

## SUPPORTING STATEMENT

### **Part A. Justification:**

#### 1. Necessity of Information Collection

On January 2, 2011, President Obama signed into law the James Zadroga September 11 Health and Compensation Act of 2010 (P.L. 111-347). Title II of this Act reopens the September 11<sup>th</sup> Victim Compensation Fund of 2001 (as established by P.L. 107-42) to provide compensation to any individual (or beneficiary of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001. The Special Master, as appointed by the Attorney General, is responsible for the administration of the Fund. The Civil Division will assist the Office of the Special Master.

Public Law 111-347 contains specific language authorizing the collection of information, stipulating the factual basis for eligibility for compensation and the amount of compensation sought. The law states that the information collection shall request information from the claimant concerning the physical harm that the claimant suffered, or in the case of a claim filed on behalf of a decedent, information confirming the decedent's death as a result of the terrorist-related aircraft crashes of September 11, 2001; information from the claimant concerning any possible economic and noneconomic losses that the claimant suffered as a result of such crashes; and information regarding collateral sources of compensation the claimant has received or is entitled to receive as a result of such crashes.

#### 2. Needs and Uses

The information collected from the Eligibility and Compensation Form for the Victim Compensation Fund will be used to determine whether claimants will be eligible for compensation from the Fund, and if so, the amount of compensation they will be awarded. The Form consists primarily of two main sections: Eligibility and Compensation.

The Eligibility Form seeks the information required by the Zadroga Act to determine whether a claimant is eligible for the Fund, including information related to: participation in lawsuits related to September 11, 2001; presence at a 9/11 crash site between September 11, 2001 and May 30, 2002; and physical harm suffered as a result of the air crashes and/or debris removal.

The Compensation Form seeks the information required by the Zadroga Act to determine the amount of compensation for which the claimant is eligible. Specifically, the Form seeks information regarding the out-of-pocket losses (including medical expenses) incurred by the claimant that are attributable to the 9/11 air crashes or debris removal; the claimant's loss of earnings or replacement services that are attributable to the 9/11 air crashes or debris removal; and any collateral source payments (such as insurance payments) that the claimant received as a result of the terrorist-related aircraft crashes of September 11, 2001 or debris removal efforts.

The Document Checklist is a tool designed to assist the claimant in compiling the documents needed to support his or her claim. In other words, it describes the types of documents the claimant might submit as proof of the assertions made in the Eligibility and Compensation Form.

Only those persons with a valid identification, password, and permission created and maintained by the Office of the Special Master and the Civil Division are authorized to have access to claim file information.

### 3. Efforts to Minimize Burden

The Eligibility and Compensation Form is designed to be easily understood and answered by all applicants, and the form will be available electronically to reduce burden. Claimants will be able to fill out and submit the form online. Every effort is being made to reduce the burden to the claimant.

### 4. Efforts to Identify Duplication

Duplication should not be a problem. The statute, as passed in 2001, provided that “not more than one claim may be submitted under the Title by an individual or on behalf of a deceased individual”. The Zadroga Act did not amend this limitation. However, those who applied in 2001 may amend previously submitted claims if additional relevant information has become available. For instance, the claimant may amend their 2001 application if he/she has a new injury not previously compensated, if his/her injury has substantially worsened, or if he/she was previously deemed ineligible and now fits the eligibility criteria.

### 5. Methods to Minimize Burden on Small Entities

The Eligibility and Compensation Form for the Victim Compensation Fund does not seek any information from small entities.

### 6. Consequences of Less Frequent Collection

The Eligibility and Compensation Form will be used to collect information to determine eligibility and compensation. The form will be used only once.

### 7. Special Circumstances Influencing Collection

The form is a one-time collection.

Claimants may be required to submit supplementary information in order to accurately process their claim.

Claimants are not required to submit more than an original and two copies of any document.

Claimants may be required to retain records for more than three years in order to accurately calculate their award amount and collateral offsets.

There is no information collection in connection with a statistical survey.

The form does not require the use of any statistical data collection.

The Eligibility and Compensation Form does not include a pledge of confidentiality. However, all information on the form is collected in accordance with the Privacy Act. Any release of information will conform to the stipulations of the Privacy Act Authorization for Release of Information that claimants will sign as a part of the form.

The Eligibility and Compensation Form does not require the claimants to submit proprietary trade secrets. Other confidential information may be necessary in order to establish eligibility and the amount of compensation. Only those persons with a valid identification, password, and permissions created and maintained by the Office of the Special Master and the Civil Division are authorized to access confidential information.

#### 8. Reasons for Inconsistencies with 5 CFR 1320.8(d)

There are no inconsistencies with this regulation. Public notices will be published in the Federal Register in accordance with the Paperwork Reduction Act requirement.

While the Eligibility and Compensation Form was not published in the Federal Register, a Notice of Proposed Rulemaking for Public Law 111-347 was published in the Federal Register on June 21, 2011 (Vol. 76, No. 119, page 36027). The Department of Justice allocated 45 days for public comment. Potential claimants as well as members of the general public were asked to provide feedback, and a summary of their comments follows. A Final Rule was issued on August 31, 2011, in the Federal Register (Vol. 76, No. 169, page 54112) after taking the public's comments into consideration.

A total of 95 comments were received, of which 6 addressed the claim forms and transmittal. The majority of these comments suggested that the claim forms be as simple as possible and requested that the form ask for the minimum amount of information possible. The comments also discussed best ways to ask for medical records and documentation. Many of these comments came from organizations whose membership was affected by the attacks and from legal firms with expertise in tort litigation. The Department is making every effort to be responsive to the suggestions of the potential claimants and the general public.

#### 9. Payment or Gift to Claimants

No payment or gift will be provided to claimants for filling out the form itself.

#### 10. Assurance of Confidentiality

All information on the form is collected in accordance with the Privacy Act. Any release of information will conform to the stipulations of the Privacy Act Authorization for Release of Information that claimants will sign as a part of the Eligibility Form. Only those who are required to review and process the form will have access to the form. Once the information has been entered into the electronic database, only those persons with a valid identification, password, and permissions created and maintained by the Office of the Special Master and the Civil Division are authorized to access personal information. The physical forms will be locked in a safe location with limited access. Confidentiality is assured.

#### 11. Justification for Sensitive Questions

All information on the Eligibility and Compensation Form is necessary to determine whether a particular claimant is eligible to receive compensation from the Victim Compensation Fund and the amount of compensation he or she will be awarded; for example, whether a claimant was “present” at a 9/11 crash site. In order to minimize the burden on claimants, the VCF intends to collect as much information as possible, with claimants’ permission, from other sources to which the claimants have previously provided it. Many claimants will have participated in other 9/11-related litigation, received treatment through a World Trade Center Health Program Center of Excellence, or worked for an employer who had numerous employees harmed as a result of 9/11 and who are likely to participate in the VCF. The VCF is thus engaging with those other entities to determine whether information previously provided by the claimants may be obtained, with the claimant’s permission, directly from that source without requiring the claimant to re-collect and re-submit the information. In order to facilitate those transfers, prior experience indicates that a social security number will be a useful unique identifier commonly used across the different entities. Accordingly, the VCF believes that collecting the social security number will ultimately ease the burdens imposed on claimants in the claims process. Prior to the release of any information, claimants will be asked to sign an authorization which explains the specific uses of the information collection for the release of information.

#### 12. Estimate of Hour Burden

An estimated 70,000 claimants over the lifetime of the Fund will complete this one-time Eligibility and Compensation Form at an hour burden of 10 hours per respondent:

70,000 claimants x 10 hours per respondent = 700,000 burden hours

#### 13. Estimate of Cost Burden

Given the brief time needed to complete this form, there will be no annualized cost to respondents.

There are no costs associated with operation and maintenance and purchases of services for the claimants.

14. Estimated Annualized Cost to Federal Government

Funding for administrative costs comes directly out of the Fund. Therefore, cost to the Federal government is minimal.

15. Reasons for Program Changes

This is a renewal; therefore, there are no program changes or adjustments.

16. Plans for publication

Names of decedents will be published on the Victim Compensation Fund's website. No timetables have been established for publication.

17. Expiration date approval

We are seeking approval to not display the expiration date for OMB approval of the information collection. An expiration date on the form will result in unnecessary confusion for the claimant.

18. Exceptions to Certification Statement

There are no exceptions to Item 19 of OMB form 83-I.

**Part B.** Statistical Methods

We will not be employing statistical methods in this information collection.