

SUPPORTING STATEMENT
OMB No: 1610-0001

DHS Individual Complaint of Employment Discrimination, DHS Form 3090-1

A. Justification

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.

It is the policy of the Government of the United States to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age, disability, protected genetic information, or status as a parent, and to promote the full realization of equal employment opportunity (EEO) through a continuing affirmative program in each agency.

Persons who claim to have been subjected to these types of discrimination, or to retaliation for opposing these types of discrimination or for participating in any stage of administrative or judicial proceedings relating to them, can seek a remedy under Title VII of the Civil Rights Act (Title VII) (42 U.S.C. 2000e et seq.) (race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin), the Age Discrimination in Employment Act (ADEA) (29 U.S.C. 621 et seq.) (age), the Equal Pay Act (29 U.S.C. 206(d)) (sex), the Rehabilitation Act (29 U.S.C. 791 et seq.) (disability), the Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. 2000ff et seq.) (genetic information), and Executive Order 11478 (as amended by Executive Orders 13087 and 13152) (sexual orientation or status as a parent).

The Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL) adjudicates discrimination complaints filed by current and former DHS employees, as well as applicants for employment at DHS. The complaint adjudication process for statutory rights is outlined in the Equal Employment Opportunity Commission (EEOC) regulations found at Title 29, Code of Federal Regulations, Part 1614, and EEOC Management Directive 110. For complaints alleging discrimination prohibited by Executive Order 11478, DHS follows procedures similar to the procedures for statutory rights, to the extent permitted by law.

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.

The recordkeeping provisions are designed to ensure that a current employee, former employee, or applicant for employment claiming to be aggrieved, or that person's attorney, provides a signed statement that is sufficiently precise to identify the aggrieved individual

and the agency, and to describe generally the action(s) or practice(s) that form the basis of the complaint. The complaint must also contain a telephone number, email address, and address where the complainant or the representative can be contacted. The complaint form is used for original allegations of discrimination and for amendments to pending complaints of discrimination. The form also determines whether the person is willing to participate in mediation or other available types of alternative dispute resolution (ADR) to resolve the complaint; Congress has enacted legislation to encourage the use of ADR in the federal sector, and the form ensures that such an option is considered at this preliminary stage of the EEO complaint process.

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.

A complainant may access the complaint form on the agency website and may submit a completed complaint form electronically to the relevant Component's EEO Office. The complaint form can then be directly uploaded into the DHS EEO Enterprise Complaints Tracking System, also known as "icomplaints."

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 2 above.

For each new allegation of discrimination, a complainant must file a complaint with the agency that allegedly discriminated against the complainant. 29 C.F.R. 1614.106(a). Accurate and timely processing in accordance with EEOC regulations require DHS to obtain current employment and contact information directly from the complainant.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), describe the methods used to reduce the burden.

The burden of compliance with the information collection requirement does not impact small businesses or other small entities.

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

The information collection frequency specified in the DHS complaint form is the minimum amount necessary and appropriate for the agency to determine whether the allegations should be accepted for investigation, dismissed due to procedural grounds, or partially accepted and partially dismissed.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- requiring respondents to report information to the agency more often than quarterly;
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- requiring the use of statistical data classification that has not been reviewed and approved by OMB;
- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can prove that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

This information collection is conducted in manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. 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 before submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to those comments specifically address comments received on cost and hour burdens.

Describe efforts to consult with 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, revealed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that mitigate against consultation in a specific situation. These circumstances should be explained.

As required by the Paperwork Reduction Act of 1995 (PRA-95), the Agency issued a 60 Day Federal Register notice on May 21, 2021 at 86 FR 27642 , soliciting comments from the public and other interested parties on the information collection requirements

contained in the DHS complaint form. DHS received two public comments. The comments received were not germane to the information collection.

As required by the Paperwork Reduction Act of 1995 (PRA-95), the Agency issued a 30 Day Federal Register notice on August 2, 2021 at 86 FR 41505 soliciting comments from the public and other interested parties on the information collection requirements contained in the DHS complaint form.

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

No payments or gifts are provided to respondents.

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

Complainants are provided a Privacy Act statement noting the purposes and uses of the information collected. No assurance of confidentiality is provided, because the collection is governed by EEOC Management Directive 110, which provides that “Once the complaint is filed, the complaint file, or part of it, may be shared only with those who are involved and need access to it. This includes the EEO Director, agency EEO officials, and possibly persons whom the aggrieved person has identified as being responsible for the actions that gave rise to the complaint. The complaint file is not a public document to be released outside the EEO complaint process. The identity of the aggrieved person does not remain confidential in the formal complaint process.” EEOC Management Directive 110 provides that aggrieved persons be so informed by an EEO counselor prior to the initiation of a formal complaint.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Allegations of discrimination often involve private, sensitive matters. Some relevant private information is required to be reported, because the complainant must provide allegations that are sufficiently precise to describe the action(s) or practice(s) that form the basis of the complaint. The information collected is the minimum amount necessary and appropriate for the agency to determine whether the allegations should be accepted for investigation, dismissed due to procedural grounds, or partially accepted and partially dismissed. The complainant is informed during the informal counseling phase that to pursue his or her EEO claim, he or she must fill out a formal written complaint of employment discrimination so that it can be determined whether the complaint was timely filed, whether the allegations are within the purview of the EEOC regulations, to provide a factual basis for the complaint, and to reach a decision on the complaint. Consent is obtained by providing an explanation of the EEO complaint process during the informal

phase, having an “exit interview” with an EEO Counselor when possible, and by having the requirement that there be a formal, signed written complaint.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- Show the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burdens, and explain the reasons for the variance. General estimates should not include burden hours for customary and usual business practices.
- If this request for approval covers more than one form, provide separate hour burdens estimates for each form and aggregate the hour burden in Item 13 of OMB Form 83-1.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.
- **Based on an average of the formal EEO complaints filed at DHS during Fiscal Years 2014 through 2021, there are approximately 1,200 respondents each year. Of the 1,200 respondents, 1,064 are federal employees which are exempt (noted below). We estimate the information collection to take approximately 30 minutes.**

136 respondents × 1/2 hour = 68 burden hours

| Type of Respondent | Form Name / Form Number | No. of Respondents | No. of Responses per Respondent | Total No. of Responses (Initial Response) | Avg. Burden per Response (in hours) | Total Burden (in hours) for Initial Response | Avg. Hourly Wage Rate | Total Respondent Cost (Initial Response) |
|--------------------------|-------------------------|--------------------|---------------------------------|---|-------------------------------------|--|-----------------------|--|
| Federal Employees | DHS 1610-0001 | 1,064 | 1 | 0 | 0 | 0 | \$0 | \$0 |
| Former Federal Employees | DHS 1610-0001 | 96 | 1 | 96 | .50 | 48 | \$23.86 | \$1,145.28 |
| Applicants | DHS 1610-0001 | 40 | 1 | 40 | .50 | 20 | \$23.86 | \$ 477.20 |
| Total | DHS 1610-0001 | 1200 | 1 | 136 | .50 | 68 | \$23.86 | \$1,622.04 |

The average hourly wage rate for Former Federal Employees and Applicants respondents was calculated based on mean hourly wage data from the Bureau of Labor Statistics (BLS) May 2017 National Occupational Employment and Wage Estimates for all occupations. For Federal

Employees, they are entitled to official time to prepare their formal complaint so they bear no cost. https://www.bls.gov/oes/current/oes_nat.htm

13. Provide an estimate of the total annual cost burden to respondents or record-keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

There are no capital, start-up or maintenance and record keeping costs associated with this information collection.

14. Provide estimates of the annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.

The cost to the Federal Government would be the EEO Complaint Manager's (GS-14, Step 1) hourly wage rate (\$58.13) multiplied by the time it takes to ask for a collection of information (30 minutes (0.50 hours)) or \$29.06 per response x 1200 respondents/year.

Therefore, the estimated annual cost to the Federal Government is \$34,878.

https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf

Other operational expenses, such as equipment, overhead, and support staff expenses, would have occurred without this collection of information requirements and are considered normal operating expenses.

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

There is a decrease in burden. The previous approval documentation mistakenly included the burden for Federal Employees. This error has been corrected, resulting in the reporting of a reduced burden.

16. For collections of information whose results will be published, outline plans for tabulations, 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.

No individual information collected will be published. Pursuant to statute, some general tabulations and compilations of complaints are prepared for use by other government agencies and the public. These reporting requirements encompass annual reports to the EEOC (e.g., EEOC Management Directive 715 – Annual EEO Program Status Report, and EEOC Form 462 – Annual Federal EEO Statistical Report of Discrimination Complaints) and quarterly and annual public reports required by the Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) (5 U.S.C. 2301 note).

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.

DHS 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 83-1.

DHS is not seeking any exceptions.