



## **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

### **Agency Information Collection Activities: Renewal Without Change of Existing Collection; Comment Request**

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Final notice of information collection under review; ADEA waivers.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (PRA), the Equal Employment Opportunity Commission (EEOC or Commission) announces that it has submitted to the Office of Management and Budget (OMB) a request for a three-year extension without change of the existing collection requirements under the Waivers of rights and claims under the Age Discrimination in Employment Act (ADEA). No public comments were received in response to the EEOC's June 12, 2023 60-Day Notice soliciting comments on the proposed extension of this collection.

**DATES:** Written comments on this notice must be submitted on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN 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](http://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:** Kathleen Oram, Assistant Legal Counsel, (202) 921-2665 and [kathleen.oram@eeoc.gov](mailto:kathleen.oram@eeoc.gov), or Ashley T. Adams, General Attorney, (202) 921-2697 and [ashley.adams@eeoc.gov](mailto:ashley.adams@eeoc.gov), Office of Legal Counsel, 131 M Street NE, Washington, DC 20507. Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663-4191 (voice) or (202) 663-4494 (TTY).

**SUPPLEMENTARY INFORMATION:** The Age Discrimination in Employment Act (ADEA) allows for individuals to waive rights and claims protected under the Act, provided certain circumstances are met; particularly that the waiver is knowing and voluntary. In order for an individual's waiver in connection with a program to be considered knowing and voluntary, the employer must inform the individual in writing in a manner calculated to be understood by the average individual eligible to participate, as to (i) any class, unit, or group of individuals covered by such program, any eligibility factors for such program, and any time limits applicable to such program; and (ii) the job titles and ages of all individuals eligible or selected for the program, and the ages of all individuals in the same job classification or organizational unit who are not eligible or selected for the program.

The EEOC's regulations clarify that the relevant section of the ADEA addresses two principal issues: to whom information must be provided, and what information must be disclosed to such individuals. The purpose of the informational requirements is to provide an employee with enough information regarding the program to allow an employee to make an informed choice whether or not to sign a waiver agreement. The employer does not provide this information to the EEOC; the ADEA and the EEOC's regulation solely require that the employer provide this information to any employee it would apply to, and not to the Federal government.

The EEOC, in accordance with the PRA and OMB regulation 5 CFR 1320.8(d)(1), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the EEOC to assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public to understand the EEOC's information collection requirements and provide the requested data in the desired format. The EEOC is soliciting comments on the information collection that is described below. The EEOC

is especially interested in public comment that will assist in the following: (1) Evaluating whether the collection of information is necessary for the proper performance of the Commission's functions, including whether the collection has practical utility; (2) Evaluating the accuracy of the Commission's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) Enhancing the quality, utility, and clarity of the information to be collected; and (4) Minimizing the burden of the collection of information on those who are to respond, including 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. Please note that written comments received in response to this notice will be considered public records.

### **Overview of This Information Collection**

*Collection title:* Waivers of Rights and Claims Under the ADEA; Informational Requirements.

*OMB number:* 3046-0042

*Type of Respondent:* Business, state or local governments, not for profit institutions.

*Description of affected public:* Any employer with 20 or more employees that seeks waiver agreements in connection with exit incentive or other employment termination program.

*Number of respondents:* 1,489

*Burden Hours per Respondent:* 16.19

*Total Annual Burden Hours:* 24,107

*Number of forms:* 0

*Abstract:* The EEOC enforces the Age Discrimination in Employment Act (ADEA), which prohibits discrimination against employees and applicants for employment who are age 40 or older. The OWBPA, enacted in 1990, amended the ADEA to require

employers to disclose certain information to employees (but not to EEOC) in writing when they ask employees to waive their rights under the ADEA in connection with an exit incentive program or other employment termination program. The regulation at 29 CFR 1625.22 reiterates those disclosure requirements. The EEOC seeks an extension without change for the third-party disclosure requirements contained in this regulation. On June 12, 2023, the Commission published a 60-Day Notice informing the public of its intent to request an extension of the information collection requirements from the Office of Management and Budget. 88 FR 38047-49 (June 12, 2023). No comments were received.

For the Commission.

Dated: September 1, 2023.

**Charlotte A. Burrows,**  
*Chair, U.S. Equal Employment Opportunity Commission.*

[FR Doc. 2023-19399 Filed: 9/7/2023 8:45 am; Publication Date: 9/8/2023]