

OMB Supporting Statement
(SF 85, SF 85P, SF 85PS, SF 86, SF 86A, SF 86C)

Investigative Requests for:

- Questionnaire for Non-Sensitive and Low Risk Positions (SF 85)
- Questionnaire for Public Trust Positions (SF 85P)
- Supplemental Questionnaire for Selected Positions (SF 85PS)
- Questionnaire for National Security Positions (SF 86)
- Continuation Sheet for Questionnaires (SF 86A)
- Standard Form 86 Certification (SF 86C)

Justification:

1. Depending upon the purpose of your investigation, the United States Government is authorized to ask for this information under Executive Orders (E.O.) 10450, 10865, 12333, 12356, and 12968; sections 3301 and 9101 of title 5, United States Code; sections 2165 and 2201 of title 42, United States Code; chapter 23 of title 50, United States Code; and parts 2, 5, 731, 732, and 736 of title 5, Code of Federal Regulations.

2. The information collected on the SF 85, SF 85P, SF 85PS, SF 86, and SF 86A is needed to initiate the required national security or suitability investigations. The content and format of the information collected is the basis for a large scale automated investigations processing system.

The Office of Personnel Management (OPM), Federal Investigative Services Division (FISD) uses the Personnel Investigations Processing System (PIPS), to schedule the investigations from the data collected by the forms.

The **SF 85** collects information needed to initiate a suitability investigation. The investigation is scheduled by FISD or by other agencies from the data provided on the SF 85. Inquiries are made by electronic record checks and forms mailed to the places of employment, educational institutions, and other locations. The information obtained is used in combination with information on the SF 85 itself in determining suitability for Federal employment or contractual service. If the information from the respondent is not collected by the SF 85, a suitability investigation cannot be conducted. Background investigations are required for all employees in the Federal Executive Branch.

The **SF 85P** and **SF 85PS** both collect information needed to initiate a suitability investigation. The investigation is scheduled by FISD from the data entered on the SF 85P and SF 85PS. An investigator may then make personal inquiries at places of employment, neighborhoods, and educational institutions listed on the form. The results of the investigation, in combination with information on the SF 85P - and for some select positions the SF 85PS - are used in determining suitability for Federal employment or contractual service. If the information from the respondent is not collected by the SF 85P

or SF 85PS, a background investigation cannot be conducted. Background investigations are required for all employees in the Federal Executive Branch.

The **SF 86** collects information needed to initiate a background investigation for persons under consideration for or retention in a national security position. (When necessary, the **SF 86A** is used in lieu of blank paper as a continuation of the form with which its use is associated and not for any unique purpose exclusive from the associated form. This form is used with the SF 85, SF 85P, and the SF 86.) The **SF 86C** is used in lieu of completing a new SF 86 and will allow the individual to indicate that there have been no changes in the data provided on the most recently filed SF 86 or it will allow the individual to easily provide new or changed information. No investigation will be initiated based solely on the execution of this form. After the information is scheduled in PIPS, investigative contact is then made, for example, at places of employment, neighborhoods, and educational institutions listed on the form. The results of the investigation, in combination with data on the SF 86, are used in determining placement in a position involving national security duties or access to classified information. If the information from persons subject to investigation is not collected on the SF 86, the required background investigation cannot be conducted. Unless the background investigation is conducted, a person cannot be granted a security clearance. Without the required security clearance, a person cannot be placed in a position involving national security duties.

The Public Burden language will be updated to reflect the correct title of the forms officer for OPM. Additionally, the Privacy Act information will be updated to reference the applicable E.O.

Changes will be made to each of the forms to update content and format.

3. The SF 85, SF 85P, SF 85PS, SF 86, and SF 86A are data entry documents for PIPS. PIPS schedules and processes inquiries, tracks investigations, and initiates searches of other agencies' processing systems.

e-QIP (Electronic Questionnaires for Investigations Processing) is a web-based system application that houses electronic versions of the SF 85, SF 85P, SF 85PS, and SF 86. This internet data collection tool is used in place of – not in addition to – the paper versions of these forms. Individuals using the e-QIP versions will enjoy the convenience of faster processing time and immediate data validation to ensure accuracy of their personal information. The data requested on these forms is consistent with that requested on their paper counterparts.

Users (individuals with e-QIP accounts) of this system are respondents, agency users, and e-QIP administrators. The system is designed to automate the data collection process from the respondent, apply all required data editing rules to the respondent-supplied information, enforce data integrity, and to provide sponsoring agencies an automated capability to review and approve each respondent's submission before releasing the data to an investigative services provider (ISP). e-QIP serves as a feeder system to other

governmental systems, including ISPs and sponsoring agency personnel or security systems such as that at the State Department.

The data contained in e-QIP is sensitive personal information. The Privacy Act (5 USC 552a (b)) prescribes the restrictions on the use and proper handling of this information, and provides penalties for unauthorized disclosure. The type of information collected includes, but is not limited to: personal identifiers, including name, social security number, and date and place of birth; employment, residence, and education history; references; medical history; financial history; arrests and convictions; and other personal information of a sensitive nature.

A respondent's complete and certified investigative data will remain secured in the e-QIP system until the next time the respondent is sponsored by an agency to complete a new investigative form. Upon initiation, the respondent's previously entered data (except 'yes/no' questions) will populate a new investigative request and the respondent will be allowed to update their information and certify the data. The numerous benefits offered by e-QIP to Federal agency customers have resulted in its rapid adoption across the government. Currently there are over 3,800 e-QIP Federal agency users at over 50 different Federal agencies, including every major cabinet department, servicing a worldwide community of respondents. At any given time there are approximately 69,000 active investigative requests in e-QIP and since October 1, 2004 over 200,000 cases have been successfully scheduled for investigation. The built-in flexibility of e-QIP allows its data collection capabilities to be utilized by other ISPs for various portions of their investigative workload.

At the beginning of FY05, e-QIP received between 300 and 500 cases per week. Presently, e-QIP receives anywhere from 5,000 to 10,000 cases per week, a significant increase in usage in a nine-month time frame. Future enhancements of e-QIP include a re-designed agency user menu for version 2.0, the addition of the common financial form (SF-714), and the automation of revised versions of the SF 85, SF 85P, SF 85PS, and SF 86. Additionally, as of April 1, 2006, the Department of Homeland Security (DHS), the Department of Commerce (DOC), the Department of Defense (DOD), the Department of Energy (DOE), the Department of Justice (DOJ), and the Department of Transportation (DOT) will use e-QIP, in some capacity, to collect security clearance application information from respondents and transmit them to OPM.

While e-QIP will significantly enhance the processing of security questionnaires for processing of background investigations, we do not expect an immediate discernable change to the public burden hours from those cited on the paper versions of the forms.

Additionally, electronic versions of the forms are available on the OPM website in PDF fillable format.

4. The information collected on these forms is individual specific and not available from other sources, thus minimizing duplication.

5. Not applicable. This collection of information does not affect small businesses or other small entities.

6. The **SF 85** is used to initiate an initial background investigation required by E.O. 10450 for determination of suitability for employment, and must be completed for that investigation. If the information is not collected, FISD cannot comply with E.O. 10450 or 5 USC 3301 and 3302. This collection cannot be made less frequently.

The **SF 85P and SF 85PS** are used to begin initial and update background investigations required by E.O. 10450 for determination of suitability for employment in a public trust position, and must be completed for that investigation. If the information is not collected, FISD cannot comply with E.O. 10450 or 5 USC 3301 and 3302. This collection cannot be made less frequently.

The **SF 86/SF 86A** is used to initiate background investigations required by E.O. 10450 and 12968. All positions involving access to classified national security information are subject to this level of investigation. If this information is not collected, FISD cannot comply with E.O. 10450, 10865, 12333, 12356, and 12968. This collection of information cannot be made less frequently.

7. Not applicable.

8. The 60-day Federal Register Notice was published January 25, 2005 (Volume 70, Number 15, pages 3569-3570). Comments were received from the United States Department of the Interior, National Park Service (NPS) and the National Treasury Employees Union (NTEU).

The individual from NPS had the following comments: the SF 85 took much longer to fill out than the 30 minutes stated on the Public Burden statement; the SF 85 took too long to fill out in general; all employees should be able to download the form directly; employees should be able to save the form each time information is added; the command buttons (Print, Save, Clear) should reside at the top of the PDF; and the form currently available on the website does not accept information in certain fields.

Many of the suggestions made by NPS have been implemented. The public burden estimate has been raised from 30 to 60 minutes. Employees should be able to download the form from the OPM website if their agency does not offer the form online. e-QIP will allow the respondent to save information, as described above. The command buttons on PDF should allow the respondent to Print, Save, or Clear the information. The OPM Forms Officer maintains the PDF files on the OPM website and is informed when the reporting fields are not working properly. The PDFs for the investigative forms were recently tested and approved for publication on the OPM website.

NTEU suggested the following: the medical release be removed from the SF 85P; the mental health question on the SF 86 be revised; the foreign contacts question on the SF 86 be revised to exclude innocuous contact with foreign nationals; and that OPM reaffirm

the requirement to use the standard forms developed and maintained by OPM, as opposed to miscellaneous, supplemental forms developed by individual agencies.

Actions were taken that directly address NTEU's concerns. The medical release was removed from the SF 85P. The mental health question was revised to make it clear to the respondent when an affirmative answer is appropriate. The foreign contacts question was reworked to clarify when an affirmative response was needed, depending on the nature and frequency of the relationship. Concerning agencies' use of forms, OPM will reissue guidance with the publication of the revised forms instructing agencies on the proper use of investigative forms and related electronic programs.

On March 24, 2005, FISC sponsored a meeting for the SF 86 Working Group, attended by Senior personnel security representatives of the Department of the Treasury, the Defense Personnel Security Research Center (PERSEREC), DOD, OPM, DOE, the Director of National Intelligence Special Security Center (DSSC), General Services Administration (GSA), Central Intelligence Agency (CIA), DHS, and the Department of Education (DOEd). A second meeting was held on December 7, 2005. This meeting was attended by the Internal Revenue Service (IRS), CIA, OPM, DSSC, DOEd, DHS, DOD, and PERSEREC.

In August 2005, OPM formed an internal working group to discuss the revision of the forms. Formal, written comments were received from various departments in FISC, CIA, and PERSEREC.

9. Not applicable. Individuals voluntarily complete these forms to receive the benefit of Federal employment.

10. The SF 85, SF 85P, SF 85PS, SF 86, SF 86A, and SF 86C include a Privacy Act Information statement. The statement indicates that the forms are in full compliance with 5 U.S.C. 552a (the Privacy Act of 1974) and other laws protecting the rights of the respondent. Further, the forms note that the information provided by the respondent, including the identity of the respondent, may be disclosed to the respondent upon request. Additionally, under the provisions of the Privacy Act, only those personnel with a need to know are given limited access to this information.

A person completing the forms is granted partial confidentiality under 5 U.S.C. 552a and 5 CFR 736. The forms contain an *Authorization for Release of Information*, signed by the person completing the form and, if applicable, the *Authorization for Release of Medical Information Pursuant to the Health Insurance Portability and Accountability Act (HIPAA)*. The authorization forms request that record custodians and sources of information contacted during the investigation provide requested data concerning the person being investigated. Individuals completing the forms are informed that information obtained from record custodians and other sources is for "official use by the Federal Government" and can be disclosed only as authorized by law. Additionally, it is OPM's policy to have the forms filed in a security folder, not in an Official Personnel

Folder (OPF), to enhance control of the information. Data reported on these forms is not released to the public under the Freedom of Information Act.

11. The **SF 85** is an investigative tool. The form is used to obtain data from individuals with which to initiate an investigation to meet the suitability adjudicative requirements in 5 CFR 731. The questions represent an effort to obtain as much relevant and required information as possible directly from the person being investigated, following the provisions of the Privacy Act. It is used for non-sensitive positions only, and its content is limited accordingly.

Information requested on the SF 85 about current illegal drug activity is used to meet the above requirements in determining suitability for employment. Respondents are advised in a parenthetical note in Question 17 of the following: “Neither your truthful response nor information derived from your response will be used as evidence against you in any subsequent criminal proceeding.”

The instructions on the SF 85 inform the respondent of the reason the information is requested, the authority for requesting it, how it will be used, and to whom it may be disclosed. They describe the investigative process and inform the respondent that OPM or the Federal agency requesting the investigation will make the final determination.

The **SF 85P and 85PS** are used as investigative tools. These forms are designed to collect information appropriate for determining suitability for public trust positions. The forms obtain data from individuals with which to initiate an investigation to meet the adjudicative requirements established in 5 CFR 731. The questions represent an effort to obtain as much relevant and required information as possible directly from the person to be investigated in accordance with provisions of the Privacy Act.

Questions on the **SF 85P** that may be considered sensitive in nature are listed and explained below:

- Question 15 (Marital Status): Inquiry into current marital status is necessary to make complete and accurate record checks.
- Question 16 (Relatives): Inquiries about relatives are limited to immediate family. This information may be necessary to make accurate and complete checks of the FBI and other investigative files.
- Question 20 (Foreign Countries You Have Visited): Inquiry concerning travel to foreign countries is necessary to develop information about activities that are a basis for the scheduling of required investigations. Foreign travel information may be necessary for law enforcement positions entailing possible connections in international drug traffic.
- Question 21 (Police Record): Inquiry into certain convictions or arrests in the last seven years may be appropriate for positions involving a high degree of public trust and for

sensitive positions not requiring access to classified national security information. This information is also necessary to make accurate and complete checks of investigative files.

- Question 22 (Use of Illegal Drugs and Drug Activity): Inquiry into illegal drug use is thought appropriate for positions involving the public trust and for sensitive positions not requiring access to classified national security information.

- Question 23 (Financial Record): Inquiry into personal finances is limited to the respondent and concerns only the last seven years and any current delinquencies over 180 days. It provides information used to determine trustworthiness, reliability, and honesty, and is especially relevant for positions entailing fiduciary responsibilities.

The instructions on the SF 85P inform the respondent of the reason that the information is requested, the authority for requesting it, how it will be used, and to whom it may be disclosed. They describe the investigative process and inform the respondent that OPM or the Federal agency requesting the investigation will make the final determination.

Questions on the **SF 85PS** that may be considered sensitive in nature are listed and explained below:

- Question 3 (Mental and Emotional Health): Inquiry into certain medical information is limited to certain types of consultations. For certain positions, respondents will be required to complete this more extensive, supplemental questionnaire.

- Question 4 (Use of Alcohol): Inquiries into use of alcohol is required by E.O. 10450. For certain positions, respondents will be required to complete this more extensive, supplemental questionnaire.

- Question 5 (Use of Illegal Drugs and Drug Activity): Inquiry into illegal drug use is required by E.O. 10450. For certain positions, respondents will be required to complete this more extensive, supplemental questionnaire.

The SF 85PS defaults to the instructions provided on the SF 85P.

The questions on the **SF 86** represent an effort to obtain from the respondent as much relevant and required information as possible to make a security determination.

Questions on the SF 86 that may be considered sensitive in nature are listed and explained below:

- Question 17 (Marital Status): Inquiry into marital status is necessary to make complete and accurate record checks.

- Question 18 (Relatives): Inquiry into relatives and associates includes immediate and extended family members and other associates. This information is necessary to make accurate and complete checks of the FBI and other investigative files.

- Question 19 (Foreign Contacts) and Question 20 (Foreign Activities): Inquiries into foreign contact and activities, to include foreign travel, are necessary to develop information about activities to serve as the basis for scheduling required investigations. This is authorized by the Implementation of E.O. 12968, specifically the Adjudicative Guidelines.
- Question 21 (Mental and Emotional Health): Inquiry into certain medical information is limited to certain types of consultations. E.O. 12968 requires inquiry into relevant medical information that may affect one's ability to safeguard classified information.
- Question 22 (Police Record): Inquiries into certain convictions or arrests are required by E.O. 12968. The information is also necessary to make accurate and complete checks of investigative files.
- Question 23 (Use of Illegal Drugs and Drug Activity): Inquiries into illegal drug use is required by E.O. 12968.
- Question 24 (Use of Alcohol): Inquiries into use of alcohol is required by E.O. 12968.
- Question 26 (Financial Record): Inquiries into personal finances and financial delinquencies are used to determine trustworthiness, reliability, and honesty. This information is required by E.O. 12968.
- Question 29 (Association Record): Inquiries into the respondent's association record is required as the answers may reflect on loyalty to the U.S., as outlined in E.O. 12968.

The instructions on the SF 86 inform the respondent of the reason that the information is requested, the authority for requesting it, how it will be used, and to whom it may be disclosed. They describe the investigative process and inform the respondent that OPM or the Federal agency requesting the investigation will make the final determination.

Information requested on the SF 86 concerning current illegal drug activity is used to meet the above requirements. Respondents are advised in a parenthetical note in Question 23 of the following: "Neither your truthful response nor information derived from your response will be used as evidence against you in any subsequent criminal proceeding."

The **SF 86A and SF 86C** default to the instructions on the SF 86.

12. The SF 85, SF 85P, SF 85PS, SF 86, SF 86A, and SF 86C are completed by both employees of the Federal Government and individuals not employed with the Federal Government, to include Federal and military contractors. Federal employees are defined as those individuals who are employed as civilian or military personnel with the Federal Government. Non-Federal employees include members of the general public and all individuals employed as Federal and military contractors or individuals otherwise not

directly employed by the Federal Government. The estimated burden hours vary by form, as described below.

It is estimated that 89,400 non-Federal individuals will complete the SF 85 annually. Each form takes approximately 60 minutes to complete. The estimated annual public burden is 89,400 hours.

It is estimated that 62,000 non-Federal individuals will complete the SF 85P annually. Each form takes approximately 60 minutes to complete. The estimated annual burden is 62,000 hours.

It is estimated that 3,600 non-Federal individuals will complete the SF 85PS annually. Each form takes approximately 20 minutes to complete. The estimated annual burden is 1,200 hours.

It is estimated that 104,000 non-Federal individuals will complete the SF 86 annually. Each form takes approximately 120 minutes to complete. The estimated annual burden is 208,000 hours.

It is estimated that 16,000 non-Federal individuals will complete the SF 86A annually. Each form takes approximately 20 minutes to complete. The estimated annual burden is 5,300.

It is estimated that 1,200 non-Federal individuals will complete the SF 86C annually. Each form takes approximately 15 minutes to complete. The estimated annual burden is 300 hours.

The number of forms completed varies depending on the number of investigations requested/completed each year. Estimates are provided below:

	<u>Number of Non-Federal Respondents</u>	<u>Burden Hours</u>
SF 85	89,400	89,400
SF 85P	62,000	62,000
SF 85PS	3,600	1,200
SF 86	104,000	208,000
SF 86A	16,000	5,300
SF 86C	<u>1,200</u>	<u>300</u>
	276,200	366,200

It is estimated that the total number of non-Federal respondents for the SF 85, SF 85P, SF 85PS, SF 86, SF 86A, and SF 86C increased from 142,800 to 276,200 annually. Accordingly, the estimated annual burden increased from 142,400 to 366,200 hours. (It is estimated that e-QIP burden hours parallel those of the paper versions. Additionally, e-QIP can not distinguish between Federal and non-Federal respondents.) The current usage represents a more accurate depiction of the number of respondents to the forms than previously reported. There are many reasons for the increase in number of

respondents and burden hours. The events of September 11, 2001 precipitated an increase in requested/completed investigations. After September 11, many Federal agencies increased hiring, reexamined their personnel security program, reclassified position designations, requested a higher level of clearance for many employees. As a result, the amount of investigations being requested and completed increased significantly. Due to the increase of Federal contracting efforts and to Homeland Security Presidential Directive (HSPD) 12, the number of National Agency Checks and Inquiries (NACI) investigations increased significantly. NACI investigations use the SF 85 and are identifiable with new hires. Certain sections of the form were expanded to collect from the respondent more accurate and relevant information that is of investigative and adjudicative significance, as outlined in the crosswalk, thus increasing the length of the form. This revision will also result in extensive reprogramming of related automated services.

13. There is no cost to individual respondents.

14. The cost is based upon the demand for each individual form and the current cost per hundred, as supplied by GSA. GSA provided the following information representing current use, and cost per hundred, of each form.

SF 85:	45,000 per year @ \$6.37 per hundred.....	\$2,867.00
SF 85P:	92,000 per year @ \$11.42 per hundred.....	\$10,506.00
SF 85PS:	28,000 per year @ \$2.13 per hundred.....	\$596.00
SF 86:	28,000 per year @ \$14.31 per hundred.....	\$4,009.00
SF 86A:	8,400 per year @ \$2.13 per hundred.....	\$179.00
SF 86C:	1,200 per year @ \$8.37 per hundred.....	\$100.00

15. The overall annual public burden hours for the SF 85, SF 85P, SF 85PS, SF 86, SF 86A, and SF 86C have increased from 142,800 to 366,200 hours to reflect an adjustment of the annual burden hours from previous hours cited. The increase reflects a spike in the number of investigations requested/completed precipitated by the events of September 11, 2001. Additionally, the increase of Federal contracting efforts and HSPD 12 significantly increased the number of NACI investigations.

16. Not applicable. Information collected on the forms will not be published.

17. OPM requests an exception to the 5 CFR 1320 requirements that the expiration date be displayed on the forms because of the large volume of all forms currently in print and circulation. It is not cost effective to destroy and reprint forms only to change the expiration date.

18. Not applicable.