

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) three-year approved clearance for the information collection titled, "Individual Complaint of Employment Discrimination" (Complaint Form).

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-calendar 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 Office of Federal Operations. If the complaint is accepted for investigation, the agency will issue the complainant a Report of Investigation (ROI) within 180-calendar 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 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 employees, former employees, and applicants filing complaints against DOT.

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.

The DOT collects the information through an automated form and through hard copies received in-person, through the mail, electronic mail, and fax. The Complaint Form is used to collect or document required information for processing EEO formal complaints of discrimination filed against DOT by employees, former employees, and applicants.

The DOT, for the most part, will enter the information from the 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.

The DOT, for the most part, will enter the information from the Complaint Form into its automated complaint tracking system. However, the EEO 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 Discrimination 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. The Complaint Form is a fully automated (fillable and fileable) form.

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 Complaint Form. The DOT will be unable to process and document complaints of discrimination from external individuals filing complaints against the DOT if the information request is denied.

7. Special circumstances.

The provision of the data contained in DOT's information request is solely voluntary by employees, former employees, and applicants filing complaints against DOT who claim EEO discrimination and do not require any special circumstances as identified above.

8. Compliance with 5 CFR 1320.8.

The DOT published a Notice of Request for Information Collection Approval in the Federal Register, Volume 80, Number 82, page 23855, on Wednesday, April 29, 2015, copy attached. The DOT received no responses concerning the Notice during the comment period, which ended on June 29, 2015.

9. Payments or gifts to respondents.

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

10. Assurance of confidentiality.

The 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.

The EEOC Management Directive 110 requires the Federal agency to determine if the aggrieved individual believes that he/she was discriminated against based on race, color, sex (gender; sexual harassment; pregnancy; or lesbian, gay, bisexual, or transgender-LGBT), religion, national origin, age (40 years or older at the time of the event giving rise to the claim), physical or mental disability, equal pay/compensation, genetic information, sexual orientation, or retaliation for participating in activities by EEO statutes. The DOT's policy guidance also permits claims of discrimination based on sexual orientation. Collection of this information from the individuals is mandatory 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 annually by employees, former employees and applicants. The total burden per respondent for each form is estimated to be 1 hour for the Complaint

Form. This amounts to 1 hour per respondent, and 10 hours per annum for all 10 respondents.

The DOT's 60-day notice stated that the form will be used by "individuals who are not Federal employees and are applicants for employment with the Department." However, the 30-day notice states that the form will be used by "employees, former employees, and applicants for employment." Although DOT employees and former employees also use the form when submitting a complaint of discrimination, they were not included in calculating burden hours because information collected on the form is not used for general statistical purposes. In addition, a current employee's submission of the form is within the scope of their employment.

13. Estimate of total annual costs to respondents.

Postage for one packet of mailed forms will cost approximately \$5.75 if mailed by U.S. Postal Service priority mail in a large envelope, or \$57.50 for all ten respondents.

14. Estimate of cost to the Federal government.

The 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 \$51,298. Therefore, estimated cost to the Federal government per annum is \$2,564,900. The estimated ten EEO complaints from employees, former employees, and applicants filing complaints against the DOT 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.

The DOT has not changed the hours necessary for completing the form since the OMB's approval of the form in 2009. However, prior to that, 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 historical experience based on the past several years after OMB approved the initial form.

16. Publication of results of data collection.

The DOT will not publish information collected in the Complaint Form.

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

The DOT is not seeking approval to not display the expiration date of the Complaint Form.

18. Exceptions to certification statement.

The DOT has not identified any exceptions to the certification statement.