

**Workplace Discrimination Complaints
3060-XXXX**

February 2017

Supporting Statement

A. Justification

1. The Equal Employment Opportunity Commission (EEOC) has a two stage complaint process for individuals seeking to file a complaint of discrimination. The EEOC requires respondents to file an informal complaint in order for a Federal agency to address an Equal Employment Opportunity (EEO) allegation of discrimination. During the informal stage, the respondent meets with an EEO Counselor, who explains the EEO process, such as the respondent's rights and responsibilities, EEO procedures, basis of complaints, filing requirements, filing deadlines, and Alternative Dispute Resolution options. . When filing an informal EEO complaint with a federal agency, the respondent must provide information regarding the incident(s), which includes the name of the respondent, witnesses, locations, dates and times of the incidents. Additionally, the informal complaint must contain a precise statement identifying the actions or practices that form the basis of the discrimination. The Office of Workplace Diversity (OWD) of the Federal Communications Commission (FCC or Commission) collects this information on FCC Form - 5621.

Upon completion of the counselling requirement, the EEO Counselor provides the respondent with a Notice of Right to File an EEO Complaint. At this time, the respondent has 15 days to file a formal EEO complaint in order for a Federal agency to address an EEO allegation of discrimination. When filing a formal EEO complaint with a federal agency, the respondent must provide information regarding the incident(s), which includes the name of the respondent, witnesses, locations, dates and times of the incidents. Additionally, the complainant must contain a precise statement identifying the actions or practices that form the basis of the discrimination. The Office of Workplace Diversity (OWD) of the Federal Communications Commission (FCC or Commission) collects this information on FCC Form - 5622.

The Commission is requesting the Office of Management and Budget (OMB) approval of this new information collection in order to obtain the full three-year clearance.

Records may include information about respondents, e.g., personally identifiable information or PII, and the use(s) and disclosure of this information is governed by the requirements of a system of records notice or "SORN," FCC/OWD-2, "EEO Complaint Records." There are no additional impacts under the Privacy Act.

Statutory authority for this information collection is contained in 29 U.S.C. §§ 206(d), 633a, 791, and 794a; 42 U.S.C. §§ 2000e-16 and 2000ff-6(f).

2. This information will be used by the OWD to seek resolution of, investigate, and issue Final Agency Decisions regarding allegations of discrimination and/or retribution or reprisals towards FCC employees, former employees or applicants (respondents) for employment at the FCC. Additionally, the Office of General Counsel will use the information to defend allegations of discrimination in hearings before the EEOC and court cases in federal court. The information may also be used by EEOC employees, court personnel, and law enforcement and investigative personnel. Finally, the respondent may use this information in preparation for hearings before the EEOC and cases in the federal courts.
3. Respondents will have the ability to file and gain access to this information both electronically and through paper files. The information will be maintained in an online complaints filing and reporting system. Respondents will have the option to submit their information either electronically or manually. By using the electronic submission portal, respondents will have immediate confirmation of the date their materials are received and will have 24-hour, 7 day access to their information. Additionally, respondents will not have to submit multiple copies of documents when filing electronically. Finally, maintenance of electronic forms permits the OWD to upload the documents to EEOC staff for administrative hearings and receive immediate confirmation of receipt at the EEOC as opposed to using regular mail.

Electronic filing also enables the EEO staff and EEO Counselors to contact the respondent efficiently with updates and forms. However, in recognition that some respondents cannot file electronically, the OWD will retain the ability for respondents to file complaints manually. This information will be uploaded into the Online EEO Complaint Filing and Reporting System by OWD personnel.

4. There is some duplication of the information in the FCC Form - 5621 (Informal Complaint Form) and the FCC Form -5622 (Formal Complaint). EEOC Rules require the respondent who has a dispute that may fall under one of the anti-discrimination laws to participate in pre-

complaint counselling before filing a complaint. See 29 C.F.R. § 1614.105; U.S. Equal Employment Opportunity Commission, Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO-MD-110), August 5, 2015. The pre-complaint counselling requires the EEO Counselor to gather information in order to seek a resolution of the dispute as well as provide required information to the respondent. See EEO-MD-110, Chapter 2, Sections III and IV. The information that the respondent provides regarding the dispute as well as the information that the EEO Counselor is required to provide to the respondent during the pre-counselling stage is reflected in FCC Form-5621.

The FCC Form-5621 allows the respondent to file an informal complaint in accordance with 29 C.F.R. § 1614.105. Because some of this information may be duplicated at a later time on the FCC Form-5622, if the respondent files electronically, the information will automatically transfer from the FCC Form-5621 to the FCC-Form 5622. However, the respondent will be able to update this information because some of the information may have changed since the pre-complaint form was submitted; or there may be additional information that should be included in the formal complaint that was not included in the pre-complaint form.

For respondents who do not file electronically, some of the information regarding the dispute must be duplicated on both forms in order to differentiate complaints, to review the formal complaint and determine if it can be accepted or dismissed in accordance with 29 C.F.R. §§ 1614.106 - 1614.107. For example, in accordance with 29 C.F.R. § 1614.107(a)(2), the FCC must dismiss a formal complaint if the claim(s) in the formal complaint was/were not raised in the pre-complaint stage. In order to determine if the claim(s) was/were raised at the earlier stage, we must compare the pre-complaint form with the formal complaint form. Thus, some information will be duplicative.

5. The collection of this information will not have significant economic impacts on small businesses, organizations or other small entities. In order to file a complaint, respondents must provide certain information to allow the FCC to investigate and resolve the dispute/complaint. The use of the Online EEO Complaint Filing and Reporting system will provide the respondents with the option to use either an electronic or paper filing method.
6. The information must be collected in order to comply with the EEOC's Rules for resolving disputes/complaints involving the anti-discrimination laws. However, the respondent is free to elect not to file an informal or a formal complaint.

7. There are no special circumstances that would cause information to be collected in a manner inconsistent with OMB's guidelines.
8. The FCC solicited public comments on the Paperwork Reduction Action information collection requirements on February 28, 2017 at 82 FR 12094. No comments were received from public.
9. There will be no payments or gifts to respondents in connection with this information collection.
10. Confidentiality of information will be provided in accordance with the Privacy Act.
11. The FCC Form 5621 and FCC Form 5622 require the respondent to provide information regarding the dispute and how the dispute relates to an anti-discrimination law. Additionally, FCC Form 5621 requires the EEO Counselor to annotate the rights and responsibilities that the EEO Counselor advised the respondent. For example, the EEO Counselor advises the respondent on the role of the counselor, different types of complaints, the right to file a complaint, the basis for filing a complaint, avenues of redress, rights and responsibilities, time requirements, the ADR process, informal complaint process, etc. This information ensures the respondent understands the informal and formal complaint process. During the EEO pre-complaint stage, the EEO Counselor advises the respondent that the submission of a complaint with the supporting information is voluntary.

As stated above, the FCC Form 5622 requires the respondent to provide information regarding the dispute and how the dispute relates to an anti-discrimination law. This information will be used to determine whether the respondent has stated a claim in accordance with 29 C.F.R. § 1614.103 and 29 C.F.R. § 1614.106. Although the provision of this information is voluntary, if the respondent is claiming discrimination under one of the anti-discrimination laws, the respondent must provide sufficient information to state a claim.

12. The average number of informal complaints filed for Fiscal Years 2014, 2015 and 2016 was 16. Typically, respondents complete the forms themselves. The total annual burden hours for the 16 complaints is 56 hours. The Commission estimates that 16 respondents will file an informal complaint annually and that the *average* burden per response is 3.51 hours. The Commission estimates that 60% of the respondents (10) will complete and file the form themselves without assistance. The Commission estimates the

average per response for respondents to complete the form without assistance is approximately 2.5 hours.

Informal Complaint Form							
Fiscal Year	Annual Filings	Pro Se Respondents	Representative	Frequency of Response	Response Time	Total Responses	Total Response Time
2014	14	8.4		1	2.5 hours	8	20
2014			5.6		5 hours	6	30
2015	13	7.8		1	2.5 hours	8	20
2015			5.2		5 hours	5	25
2016	20	12		1	2.5 hours	12	30
2016			8		5 hours	8	40
Total	47					47	165
Average	15.67						3.51
Annual							56

Total Respondents: 16 informal complaints
 Total Annual Responses: 16 informal complaints
 Total Annual Burden Hours: 16 informal complaints x 3.5 hours = 56

The average number of formal complaints filed for Fiscal Years 2014, 2015 and 2016 was 10. Typically, respondents complete the forms themselves. The total annual burden hours for the 10 complaints is 35 hours. The Commission estimates that 10 respondents will file a formal complaint annually and that the *average* burden per response is 3.5 hours. The Commission estimates that 60% of the respondents (6) will complete and file the form themselves without assistance. The Commission estimates the average per response for respondents to complete the form without assistance is approximately 2.5 hours.

Formal Complaint Form							
Fiscal Year	Annual Filings	Pro Se Respondents	Representative	Frequency of Response	Response Time	Total Responses	Total Response Time
2014	10	6		1	2.5 hours	6	15
2014			4		5 hours	4	20
2015	8	4.8		1	2.5 hours	5	12.5
2015			3.2		5 hours	3	15
2016	12	7.2		1	2.5 hours	7	17.5
2016			4.8		5 hours	5	25
Total	30					30	105
Average	10						3.5
Annual							35

Total Respondents: 10 complaints

Total Annual Responses: 10 complaints

Total Annual Burden Hours: 10 complaints x 3.5 hours = 35 hours

Cumulative Total for FCC Form 5621 (Informal Complaints) and FCC Form 5622 (Formal Complaints)

Total Respondents: 16 informal complaints + 10 formal complaints = 26 complaints

Total Annual Responses: 16 informal complaints + 10 formal complaints = 26 complaints

Total Annual Burden Hours: 56 hours + 35 hours = 91 hours

- The remaining 40% (6) of respondents will hire a law firm to complete and file the informal complaint form. The typical fee is \$300 an hour for representation, plus the cost of supplies (envelopes, postage, cover letter, etc.). For those respondents hiring a law firm, we estimate a burden of approximately 5 hours for the attorney to discuss the dispute with the respondent, prepare the form, coordinate the response with the respondent and file the form with the Commission. Thus, the Commission estimates the cost for the

preparation and submission of the form is \$1,500 per response and \$9,000 annually for all responses.

Total Cost to Respondent for FCC Form 5621 (Informal Complaint):

- (a) Total annualized capital/startup costs: None.
- (b) Total annual costs (O&M): \$9,000
- (c) Total annualized cost requested: **\$9,000.**

Cost to the Respondent:

6 respondents x 5 hours x \$300 attorney/hour = \$9,000

Total Cost to Respondent: \$9,000

The remaining 40% (4) of respondents will hire a law firm to complete and file the formal complaint form. The typical fee is \$300 an hour for representation, plus the cost of supplies (envelopes, postage, cover letter, etc.). For those respondents hiring a law firm, we estimate a burden of approximately 5 hours for the attorney to discuss the dispute with the respondent, prepare the form, coordinate the response with the respondent and file the form with the Commission. Thus, the Commission estimates the cost for the preparation and submission of the form is \$1,500 per response and \$6,000 annually for all responses.

Total Cost to Respondent for FCC Form 5622 (Formal Complaint):

- (a) Total annualized capital/startup costs: None.
- (b) Total annual costs (O&M): \$6,000
- (c) Total annualized cost requested: **\$6,000.**

Cost to the Respondent:

4 respondents x 5 hours x \$300 attorney/hour = \$6,000

Total Respondent Cost: \$6,000

Total Cost to Respondent for Forms 5621 and FCC Form 5622: \$9,000 + \$6,000 = \$15,000

14. Cost to the Federal Government

Upon receipt of the form, the Commission uses the completed form at varying stages to prepare memoranda, orders, provide copies to the

EEOC and district court, to compile data for reports, etc. Accordingly, the Commission staff use the forms throughout the year to perform their duties.

FCC Form 5621 estimated to be filed: 16

16 forms x 25 hours
@ \$60.83 per hour (GS-14 Step 5) for processing
\$24,332.00
By an EEO Specialist

16 forms x 35 hours
@ \$71.56 per hour (GS-15 Step 5) for review
\$40,073.60
By an Attorney Advisor

16 forms x 10 hours
@ \$29.85 per hour (GS 9 Step 5) for copying & distribution
\$4,776.00
By a Staff Assistant

16 forms x 10 hours
@ \$51.48 per hour (GS-13 Step 5) for counseling
\$8,236.80
By an EEO Counselor

Total

\$77,418.40

FCC Form 5622 estimated to be filed: 10

10 forms x 100 hours
@ \$60.83 per hour (GS-14 Step 5) for processing
\$60,830.00
By an EEO Specialist

10 forms x 100 hours
@ \$71.56 per hour (GS-15 Step 5) for review
\$71,560.00
By an Attorney Advisor

10 forms x 25 hours
@ \$29.85 per hour (GS 9, Step 5) for copying, distribution
\$7,462.50
By a Staff Assistant

10 forms used in investigations
\$34,000.00
@ \$3,400 per investigation

Total

\$173,852.50

**Total Cost to the Federal Government: \$77,418.40 +
\$173,852.50 = \$251,270.90**

15. This is a new information collection request resulting in a program change/increase to the total respondents of 26, total annual responses of 26 and total annual burden hours of 91 hours. These estimates will be added to OMB's Active Inventory.
16. The Commission will publish data regarding the number of complaints filed, and demographic information in the quarterly Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR) Reports on the FCC's internet and intranet sites. Additionally, the Commission will publish data regarding the number of complaints filed and demographic information in the annual No FEAR Act Reports to the Department of Justice, Office of Personnel Management, the EEOC and Congressional Offices. The Commission will also publish data regarding the number of complaints filed, demographic information, and discrimination basis information in the annual Form 462 Report submitted to the EEOC. However, no personally identifiable information is included in the data that is submitted in connection with any of these reports.
17. The Commission is not seeking to limit display of the expiration date of the OMB approval nor requesting an exception to the compliance certification in 5 C.F.R. § 1320.9 and related provisions of 5 C.F.R. § 1320.8(b)(3).
18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.