

05/13/2010

Department of the Treasury
Terrorism Risk Insurance Program (TRIP)

Supporting Statement - Information Collection Requirement

OMB Control Number - 1505-0196

Litigation Management Submissions

1. Explain the circumstances that make the collection of information necessary.

This information collection is made necessary by the provisions of the Terrorism Risk Insurance Act of 2002 (the Act), the Terrorism Risk Insurance Extension Act of 2005 (the Extension Act), the Terrorism Risk Insurance Program Reauthorization Act of 2007 (the Reauthorization Act), and the Department of Treasury regulations for their implementation.

On November 26, 2002, the President signed into law the Terrorism Risk Insurance Act of 2002 (Public Law 107-297, 116 Stat. 2322). The Act was effective immediately. The Act's purposes are to address market disruptions, ensure the continued widespread availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for a transition period for the private markets to stabilize and build capacity while preserving state insurance regulation and consumer protections.

The Program was originally set to expire on December 31, 2005. On December 22, 2005, the Terrorism Risk Insurance Extension Act of 2005 (Pub. L. 109-144, 119 Stat. 2660) was enacted, which extended the Program through December 31, 2007. On December 26, 2007, the Terrorism Risk Insurance Program Reauthorization Act of 2007 (Pub. L. 110-160, 121 Stat. 1839) was signed into law and extended the Program through December 31, 2014.

Title I of the Act establishes a temporary federal program of shared public and private compensation for insured commercial property and casualty losses resulting from an act of terrorism. The Act authorizes Treasury to administer and implement the Terrorism Risk Insurance Program (the Program), including the issuance of regulations and procedures. Section 107 of the Act contains specific provisions designed to manage litigation arising out of or resulting from a certified act of terrorism.

By memorandum dated November 26, 2002, the President directed the Secretary of the Treasury, "...to propose a rule that would require an insurer to obtain your advance approval of any proposed settlement of causes of action described in section 107 arising out of or resulting from an act of terrorism." The Final Rule was published at 69 FR 44932 (July 28, 2004). Subsequently, the Extension Act added section 107(a)(6) to TRIA, which provides that procedures and requirements established by the Secretary under 31 CFR 50.82, as in effect on the date of issuance of that section in final form [July 28, 2004], shall apply to any Federal cause of action described in section 107(a)(1). Section 50.82 of the regulations requires insurers to submit to Treasury for advance approval certain proposed settlements involving an insured loss, any part of the payment of which the insurer intends to submit as part of its claim for Federal payment under the Program. The collection of information is in the notice of proposed settlement in Section 50.83 that insurers must submit to implement the settlement approval process prescribed by Section 50.82. Treasury has also published the format for submission as Treasury Form TRIP 03, OMB No. 1505-0196.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The information collected will not be disseminated to the public or used to support information that will be disseminated.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Treasury will make it possible for the submission of necessary information to be done electronically via access to a secure web-based system. It is expected that 95% of submissions would be made in this way. Alternatively, submissions made be made in conventional paper form using mail or express services.

4. Describe efforts to identify duplication.

The required records do not duplicate any existing records. Rather, the requested information represents a concise distillation of the insurer's normally prepared claim and litigation files.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

The record keeping is expected to impact insurers rather than small businesses or other small entities.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

For affected claims, the prior approval of TRIP settlements is a required precursor to the payment of the Federal Share of compensation as established by TRIA. Absent this information it would be impossible to review and approve valid claims for payment. A less frequent collection would delay the payment of legitimate claims.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

There are no special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Treasury published a request for comments on the information collection requirements at 72 FR 11087 (March 12, 2007). A copy is attached. No comments were received. Comments were received, however, when the information collection requirements were published within the Notice of Proposed Rulemaking, 69 FR 25341 (May 6, 2004).

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

There will be no payments or gifts to respondents other than claims payments made to those insurers with losses meeting the criteria set by the Act.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

No assurances of confidentiality have been made to respondents. However, submissions would not be disclosed as they are considered to be exempt from the provisions of the Freedom of Information Act (FOIA).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Responses of a sensitive nature are not required.

12. Provide an estimate in hours of the burden of the collection of information.

No change is proposed to the burden estimate that was computed by assuming 100 insurers would incur 100 claims each for a total of 10,000 claims. It was estimated that approximately one-in-seven claims or 1,428 claims would exceed the dollar thresholds established in the Regulations. Of these, it was estimated that 90%, or 1,285 claims will settle before trial and require the submission of information needed for advance approval by Treasury. It was estimated that the length of time needed to assemble and submit (electronically) the required information is four hours for each claim or a total of 5,141 [sic] hours.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

There is no additional cost burden to respondents or record keepers beyond those identified in #12 above.

14. Provide estimates of annualized cost to the Federal government.

There is no cost to the Federal government of insurer documentation and submission of proposed claims settlements. However, there will be the costs to the Treasury of review and audit of the claims following imposition of the requirement on insurers.

15. Explain the reasons for any program changes or adjustments to previously identified annual reporting and recordkeeping burden hours or cost burden.

There are no changes.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The results of this collection of information are not to be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

We will display the expiration date of OMB approval for this collection.

18. Explain each exception to the certification of compliance with 5 CFR 1320.9 statement.

There are no exceptions to the certification statement.

19. Describe the use of statistical methods such as sampling or imputation.

This collection does not employ statistical methods.