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).***

Pursuant to 49 U.S.C. 44901, 44903, and 44917, TSA has authority to **prescribe regulations to protect passengers and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy, provide for deployment of Federal Air Marshals (FAMs)** on passenger flights, and **provide for appropriate training, supervision, and equipment of FAMs. In furtherance of this authority, TSA** policy requires that applicants for FAM positions meet established medical standards in order to demonstrate there is no medical history or clinical diagnosis that presents a potential hazard to the performance of FAM duties or to the safety of self or others.

The Law Enforcement/Federal Air Marshal Service (LE/FAMS) has established medical guidelines designed to ensure FAMs can safely and effectively perform the tasks essential to the arduous, rigorous, and hazardous functions of the FAM position. The medical guidelines ensure a level of health status and physical and psychological fitness for this public safety law enforcement position which requires a high degree of responsibility. Medical guidelines are based on cognitive, physical, psychomotor, and psychological abilities related to the essential job functions of a FAM. Medical examinations include, but are not limited to, cardiac, pulmonary, audiometric, and visual acuity testing. Incumbent FAMs undergo medical examinations every other year until the age of 45 and annually thereafter while in a FAM position. Based on conditions identified during the pre-employment or recurrent periodic examination, the applicant or incumbent FAM may be required to provide a completed PEPR form, or TPSR form, signed by his/her healthcare provider in order to determine if the FAM is medically qualified. Applicants are not asked any medical questions until after they have received a conditional offer of employment.

1. ***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 utilizes a Mental Health Certification form (TSA Form 1164) to facilitate the determination of applicants’ and incumbent FAMs’ ability to meet established medical standards and safely and effectively perform the essential functions of the public safety law enforcement position. TSA is revising the collection to include additional forms to assist in the determination of fitness of duty. These forms include a Practical Exercise Performance Requirements (PEPR) form (TSA Form 1133-3), and a Treating Physician Status Report (TPSR) form (TSA Form 1163), in conjunction with further evaluation requests as needed. TSA is also revising the name of the collection from “Office of Law Enforcement/Federal Air Marshal Service Mental Health Certification” to “Law Enforcement/Federal Air Marshal Service Physical and Mental Health Certification.” In addition, TSA is also revising the collection process to allow other authorized healthcare providers to certify the FAM applicant’s medical status, when applicable.

As part of the psychological assessment, applicants are required to complete a TSA Form 1164, Mental Health Certification, related to their mental health history. Applicants are asked questions that may be indicative of mental health conditions that may impact the ability to safely and effectively perform the essential functions of the position. All forms submitted by applicants and FAM incumbents are sent directly to the FAMS Medical Programs Section for initial screening via fax, mail, or in person. Individual responses may require further medical evaluation.

The information collected on the Mental Health Certification form is used by TSA medical clinicians to determine if an applicant for a FAM position meets medical requirements. The information collected on the PEPR form and the TPSR form is used by TSA medical clinicians to determine if an applicant for a FAM position or incumbent FAM meets/continues to meet medical requirements.

1. ***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.]***

TSA transmits requests for additional medical information to LE/FAMS applicants and FAM incumbents via email, fax, and U.S. Postal Service. Applicants are required to provide their signature on the Mental Health Certification form. Healthcare provider’s signatures are required on the PEPR and TPSR forms. Forms may be returned to the FAM Medical Programs Section via fax, email, or in person.

1. ***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.***

There is no similar information already available that TSA can use for the purpose described in Item 2 above.

1. ***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.

1. ***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 health-related information is not collected, TSA will be prevented from adequately assessing the eligibility of applicants and incumbents for FAM positions.

1. ***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).***

Collecting FAM applicants’ response to the Mental Health Certification form within 10 days of receipt enables the LE/FAMS Medical Programs Section to review, respond or request additional information if necessary in a timely manner. Applicants can then move on to the next phase of the hiring process without having to experience prolonged waiting periods.

1. ***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.***

TSA published a 60-day notice in the *Federal Register* announcing TSA’s intent to renew this information collection request. *See* 83 FR 62878 (December 6, 2018). TSA also published a 30-day notice for the information collection. *See* 84 FR 23062 (May 21, 2019). 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.

TSA received a comment in response to the 60-day notice from the American Association of Nurse Practitioners regarding the utility of advanced practice registered nurses (APRNs) in certifying their patients’ medical status.  TSA acknowledges the training and qualifications of APRNs and in many cases accepts paperwork signed by an APRN.  In complex cases the LE/FAMS Medical Director may require a provider with a higher level of training to complete the required paperwork; this determination is made on a case-by-case basis and communicated to the applicant/employee. In response to the comment received, and consistent with current practices, TSA modified the Practical Exercise Performance form and the Treating Physician Status Report form accordingly.

1. ***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.

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

TSA does not provide any assurance of confidentiality to the respondents; however, information will be maintained in accordance with the Privacy Act of 1974, 5 U.S.C. 552a. The forms include a Privacy Act Statement citing 49 U.S.C. 114(n), 14 CFR part 67, E.O. 9397 (Social Security Number). The applicable System of Records Notices are OPM/GOVT-10 System, Employee Medical File of Records of TSO, OPM/GOVT-5 Recruiting, Examining, and Placement Records and DHS/TSA-001, Transportation Security Enforcement Record System. *See* 71 FR 35360 (June 19, 2006), 71 FR 35351 (June 19, 2006 and 75 FR 28042 (May 19, 2010) respectively. TSA will update the applicable Privacy Impact Assessment (PIA) to include the LE/FAMS Mental Health Certification and associated forms*. See* DHS/ALL/PIA-043 DHS Hiring and Onboarding Process (April 22, 2013).

1. ***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.***

While some of the questions in the Mental Health Certification form could be considered to be of a sensitive nature, TSA deems this collection necessary to evaluate a FAM applicants’ medical suitability. While some of this information is commonly considered private, the collection is essential to ensure that the individuals performing TSA’s security mission are able to perform their duties and in a manner that does not compromise security. As noted above, TSA will follow appropriate procedures to protect this information from unauthorized disclosure. The questions have been tailored specifically for the FAM position, in keeping with the public safety role of this job.

1. ***Provide estimates of hour and cost burden of the collection of information.***

TSA estimates the total annual hour burden for this collection is approximately 900 hours and annual burden cost of $56,148, based on Table 3. The hour burden is based on an estimate of approximately 600 respondents annually. TSA applicants must self-certify certain information regarding their mental health, using the Mental Health Certification (MHC) form. TSA estimates it will take one hour to complete this form, for an annual hour burden of 600 hours. Applicants can be any member of the public, therefore TSA estimates a fully-loaded[[1]](#footnote-2) hourly wage rate of $36.22.[[2]](#footnote-3) TSA estimates an annual hour burden cost of $21,732. Table 1 summarizes these calculations.

|  |  |  |  |
| --- | --- | --- | --- |
| **Table 1. Hour Burden and Costs for FAMS Applicant MHC (TSA Form 1164)** | | | |
| **Number of Respondents** | **Hour Burden per Respondent** | **Annual Hour Burden** | **Annual Hour Burden Cost** |
| **A** | **B** | **C = A x B** | **D = C x $36.22** |
| 600 | 1 | 600 | $21,732 |

In addition, each applicant must have a healthcare provider complete two additional forms: The PEPR and the TPSR. TSA estimates both forms take approximately 15 minutes (0.25 hours) to complete. TSA estimates an annual hour burden to applicants’ healthcare provider of 300 hours. TSA uses an average hourly wage rate of $114.72 for healthcare provider.[[3]](#footnote-4) TSA estimates an annual hour burden cost for healthcare providers of $34,416. Table 2 summarizes these calculations.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Table 2. Annual Hour Burden and Costs for FAMS Applicants PEPR (TSA Form 1133-3) and TPSR (TSA Form 1163)** | | | | |
| **Form** | **Number of Respondents** | **Hour Burden per Respondent** | **Annual Hour Burden** | **Annual Hour Burden Cost** |
| **A** | **B** | **C = A x B** | **D = C x $114.72** |
| PEPR | 600 | 0.25 | 150 | $17,208 |
| TPSR | 0.25 | 150 | $17,208 |
| **Total** | **600** |  | **300** | **$34,416** |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Table 3. Total Annual Hour Burden and Costs for FAMS Applicants MHC (TSA Form 1164), PEPR (TSA Form 1133-3) and TPSR (TSA Form 1163)** | | | | |
| **Form** | **Number of Respondents** | **Hour Burden per Respondent** | **Annual Hour Burden** | **Annual Hour Burden Cost** |
| **A** | **B** | **C = A x B** | **D = C x $114.72** |
| MHC | 600 | 1.00 | 600 | $21,732 |
| PEPR | 0.25 | 150 | $17,208 |
| TPSR | 0.25 | 150 | $17,208 |
| **Total** | **600** |  | **900** | **$56,148** |

1. ***Provide an estimate of annualized capital and start-up costs.***

Based on past experience with FAM applicant submissions, TSA assumes that the forms will be submitted either electronically or in-person during the time of the applicant’s medical screening appointment. Therefore, TSA does not estimate annualized capital and start-up costs, such as postage costs.

1. ***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.***

The costs to TSA as a result of this collection of information include the hourly cost of an LE/FAMS certified occupational health nurse to review the forms and request follow up information from those who are unable to certify one or more questions on the form. Reviewing each form takes approximately 5 minutes (0.0833 hours).[[4]](#footnote-5) To estimate the hourly opportunity cost for TSA review, TSA uses the fully loaded hourly wage rate, $63.50[[5]](#footnote-6). Based upon fiscal year 2014, TSA projects 600 forms will be reviewed. TSA assumes, that the total cost to TSA as a result of this collection is approximately $3,175 annually.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Table 2: Annual Cost of Time Burden for Applicants (Respondents) | | | | | |
| Number of Respondents | Number of Responses per Respondent | Average Burden per Response (in hours) | Total Annual Burden (in hours) | Average Hourly Wage Rate | Total Annual Respondent Cost |
| 600 | 1 | 0.0833 | 600 | $63.50 | $3,175 |

1. ***Explain the reasons for any program changes or adjustments reported in Items 12, 13 or 14 of the OMB Form 83-I.***

Although there are no changes to the information being collected, as noted in the response to Item 2, the collection is being revised to include the following additional forms: (1) TSA Form 1163, Treating Physician Status Report (TPSR), and (2) TSA Form 1133-1, Practical Exercise Performance Requirements (PEPR), to assist in the determination and in conjunction with further evaluation requests as needed for applicants of a FAMs position or incumbent FAMs. Additionally, TSA is revising the name of the collection from “Office of Law Enforcement/Federal Air Marshal Service Mental Health Certification” to “Law Enforcement/Federal Air Marshal Service Physical and Mental Health Certification.” Finally, TSA is also revising the collection process to allow other authorized healthcare providers to certify the applicant’s or incumbent FAM’s medical status, when applicable.

TSA has modified the PEPR form and the TPSR form to accept paperwork signed by an APRN in non-complex cases. TSA expects the modification of the forms will ease the burden of compliance by expanding the field of individuals, physician or APRN, who can be consulted to comply with the regulatory requirements. TSA will submit this collection as a Deregulatory Action.

In Item 13, the change noted includes the removal of costs associated with mailing the documents. TSA revised the estimated cost to the Federal Government reported in Item 14 based on an update to the TSA wage rate and the number of respondents.

1. ***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.

1. ***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.

1. ***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 such exception.

1. Fully-loaded wage rates include non-wage costs of employee compensation, such as health and retirement benefits. [↑](#footnote-ref-2)
2. BLS. Employer Costs for Employee Compensation - June 2018. Table 1. Employer costs per hour worked for employee compensation and costs as a percent of total compensation: civilian workers. All Workers. Last modified September 18, 2018 (accessed October 5, 2018), https://www.bls.gov/news.release/archives/ecec\_09182018.htm. [↑](#footnote-ref-3)
3. This is a weighted average (by employment) of a fully-loaded wage rate among Physicians and Nurse Practitioners. As calculated above, the wage rate for Physicians is $102.73 (employment of 83,320). The wage rate for Nurse Practitioners is $50.83 (employment 77,840).

   BLS. May 2017 National Industry-Specific Occupational Employment and Wage Estimates. NAICS 621100 Offices of Physicians. OCC 29-1062 Family and General Practitioners and OCC29-1171 Nurse Practitioners. Last modified March 30, 2018 (accessed October 5,2018). https://www.bls.gov/oes/2017/May/naics4\_621100.htm

   TSA calculates a blended weighted wage rate by employment. $77.66 = [($102.73 x 83,320) + (50.83 x 77,840)] ÷ (83,320 + 77,840).

   The fully-loaded wage rate is obtained by multiplying the blended weighted wage rate by a compensation factor

   ($114.72 = $77.66 x 1.477167). [↑](#footnote-ref-4)
4. Some reviews may require a follow-up, which would increase the time burden. TSA does not have an estimate for the number of reviews that would require a follow-up, but it is estimated to be less than 1 percent of all reviews. [↑](#footnote-ref-5)
5. To estimate I-band hourly wages, TSA divides the loaded annual I-band wage rate of $127,506, including compensation and benefits, by 2,080 hours to obtain an hourly I-band wage of $61.30. To estimate I-band hourly wages, TSA divides the loaded annual J-band wage rate of $150,370, including compensation and benefits, by 2,080 hours to obtain an hourly I-band wage of $72.29. TSA estimates the loaded hourly wage rate based on the weighted average hourly wage of four I-band nurses and one J-band nurse, of $63.50. [↑](#footnote-ref-6)