

**ACTION:** Notice.

**SUMMARY:** This notice fulfills the Department of Justice's "No FEAR Act Notice" **Federal Register** publication obligations, as required by the Act and by the Office of Personnel Management implementing regulations at 5 CFR 724.202.

**DATES:** This notice is effective November 2, 2006.

**FOR FURTHER INFORMATION CONTACT:** Marcus Williams, Acting Director, Equal Employment Opportunity Staff, Department of Justice, Suite 10001, 1425 New York Avenue, NW., Washington, DC 20530. Telephone: (202) 616-4800.

**SUPPLEMENTARY INFORMATION:** On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002" which is now known as the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Public Law 107-174. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Public Law 107-174, Title I, General Provisions, section 101(1).

The Act also requires Federal agencies, including the Department of Justice ("DOJ"), to provide this notice to Federal employees, former Federal employees and applicants for Federal employment to inform you of the rights and protections available to you under Federal antidiscrimination and whistleblower protection laws.

**Antidiscrimination Laws**

The Department of Justice cannot discriminate against an employee or applicant for Federal employment with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b)(1), 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791 and 42 U.S.C. 2000e-16. If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with your

agency. *See, e.g.,* 29 CFR part 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor, as noted above, or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through the DOJ's administrative or negotiated grievance procedures, if such procedures apply and are available.

**Whistleblower Protection Laws**

A DOJ employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel at 1730 M Street, NW., Suite 218, Washington, DC 20036-4505 or online through the OSC Web site—<http://www.osc.gov>.

**Retaliation for Engaging in Protected Activity**

The DOJ cannot retaliate against an employee or applicant for employment because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections

or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

**Disciplinary Actions**

Under the existing laws, the DOJ retains the right, where appropriate, to discipline an employee for conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection Laws up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), the DOJ must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits the DOJ to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

**Additional Information**

For further information regarding the No FEAR Act regulations, refer to 5 CFR part 724, as well as the Equal Employment Opportunity Staff at the Department of Justice. Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Web site—<http://www.eeoc.gov> and the OSC Web site—<http://www.osc.gov>.

**Existing Rights Unchanged**

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. 2302(d).

Dated: October 16, 2006.

**Lee J. Lofthus,**

*Acting Assistant Attorney General for Administration.*

[FR Doc. 06-9022 Filed 11-1-06; 8:45 am]

BILLING CODE 4410-NW-M

**DEPARTMENT OF JUSTICE****Bureau of Prisons****Annual Determination of Average Cost of Incarceration**

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Notice.

**SUMMARY:** The fee to cover the average cost of incarceration for Federal inmates in Fiscal Year 2005 was \$20,842.

**DATES:** *Effective Date:* November 2, 2006.

**ADDRESSES:** Office of General Counsel, Federal Bureau of Prisons, 320 First St., NW., Washington, DC 20534.

**FOR FURTHER INFORMATION CONTACT:** Sarah Qureshi, (202) 307-2105.

**SUPPLEMENTARY INFORMATION:** 28 CFR part 505 allows for assessment and collection of a fee to cover the average cost of incarceration for Federal inmates. We calculate this fee by dividing the number representing Bureau facilities' monetary obligation (excluding activation costs) by the number of inmate-days incurred for the preceding fiscal year, and then by multiplying the quotient by 365.

Under § 505.2, the Director of the Bureau of Prisons determined that, based upon fiscal year 2005 data, the fee to cover the average cost of incarcerating a single inmate for one year during 2005 was \$20,842.

**Harley G. Lappin,**

*Director, Bureau of Prisons.*

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**BILLING CODE 4410-05-P**

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### Agency Information Collection Activities; Announcement of OMB Approvals

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** The Employee Benefits Security Administration (EBSA) announces that the Office of Management and Budget (OMB) has approved certain collections of information, listed in the Supplementary Information below, following EBSA's submission of requests for such approvals under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). This notice describes the information collections that have been approved or re-approved, their OMB control numbers, and their current expiration dates.

**FOR FURTHER INFORMATION CONTACT:** Susan G. Lahne, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5647, Washington, DC 20210. Telephone: (202) 693-8410; Fax: (202) 219-4745. These are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:** The PRA and its implementing regulations require Federal agencies to display OMB control numbers and inform respondents of their legal significance after OMB has approved an agency's information collections. In accordance with those requirements, EBSA hereby notifies the public that the following information collections have been re-approved by OMB following EBSA's submission of an information collection request (ICR) for extension of a prior approval:

- OMB Control No. 1210-0114, Disclosures by Insurers to General Account Policyholders (final regulation). The expiration date for this information collection is March 31, 2009.
- OMB Control No. 1210-0090, Disclosures for Participant Directed Individual Account Plans under ERISA Section 404(c) (final regulation). The expiration date for this information collection is March 31, 2009.
- OMB Control No. 1210-0084, ERISA Technical Release 91-1 (notice). The expiration date for this information collection is March 31, 2009.
- OMB Control No. 1210-0066, ERISA Procedure 76-1; Advisory Opinion Procedure. The expiration date for this information collection is May 31, 2009.
- OMB Control No. 1210-0091, Settlement Agreements between a Plan and a Party in Interest (PTEs 94-71, 03-39). The expiration date for this information collection is May 31, 2009.
- OMB Control No. 1210-0122, Notice of Blackout Period under ERISA (final regulation). The expiration date for this information collection is May 31, 2009.
- OMB Control No. 1210-0100, Definition of Plan Assets—Participant Contributions (final regulation). The expiration date for this information collection is June 30, 2009.
- OMB Control No. 1210-0113, National Medical Support Notice—Part B (final regulation). The expiration date for this information collection is June 30, 2009.
- OMB Control No. 1210-0040, ERISA Summary Annual Report (final regulation). The expiration date for this information collection is July 31, 2009.
- OMB Control No. 1210-0115, Prohibited Transaction Class Exemption for Cross-Trades of Securities by Index and Model-Driven Funds (PTE 02-12). The expiration date for this information collection is August 31, 2009.
- OMB Control No. 1210-0082, Bank Collective Investment Funds; Prohibited Transaction Class Exemption 91-38.

The expiration date for this information collection is August 31, 2009.

- OMB Control No. 1210-0083, PTE 90-1; Insurance Company Pooled Separate Accounts (prohibited transaction class exemption). The expiration date for this information collection is August 31, 2009.
- OMB Control No. 1210-0104, Prohibited Transaction Class Exemption 97-41; Collective Investment Funds Conversion Transactions. The expiration date for this information collection is August 31, 2009.
- OMB Control No. 1210-0124, Acquisition and Sale of Trust REIT Shares by Individual Account Plans Sponsored by Trust REITs (PTE 04-07). The expiration date for this information collection is August 31, 2009.
- OMB Control No. 1210-0058, Prohibited Transaction Class Exemptions for Multiemployer Plans & Multiemployer Apprenticeship Plans, PTEs 76-1, 77-10, 78-6. The expiration date for this information collection is October 31, 2009.

EBSA also notifies the public that the following information collections have been approved by OMB following EBSA's submission of an information collection request (ICR) for revision or change of a prior approval:

- OMB Control No. 1210-0118, Voluntary Fiduciary Correction Program (compliance assistance program). The expiration date for this information collection is May 31, 2009.
- OMB Control No. 1210-0127, Termination of Abandoned Individual Account Plans (final regulations, prohibited transaction class exemption). The expiration date for this information collection is June 30, 2009.
- OMB Control No. 1210-0059, Prohibited Transaction Exemption 86-128. The expiration date for this information collection is August 31, 2008.

The PRA provides that 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. Publication of this notice satisfies this requirement with respect to the above-listed information collections, as provided in 5 CFR 1320.5(b)(2)(C).

**Joseph S. Piacentini,**

*Director, Office of Policy and Research, Employee Benefits Security Administration.*

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