

INFORMATION COLLECTION SUPPORTING STATEMENT

TSA Claims Application
OMB control number 1652-0039
Exp. 1/31/2019

- 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).**

The TSA Claims, Outreach, and Debt Branch (CODB) adjudicates tort claims under the authority of the Federal Tort Claims Act (28 U.S.C. §§ 1346(b), 1402(b), 2401(b), 2671-2680). To thoroughly examine tort claims against the agency, the CODB needs to collect additional information from claimants.

The respondents to this collection are typically the traveling public. Submission of a claim is entirely voluntary and initiated by individuals. Claimants typically file a claim by submitting to TSA a Standard Form 95 (SF-95), Claim for Damage, Injury, or Death, a form prescribed by the Department of Justice and approved under OMB control number 1105-0008. Because TSA requires further clarifying information in order to thoroughly examine their claim, claimants are asked to complete a Supplemental Information page added to the SF-95. For example, the Supplemental Information identifies the airport at which the incident occurred and states whether the incident occurred at a passenger security screening checkpoint or a checked baggage screening location. If the claim involves checked baggage, the Supplemental Information page identifies whether any third parties handled the checked bag and whether a checked bag was delayed. This information enables the claims examiner to promptly initiate a thorough investigation into the alleged loss and significantly reduces the time required to process the claim. This information also assists with identifying whether the claim should be more appropriately processed under the Military Personnel and Civilian Employees' Claims Act (MPCECA).

It is helpful to identify these additional elements when a claim is filed rather than seeking additional information from the claimant later in the claim examination process. For instance, MPCECA not the FTCA may cover claims for property damage if the property involved was being used incident to service with the Agency, and the damage or loss was not caused wholly or partly by the negligent or wrongful act or omission of the claimant.

If TSA determines that payment is warranted after review of the submitted information, TSA will send the claimant a form requesting the claimant's Social Security number or other taxpayer identification number along with their banking information in order to direct payment to the claimant. These forms have been approved under OMB control number 1652-0039, and TSA seeks to extend the expiration date by another three years.

Claim instructions and forms are available through the TSA website at <http://www.tsa.gov>. Claimants must download these forms and mail or fax them to TSA.

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 is revising the supplemental information collection form by changing the name from “TSA Claims Management Branch Program” to “TSA Claims Application.” On the Supplemental Information page, claimants are asked to provide additional claim information including: (1) e-mail address, (2) airport, (3) location of incident within the airport, (4) complete travel itinerary, (5) whether baggage was delayed by the airline, (6) why they believe TSA was negligent, (7) whether they used a third-party baggage service, (8) whether they were traveling under military orders, and (9) whether they submitted claims with the airline or insurance companies. If TSA determines payment is warranted, TSA sends the claimant a form requesting: (1) claimant signature, (2) banking information, and (3) Social Security number (required by the U.S. Treasury for all Government payments to the public pursuant to 31 U.S.C. 3325).

TSA uses the data collected from claimants to examine tort claims against the agency to determine alleged TSA liability and to reimburse claimants when claims are approved. In some cases, the information may be used to identify victims of theft or to further the criminal investigations into property theft.

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.]***

Currently, the CODB only receives claims in writing. In accordance with the Federal Tort Claims Act, 28 U.S.C. §2401(b), a tort claim must be presented in writing to the appropriate Federal agency. Furthermore, pursuant to Department of Justice implementing regulations at 28 CFR § 14.2(a), a claim shall be deemed to have been presented when a Federal agency receives from a claimant, his duly authorized agent or legal representative, an executed SF-95 or other written notification of an incident accompanied by a claim for money damages in a sum certain. We are unaware of any Federal agency that accepts tort claim filings electronically.

Once a claim is received by TSA, subsequent information may be submitted via fax or email. This is consistent with the GPEA’s requirement to allow individuals to submit information or transact with the agency electronically. In addition, the Claims Management System is CODB’s primary tool for recording and processing claims as well as for managing and retrieving claims data. This is consistent with GPEA’s requirement for agencies to maintain records electronically.

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.***

Tort claims are submitted when an individual believes s/he has experienced property loss or damage, a personal injury, or other damages due to the negligence or wrongful act or omission of a TSA employee, while the TSA employee is acting within the scope of their employment, and decides to file a federal tort claim against TSA. The data is not collected from any other source and would not otherwise be collected or available until a claim is filed.

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 the information is not collected, then the claim examiners may be unable to thoroughly examine and adjudicate the claim. As a result, payment may be improperly distributed in response to invalid claims or valid claims may be denied. In addition, 31 U.S.C. § 3325(d) requires that every certified voucher for payment submitted to a disbursing official contain the taxpayer identifying number of each person to whom payment may be made under the voucher. Therefore, failure to provide the taxpayer identifying number may result in the delay or denial of payment.

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).***

5 CFR 1320.5(d)(2)(i): Because claims are reported to TSA after an alleged loss is incurred, claimants could potentially provide information more frequently than quarterly.

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 a 60-day notice in the *Federal Register* soliciting comments on this information collection, see 83 FR 21788 (May 10, 2018), and a 30-day notice. See 83 FR 47367 21788 ((September 20, 2018). Consistent with the requirements of Executive Order (EO) 13771, *Reducing Regulation and Controlling*

Regulatory Costs, and EO 13777, *Enforcing the Regulatory Reform Agenda*, the notices included a specific request for comments on the extent to which this request for information could be modified to reduce the burden on respondents. In response to one non-substantive comment, TSA made minor edits to its form, and the form is now Section 508 compliant.¹

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

The CODB may provide payment to claimants if damages arise from the negligence or wrongful act or omission of a TSA employee acting within the scope of employment.

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

TSA, and its CODB, comply with the confidentiality, protection, and notice provisions of the Privacy Act.

The TSA CODB website and claim form provides the claimant with a Privacy Act Statement, 5 U.S.C. 552a(e)(3), informing the individual of the authority for the collection of the information, the purpose of the collection, whether provision of the information is voluntary, and the routine uses of the information. The Privacy Act limits TSA from divulging any information about the claimant or claim to anyone other than the claimant, unless TSA obtains the claimant's written permission, or pursuant to another exception to the Privacy Act, such as sharing pursuant to a routine use from the applicable Privacy Act systems of records, DHS/ALL-017 Department of Homeland Security General Legal Records. See 76 FR 72428 (November 23, 2011) and DHS/TSA 006 Correspondence and Matters Tracking. See 75 FR 18863 (April 13, 2010). The collection is also covered by a Privacy Impact Assessment. See DHS/TSA/PIA-009 Claims Management System (February 5, 2007).

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.

The TSA claim form does not ask any questions of a sensitive nature. However, if the claimant includes, as part of the claim, information of a sensitive nature, such as sexual harassment, allegations of racial profiling, or other similar data, the TSA CODB may record the information and forward it to the TSA Office of Civil Rights and Liberties. TSA will maintain any sensitive data that identifies the claimant in accordance with the Privacy Act.

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

Based on past estimates, TSA estimates that it will receive approximately 10,200 claims on an annual basis, or 850 per month. Currently, all claims are submitted manually. TSA estimates that it will take 30 minutes to complete and submit the forms, which results in an

¹ Section 508 of the Rehabilitation Act requires Federal agencies to make their electronic and information technology (EIT) accessible to individuals with disabilities. See 36 CFR 1194.2. EIT includes software and hardware products that people use every day to obtain and retrieve information electronically. An individual with a physical or mental impairment that substantially limits one or more major life activities has a disability. Section 508 ensures comparable access to DHS information and data for members of the public with disabilities.

estimated burden of 5,100 hours. Additionally, TSA collects payment information from those members of the public whose claims are approved by TSA. TSA estimates that approximately 1,200 claims are approved each year. TSA estimates it takes ten minutes (0.1667 hours) to submit payment information for an annual hour burden of 200 hours. TSA estimates the public average annual hour burden of 5,300 hours (5,100 + 200). To estimate annual hour burden cost, TSA multiplies each hour burden by a fully-loaded wage rate² of \$34.64.³ TSA estimates an annual hour burden cost of \$181,764 for filing a claim and \$7,128 for submitting payment information, for a total annual hour burden cost of this collection of \$188,892. Therefore, the total 3-year hour burden cost of this collection is \$566,676 (\$188,892 x 3 = \$566,676). The table below summarizes these calculations.

Table: Respondents, and Quantified Annual Hour Burden, and Annual Hour Burden Cost				
Activity	Number of Responses	Hours per Response	Hour Burden	Hour Burden Cost
	A	B	C = A x B	D = C x \$35.64
Filing a Claim	10,200	0.5	5,100	\$181,764.00
Submitting Payment Information	1,200	0.166666667	200	\$7,128.00
Total			5,300	\$188,892.00

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

TSA data show that approximately 50 percent of the 10,200 claims are submitted to TSA through mail, resulting in 5,100 mailed submissions. Currently, a U.S. Postal Service Forever Stamp costs \$0.50 dollars.⁴ TSA estimates an annual cost burden to respondents by multiplying the number of mailed submissions by the cost of a postage stamp, resulting in postal costs of \$2,550. TSA estimates the total 3-year cost burden to be \$7,650.

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 total cost to the Federal Government associated with the claims information collection request to be approximately \$181,078.01 annually. This includes TSA staff costs to maintain and update claims. TSA estimates that four TSA E-band claims staff will spend roughly 32 hours per week on claims adjudication-related duties. TSA calculates a TSA full-time employee (FTE) of 3.19⁵, based on 4 employees multiplied by 32 hours per

² A fully loaded wage rate accounts for non-wage employee compensation costs incurred by the employer, such as health and retirement benefits, among others.

³ This is the loaded wage rate for members of the general public. BLS. Employer Costs for Employee Compensation - September 2017. Table 1 Employer costs per hour worked for employee compensation and costs as a percent of total compensation: civilian workers. Total compensation, all workers. Last updated December 15, 2017. Accessed 2/28/2018. https://www.bls.gov/news.release/archives/ecec_12152017.htm.

⁴ https://store.usps.com/store/results/stamps/_/N-9y93lv?_requestid=464576.

⁵ $3.189 = (4 \times 32 \times 52) / 2,087$.

week, multiplied by 52 weeks and divided the product by 2,087 hours⁶ (standard Federal work year). TSA then multiplied claims staff FTE by the annual salary of a TSA E-Band Employee (\$56,777.32).⁷ This results in a total 3-year cost to TSA of \$543,234.04 and an average annual staff cost of \$181,078.01.

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

There has been no program change to this collection of information since its previous OMB approval, but the total hours increased from 5,000 to 5,300 due to accounting for payment information requests time and 200 additional claims per year.

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 information 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 is not seeking such approval.

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.

⁶ OPM changed the 2,080 work hours to 2,087 by amending 5 U.S.C. 5504(b), the latter is assumed to capture year-to-year fluctuations in work hours. Source: Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272, April 7, 1986).

⁷ TSA, Finance, Employee Modular Cost data. $\$181,078.01 = 3.18926 \times \$56,777.316$.