

INFORMATION COLLECTION SUPPORTING STATEMENT

Sensitive Security Information Threat Assessments

1652-0042

Exp: 07/31/2017

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information. (Annotate the CFR parts/sections affected).**

Section 114(r) of title 49, United States Code (U.S.C.), requires the Transportation Security Administration (TSA) to promulgate regulations governing the protection of Sensitive Security Information (SSI). SSI includes information that would be detrimental to transportation security if publicly disclosed. TSA's SSI regulations at 49 CFR part 1520 establish certain requirements for the recognition, identification, handling, and dissemination of SSI, including restrictions on disclosure and civil penalties for violations of those restrictions. Individuals may only access SSI if they are a covered person (as defined in 49 CFR 1520.7) with a need to know (as defined in 49 CFR 1520.11). Consistent with its authority under the Aviation and Transportation Security Act, Pub. L. 107-71, sec. 114(f) (Nov. 19, 2001) (ATSA), TSA may require a security background check before someone may have access to SSI information. See 49 CFR 1520.11(c). TSA has established processes for individuals not defined as "covered persons" under 49 CFR 1520.7 to have access to SSI in certain situations, such as (1) the use of SSI when necessary in federal court proceedings and (2) the sharing of limited SSI for pre-acquisition, procurement, and contracting purposes.

Section 525 of the Department of Homeland Security Appropriations Act, 2007, Pub. L. 109-295 (Oct. 4, 2006) (DHS Appropriations Act)¹ included a limited expansion of "covered persons." Under this provision, a party in civil proceedings in the U.S. District Courts may seek access to SSI. The request must be limited to SSI relevant to their case and they must demonstrate a substantial need for this information in preparation of the party's case and an undue hardship to obtain equivalent information by other means. If these requirements are met, the party or party's counsel shall be designated as a covered person under 49 CFR part 1520.7, provided that: the overseeing judge enters an order protecting the SSI from unauthorized disclosure; the individual undergoes a threat assessment like that done for aviation workers, including a fingerprint-based criminal history records check (CHRC); and the provision of access to the specific SSI in question in a particular proceeding does not present a risk of harm to the nation.

TSA implemented section 525(d) of the DHS Appropriations Act by establishing a process whereby a party seeking access to SSI in a civil proceeding in federal court that demonstrates a substantial need for relevant SSI in preparation of the party's case may request that the party or party representative be granted access to the SSI. A separate request for access to SSI is required for party-retained experts or consultants, as well as court reporters who are required to record or transcribe testimony containing specific SSI who do not have a current

¹ This provision has been consistently reenacted. Most recently in the Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. 113-6, Div. D., Title V., sec. 510 (March 26, 2013).

security clearance required for access to classified national security information as defined by Executive Order 12958.

Under 49 CFR §§ 1520.11 and 1520.15, TSA has extended this process to include a prospective bidder seeking to submit a proposal in response to a request for proposal (RFP) issued by TSA; an individual involved in the performance of contractual agreements (for example, bailments) or other transaction agreements, or an individual receiving access to SSI under 49 CFR § 1520.15(e) regarding other conditional disclosures.

To determine whether an individual may be granted access to SSI, TSA will conduct a security threat assessment, including a CHRC, and/or a name-based check against Federal law enforcement, terrorism, and immigration databases, and/or implement other procedures and requirements for safeguarding SSI that are satisfactory to TSA. Certain individuals will be required to submit fingerprints for purposes of conducting the CHRC.

TSA is requiring individuals to submit identifying information, including, but not limited to, full name (including any aliases), date of birth, place of birth, gender, Social Security Number (voluntary), employer name and address; and information regarding the need for the information (litigant, bidder, etc.). To further safeguard SSI, TSA also may require these individuals to respond to questions to verify individuals' history in safeguarding sensitive information, including good standing with bar membership, sanctions and security clearance; and to agree to abide by TSA instructions concerning the handling of SSI in connection with the court proceeding.

In the case of contract bidders, parties to other contractual agreements (*e.g.*, bailments), participants other transaction agreements, or those who receive other conditional SSI disclosures, TSA will require: a certification from each company/entity that its employees/personnel who are provided access to SSI are properly trained; a Non-Disclosure Agreement for each individual who is granted access to SSI; and a request that each company/entity designate a Senior Official who can certify that the all appropriate protections will be followed, only authorized individuals will have access to the sensitive information, and that those individuals adequately understand their responsibilities to protect the information.

TSA is revising the collection of information to allow individuals who are members of the TSA Pre[√]® Application Program² to provide a known traveler number (KTN) to facilitate the security threat assessment. Under that Program, individuals submit identifying information and fingerprints for a CHRC to help TSA determine eligibility for the Program, very similar to what TSA requires before providing SSI to an individual. TSA will use the information provided as part of the TSA Pre[√]® Application Program as part of its determination of an individual's eligibility to be granted access to SSI.

² TSA is in the process of working with U.S. Customs and Border Protection's to use the KTN received through its Global Entry Program to determine an individual's eligibility to access SSI. TSA is also exploring the use of KTNs received by other DHS Trusted Traveler Programs to determine an individual's eligibility to access SSI. The CBP PASSID is assigned to individuals upon approval for membership in Global Entry, NEXUS, or SENTRI. This nine-digit number usually begins with 98, serves as their known traveler number, and can be found on the back of their NEXUS, SENTRI, or Global Entry card.

2. ***Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.***

TSA uses the information from those seeking access to SSI to conduct threat assessments, which may include: (1) a CHRC; (2) a name-based check to determine whether the individual poses or is suspected of posing a threat to transportation or national security, including checks against terrorism, immigration or other databases TSA maintains or uses; and (3) a professional responsibility check (if applicable) for the purpose of identifying those situations in which providing SSI access to a particular individual would present a risk of harm to the nation. The results of the threat assessment are used by TSA to make a final determination on whether the individual may be granted access to SSI. TSA also uses the information to determine whether provision of access to specific SSI would present a risk of harm to national or transportation security.

3. ***Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden. [Effective 03/22/01, your response must SPECIFICALLY reference the Government Paperwork Elimination Act (GPEA), which addresses electronic filing and recordkeeping, and what you are doing to adhere to it. You must explain how you will provide a fully electronic reporting option by October 2003, or an explanation of why this is not practicable.]***

Individuals seeking access to SSI in court proceedings are required to complete a TSA Form 2211 questionnaire and certification and submit it to TSA. In addition, TSA provides an instruction sheet that informs individuals that they must complete an In-Person Enrollment at a designated Universal Enrollment Services (UES) Center by pre-enrolling online at <https://universalenroll.dhs.gov/> and going in-person to a UES Center for electronic fingerprinting.

Individuals seeking to perfect and submit a bid to TSA, to enter in contractual performances or to proceed under other conditional disclosure must submit a password-protected spreadsheet that contains the required information via email. When collection of biometric information is required, individuals will either mail fingerprint cards to TSA Office of Personal Security or use TSA facilities to provide the fingerprints.

4. ***Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in Item 2 above.***

TSA is avoiding duplication of efforts and intends to reduce burden by allowing individuals to provide KTNs to facilitate the security threat assessment, or honoring comparable security threat assessments an individual may have received from TSA. For cases in which an applicant has already received a comparable threat assessment, biographic information is collected in order to ensure the applicant's identity. In such cases, the previous threat assessment is leveraged and the applicant would not incur a fee since a full assessment does not have to be performed.

For individuals without a KTN or comparable security threat assessment conducted by TSA, the information is not otherwise collected and thus no similar information is available to TSA

5. ***If the collection of information has a significant impact on a substantial number of small businesses or other small entities (Item 5 of the Paperwork Reduction Act submission form), describe the methods used to minimize burden.***

This collection does not have a significant impact on a substantial number of small businesses.

6. ***Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.***

If this collection is not conducted, TSA is unable to protect critical SSI and implement sec. 525 of the DHS Appropriations Act and meet ongoing litigation deadlines in pending litigation.

7. ***Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5(d)(2).***

This collection is conducted consistent with the information collection guidelines.

8. ***Describe efforts to consult 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. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d) soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.***

As required by 5 CFR 1320.8(d), TSA published 60 Day Notice in the Federal Register on November 25, 2016, (81 FR 85243) announcing its intent to renew the OMB number and solicit public comment, and a 30 Day Notice on June 19, 2017, (82 FR 27852). TSA received no comments for either notices.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

TSA does not provide any payment or gift to respondents.

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

Although there is no assurance of confidentiality to any respondent, TSA will handle all records in accordance with the Privacy Act of 1974 and other applicable laws and regulations. TSA last published the applicable SORN for this collection, DHS/TSA—002 Transportation Security Threat Assessment System (T-STAS), on August 11, 2014 (79 FR 46862). Privacy Impact Assessment (PIA) coverage for this information collection is provided by DHS/TSA/PIA-008, Threat Assessments for Access to Sensitive Security Information for Use in Litigation, (December 28, 2006).

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

TSA does not ask any questions of a sensitive or private nature.

12. Provide estimates of hour burden of the collection of information.

TSA estimates the total number of annual respondents to be 263, including individuals involved in pending court proceedings, individuals seeking access to SSI to perfect and submit a bid, individuals seeking access to SSI in other contractual or pre-acquisition agreements (*e.g.*, bailments), other transaction agreements, or individuals receiving access to SSI under 49 CFR § 1520.15(e). The total hour burden is 275. The following paragraphs provide a summary of each population category, as well as description of their hourly burden.

TSA estimates that approximately 7 individuals involved in pending court proceedings will require a threat assessment (including a fingerprint based criminal history record check) to determine eligibility to receive SSI on an annual basis. TSA estimates the time burden per respondent as follows: 60 minutes to compile and submit the required information, 5 minutes to coordinate the fingerprinting set-up time, 2 minutes to have an identity check, 9 minutes for the fingerprinting, 15 minutes for wait time, and 70 minutes for travel time. The total time burden of 161 minutes (2.683 hours) multiplied by the number of respondents (7) results in a total annual hour burden of 19 hours.³

Number of Respondents	Time per Respondent	Total Burden
7	2.683 hours	19 hours

³ As stated in the response to Question 4, individuals who have already received a comparable threat assessment from TSA will not incur this burden.

TSA estimates that approximately 206 individuals seek access to SSI on an annual basis to perfect and submit a bid to TSA will require a threat assessment to determine eligibility to receive SSI. TSA estimates the time burden per respondent as follows: 60 minutes to compile and submit the required information. The total burden time of 60 minutes (1 hour) multiplied by the number of respondents (206) results in a total annual hour burden of 206 hours.

Number of Respondents	Time per Respondent	Total Burden
206	1.000 hours	206 hours

TSA estimates that approximately 30 individuals seek access to SSI on an annual basis in other contractual or pre-acquisition agreements (*e.g.*, bailments, other transaction agreements) will require a threat assessment to determine eligibility to receive SSI on an annual basis. TSA estimates the time burden per respondent as follows: 60 minutes to compile and submit the required information. The total burden time of 60 minutes (1 hour) multiplied by the number of respondents (30) results in a total annual hour burden of 30 hours.

Number of Respondents	Time per Respondent	Total Burden
30	1.000 hours	30 hours

TSA estimates that approximately 20 individuals annually seek access to SSI under 49 CFR § 1520.15(e) who will require a threat assessment to determine eligibility to receive SSI. TSA estimates the time burden per respondent as follows: 60 minutes to compile and submit the required information. The total burden time of 60 minutes (1 hour) multiplied by the number of respondents (20) results in a total annual hour burden of 20 hours.

Number of Respondents	Time per Respondent	Total Burden
20	1.000 hours	20 hours

Total Respondents and Burden			
Information Collection	Number of Respondents	Time per Respondent	Total Burden
Litigants	7	2.683 hours	19 hours
Bidders	206	1.000 hours	206 hours
Agreement	30	1.000 hours	30 hours
Other	20	1.000 hours	20 hours
Total	263		275 hours

The total annual cost burden to respondents as a result of this collection is \$8,880, ($\32.29^4 hourly loaded wage rate x 275 hours).

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

TSA estimates that seven respondents involved in pending court proceedings will require a threat assessment, including a fingerprint-based criminal history record check, and will pay a \$14.50 fingerprint fee. Thus, the annual cost burden to respondents from the collection of information is \$101.50 (\$14.50 fingerprint fee x 7 respondents). As stated in the response to Question 4, individuals who have already received a comparable threat assessment from TSA will not incur a fee.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, and other expenses that would not have been incurred without this collection of information.

TSA estimates the annual costs to the Federal Government as a result of this collection to be approximately \$10,634. The component costs are as follows: \$70 for the CHRC ($\10.00^5 per CHRC x 7 respondents); \$1,200 for the enrollment system; \$6,441 for TSA staff to review the SSI requests ($\$24.49^6$ hourly loaded D Band wage rate x 1 hour x 263 respondents); \$1,608 for adjudications (10 minutes of a G/H Band hourly loaded wage rate at $\$36.69^7$ x 263 respondents); and, \$1,315 for the name check ($\$5$ x 263 respondents).

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

TSA has adjusted the scope of the collection after further review, which in turn effected the hour and cost burden estimates. However, the estimated number of respondents increased from 127 to 263. There was a reduction of estimated burden hours from 324 to 275, a reduction in cost burden from \$22,537 to \$8,880, and an increase in estimated Federal Government costs from \$7,890 to \$10,634.

⁴ Bureau of Labor Statistics, Released on September 2016. Total employer compensation costs (including wages and benefits) for private industry workers averaged \$32.29 per hour worked in June 2016. Table 5. Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Private industry workers, by major occupational group and bargaining unit status (All workers) (Accessed on November 21,2016). http://www.bls.gov/news.release/archives/ecec_09082016.htm

⁵Federal Bureau of Investigation Criminal Justice Information Services Division User Fee Schedule. July 14, 2016. <https://www.federalregister.gov/documents/2016/07/14/2016-16610/fbi-criminal-justice-information-services-division-user-fee-schedule>

⁶ D Band TSA personnel located at TSA HQ in Arlington, VA; \$50,929 per year (includes 24.78% locality adjustment and includes wages and benefits). Source: TSA Financial Management Division.

⁷ G/H Band TSA personnel located at TSA HQ in Arlington, VA; \$76,310 per year (includes 24.78% locality adjustment and includes wages and benefits). Source: TSA Financial Management Division.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

TSA will not publish the results of this collection.

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

TSA will display the expiration date.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

TSA is not seeking any exceptions to the certification statement.