](https://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Anthony May by telephone at 202-693-4129 (this is not a toll-free number) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**SUPPLEMENTARY INFORMATION:** Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the

information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

The Wage and Hour Division (WHD) of the Department of Labor (DOL) administers the Employee Polygraph Protection Act of 1988 (EPPA), 29 U.S.C. 2001 et seq. The EPPA prohibits most private employers from using any lie detector tests either for pre-employment screening or during the course of employment. The Act contains an exemption applicable to Federal, State and local government employers. The EPPA also contains several limited exemptions authorizing polygraph tests under certain conditions, including testing: (1) By the Federal Government of experts, consultants, or employees of Federal contractors engaged in national security intelligence or counterintelligence functions; (2) of employees the employer reasonably suspects of involvement in a workplace incident resulting in economic loss or injury to the employer's business; (3) of some prospective employees of private armored cars, security alarm and security guard firms; and (4) of some current and prospective employees of certain firms authorized to manufacture, distribute, or dispense controlled substances. The WHD may assess civil money penalties against employers who violate any EPPA provision. This amount increases annually due to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. On November 2, 2015, the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 was signed into law to advance the

effectiveness of civil money penalties and to strengthen their deterrent effect. Outdated penalties are a problem because civil penalties are less effective when they do not keep pace with the cost of living. The law directs agencies across the federal government to adjust their penalties for inflation each year in January. For additional substantive information about this ICR, see the related notice published in the *Federal Register* on November 20, 2019 (84 FR 64109).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

*Agency:* DOL-WHD.

*Title of Collection:* Application of the Employee Polygraph Protection Act.

*OMB Control Number:* 1235-0005.

*Affected Public:* Private Sector: Businesses or other for-profits, farms, and not-for-profit institutions.

*Total Estimated Number of Respondents:* 299,900.

*Total Estimated Number of Responses: 757,400.*

*Total Estimated Annual Time Burden: 68,739 hours.*

*Total Estimated Annual Other Costs Burden: \$0.*

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: August 10, 2020.

**Anthony May,**

*Management and Program Analyst.*

[FR Doc. 2020-17792 Filed: 8/13/2020 8:45 am; Publication Date: 8/14/2020]