

# Department of Transportation

## **INFORMATION COLLECTION** **SUPPORTING STATEMENT**

### **Individual Complaint of Employment Discrimination**

#### **INTRODUCTION**

This is to request the Office of Management and Budget's (OMB) renewed three-year approved clearance for the information collection titled, "Individual Complaint of Employment Discrimination," OMB Control No. 2105-0556.

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

##### **1. Circumstances that make collection of information necessary.**

The U.S. Equal Employment Opportunity Commission's (EEOC) regulation, 29 Code of Federal Regulations (CFR) Part 1614 specifies that to enter the Equal Employment Opportunity (EEO) complaint process, individuals who believe that they have been discriminated against must contact an EEO Counselor within 45 days of the discriminatory event or the effective date of the personnel action. If the claim of discrimination is not resolved during the pre-complaint stage, the individual has the right to file a formal complaint of discrimination. The complaint may be accepted for investigation or dismissed if it fails to meet the statutory requirements. The individual may appeal the dismissal of the complaint to the EEOC. If the complaint is accepted for investigation, the agency will issue the complainant a Report of Investigation (ROI) within 180 days of the filing of the formal complaint. Upon receipt of the ROI, the complainant has the right to request a final agency decision or a hearing before an EEOC Administrative Judge. Throughout the administrative process, the U.S. Department of Transportation's (DOT) Departmental Office of Civil Rights (DOCR) notifies the individual of his or her rights, and the applicable time limits involved. Accordingly, DOT needs to collect the data identified in this information request from external individuals filing complaints against the Department.

The goal is to streamline the collection of required information, reduce printing costs, and ensure uniformity throughout DOT in the processing and resolution of EEO complaints.

##### **2. How, by whom, and for what purpose is the information used.**

DOT collects the information through an automated form (DOT F 1050-8) and through hard copies received through the mail, electronic mail, and fax. The suite of forms (DOT F 1050-1, 1050-2, 1050-3, 1050-4, 1050-5, 1050-6, 1050-7, 1050-8, 1050-9, 1050-10, 1050-11, and 1050-12) collect or document required information for processing EEO formal complaints of discrimination filed against the Department by external individuals.

DOT, for the most part, will enter the information collected by the standardized EEO complaint form into its automated complaint tracking system.

**3. Extent of automated information collection.**

**Note: Effective October 2003, the Government Paperwork Elimination Act (GPEA) requires that Federal agencies allow the option of electronic filing and recordkeeping (meaning no paper from the public is required), when practicable. This answer should explain how the agency intends to provide for this option, if the option does not already exist.**

DOT, for the most part, will enter the information collected by the standardized EEO complaint form into its automated complaint tracking system. However, the EEOC complaint processing procedures are essentially confidential in nature. They require the aggrieved individual to contact an EEO Counselor, including direct contact and participation by the various parties involved in the complaint resolution activities during the counseling and mediation process.

The DOT officially launched the e-Formal Filing initiative on February 21, 2012. The Notice of Right to File a Formal Complaint now includes the DOT web address with instructions to access the website. The Compliance Operations Division receives prompt notification to ensure formal complaints are processed in a timely manner via the e-Formal Filing process. DOT F 1050-8 is a fully automated (fillable and fileable) form, whereas the remaining forms are still completed in hard copy by respondents and can be submitted to DOT in a variety of ways, including electronically.

**4. Efforts to identify duplication.**

The nature of the EEO complaint process makes the issue(s) and basis(es) for each complaint unique to the circumstances identified by the aggrieved individual filing the complaint. In this sense, similar information is not available for use or modification prior to the actual filing of the EEO complaint.

**5. Efforts to minimize the burden on small businesses.**

This information collection has no impact on small businesses or other small entities.

**6. Impact of less frequent collection of information.**

The EEOC Federal Sector regulation at 29 CFR Part 1614 and EEOC Management Directive 110 govern the processing of EEO complaints of discrimination, which require the collection of data or documentation of requirements contained in the standardized EEO complaint forms. DOT will be unable to process and document complaints of discrimination from external individuals filing complaints against the Department if the information request is denied.

**7. Special circumstances.**

The provision of the data contained in DOT's information request is solely voluntary by external individuals filing complaints against the Department whom claim EEO discrimination and does not require any special circumstances as identified above.

**8. Compliance with 5 CFR 1320.8:**

DOT published a Notice of Request for Information Collection Approval in the Federal Register, Volume 77, Number 97, page 29747, on Friday, May 18, 2012, copy attached. DOT received no responses concerning the Notice during the comment period, which ended on July 17, 2012.

**9. Payments or gifts to respondents.**

DOT has not and will not provide any payment or gift to respondents or remuneration to contractors or grantees.

**10. Assurance of confidentiality:**

DOT protects all information collected during the EEO complaint process in compliance with the Privacy Act of 1974, 5 U.S.C § 552a, as amended. All personal EEO pre-complaint and formal complaint discrimination data is treated in a confidential manner and its use is restricted. Persons violating the privacy safeguards are subject to disciplinary action, a fine, or both.

**11. Justification for collection of sensitive information:**

EEOC Management Directive 110 requires the Federal agency to determine if the aggrieved person believes that he/she was discriminated against based on race, color, sex, religion, national origin, age (40 years or older at the time of the event giving rise to the claim), physical or mental disability, genetic information, Pregnancy Discrimination Act of 1978, or retaliation for participating in activities by civil rights statutes. DOT's policy guidance also permits claims of discrimination based on sexual orientation. Collection of this information from the individuals is voluntary and forms the basis(es) for a complaint. The information is necessary to enter into the EEO complaint process. As mentioned in DOT's response to Question 10 above, all information provided by persons alleging EEO discrimination is safeguarded and treated in accordance with the Privacy Act of 1974, as amended.

**12. Estimate of burden hours for information requested:**

Based on historical data and expert opinion, DOT expects approximately ten EEO complaints of discrimination by applicants for employment with the Department annually. The total burden per respondent for each form is estimated to be: 15 minutes

for the EEO Counselor Checklist (DOT F1050-1); 10 minutes for ONE DOT Sharing Neutrals Program Mediation Intake (DOT F 1050-2); 5 minutes for the Agreement to Mediate (DOT F 1050-3); 15 minutes for the Exit Survey for Mediation Participants (DOT F 1050-4); 5 minutes for the Agreement to Postpone the Final Interview and to Extend the Counseling Period (DOT F 1050-5); 5 minutes for the Notice of Right to File a Discrimination Complaint (DOT F 1050-6); 15 minutes for the Notice of Rights and Responsibilities (DOT F 1050-7); 1 hour for the Individual Complaint of Employment Discrimination form (DOT F 1050-8); 5 minutes for the Designation of Representative (DOT F 1050-9); 5 minutes for the Final Agency Decision Request (DOT F 1050-10); 5 minutes for the Waiver of Right to Anonymity (DOT F 1050-11); and 5 minutes for the Request for Mediation (DOT F 1050-12). This amounts to 2.5 hours per respondent, and 25 hours per annum for all 10 respondents.

**13. Estimate of total annual costs to respondents.**

Postage for one packet of mailed forms will cost approximately \$5.20 if mailed by U.S. Postal Service priority mail in a large envelope, or \$52.00 for all ten respondents.

**14. Estimate of cost to the Federal government.**

DOT currently has an EEO complaint processing system in place that utilizes a similar standardized form, procedures, and automated system for its current and former employees alleging EEO discrimination. DOT-wide, there are approximately 50 collateral-duty EEO Counselors, with an average grade level of 11. The base pay level for a GS-11 is \$50,287. Therefore, estimated cost to the Federal government per annum is \$2,514,250. The estimated ten EEO complaints from external individuals filing complaints against the Department received annually can be absorbed within the current business processes with essentially no additional cost to the Federal government.

**15. Explanation of program changes or adjustments.**

DOT has changed the hours necessary for completing the forms since the OMB's approval of the form in 2009. This includes the addition of DOT Form 1050-11 ("Waiver of Right to Anonymity") and DOT Form 1050-12 ("Request for Mediation"). However, prior to 2009 the number of hours necessary for completing the form was changed from 2.5 hours to 1 hour. The reduction of 1.5 hours was based on the erroneous focus on only DOT F 1050-8, without factoring in the time required for the remaining forms.

**16. Publication of results of data collection.**

DOT will not publish information collected in the standardized EEO complaint forms.

**17. Approval for not displaying the expiration date of OMB approval.**

DOT is not seeking approval not to display the expiration date of the ten standardized

EEO complaint forms.

**18. Exceptions to certification statement.**

DOT has not identified any exceptions to the certification statement.