

**SUPPORTING STATEMENT FOR
DHS Civil Rights Evaluation Tool
OMB Control No.: 1601-0024
COLLECTION INSTRUMENT(S): DHS Form 3095**

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.**

Recipients of federal financial assistance from the Department of Homeland Security (DHS) are required to meet certain legal requirements relating to nondiscrimination and nondiscriminatory use of federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Department of Homeland Security do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin, disability, age, sex, or religion, in accordance with the following authorities:

- Title VI of the Civil Rights Act of 1964 (Title VI) Pub.L. 88-352, 42 U.S.C. 2000d-1 *et seq.*, and the Department’s implementing regulation, 6 C.F.R. Part 21 and 44 C.F.R Part 7, which prohibit discrimination on the grounds of race, color, or national origin by recipients of Federal financial assistance. Title VI, through its prohibition against discrimination on the basis of national origin, requires recipients to take reasonable steps to provide meaningful access to persons who are limited English proficient (LEP). *See Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 76 Fed. Reg. 21755-21768 (April 18, 2011).
- Section 504 of the Rehabilitation Act of 1973 (Section 504), Pub.L. 93-112, as amended by Pub. L. 93-516, 29 U.S.C. 794, which prohibits discrimination on the basis of disability by recipients of Federal financial assistance.
- Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 *et seq.*, and the Department’s implementing regulations, 6 C.F.R. Part 17, and 44 C.F.R. Part 19, which prohibits discrimination on the basis of sex in education program and activities received Federal financial assistance.
- Age Discrimination Act of 1975, Pub. L. 94-135, 42 U.S.C. Section 6101 *et seq.*, and the Department implementing regulation at 44 C.F.R. Part 7, which prohibits discrimination on the basis of age by recipients of Federal financial assistance.
- U.S. Department of Homeland Security regulation 6 C.F.R. Part 19, which prohibits organizations that receive financial assistance from DHS for a social service program

from discriminating against beneficiaries on the basis of religion or religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

The aforementioned civil rights authorities also prohibit retaliatory acts against individuals for participating or opposing discrimination in a complaint, investigation, or other proceeding related to prohibited discrimination.

DHS has an obligation to enforce nondiscrimination requirements to ensure that its federally assisted programs and activities are administered in a nondiscriminatory manner. In order to carry out its enforcement responsibilities, DHS must obtain a signed assurance of compliance and collect and review information from recipients to ascertain their compliance with applicable requirements. DHS implementing regulations and the Department of Justice (DOJ) regulation *Coordination of Non-discrimination in Federally Assisted Program*, 28 C.F.R. Part 42, provide for the collection of data and information from recipients (see 28 C.F.R. 42.406).

DHS uses DHS Form 3095: DHS Civil Rights Evaluation Tool as the primary tool to implement this information collection. DHS is revising the collection, changing *Section 1* of the form on *Instructions* to extend the deadline for initial submissions from 30 days of receipt of the Notice of Award to 60 days; to update the method of submission from email to an online portal, and to make other minor clarifying revisions. DHS is also making minor changes to *Section 2* of the form on *Organization Information* to remove the fields for reporting Grant Agreement Number and Federal Award Identification Number; DHS now obtains that information from Department data sources. In addition, DHS is making minor changes to *Section 5* of the form on *Additional Information* to streamline communication with recipients by providing a single, centralized point of contact for questions and technical assistance. Lastly, DHS is changing the name of the collection from “*DHS Civil Rights Compliance Form*” to “*DHS Civil Rights Evaluation Tool*.”

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.

DHS uses the form to collect civil rights related information from all recipients of federal financial assistance from the Department. Recipients are non-federal entities that receive federal financial assistance in the form of a grant, cooperative agreement, or other type of financial assistance directly from the Department and not through another recipient or “pass-through” entity. This information collection does not apply to subrecipients, federal contractors (unless the contract includes the provision of financial assistance), nor the ultimate beneficiaries of services, financial aid, or other benefits from the Department.

Recipients are required to provide the information 60 days from receipt of Notice of Award. Recipient of multiple awards of DHS financial assistance only submit one completed form for their organization, not per award. Recipient are required to complete the form once every two years if they have an active award, not every time a grant is awarded. Entities whose award does not run a full two years are required to provide the information again if they receive a subsequent award more than two (2) years after the prior award. In responding to *Section 4: Required Information*, which contains the bulk of the information collection, if the recipient's responses have not changed in the two-year period since their initial submission, the recipient does not need to resubmit the information. Instead, the recipient will indicate "no change" for each applicable item.

The purpose of the information collection is to advise recipients of their civil rights obligations and collect pertinent civil rights information to ascertain if the recipient has in place adequate policies and procedures to achieve compliance, and to determine what, if any, further action may be needed (technical assistance, training, compliance review, etc.) to ensure the recipient is able to meet its civil rights requirements and will carry out its programs and activities in a nondiscriminatory manner.

Over the past three years, DHS has used the information collected via the DHS Civil Rights Evaluation Tool to identify gaps and deficiencies in recipient programs and directly help recipients address these gaps and deficiencies by providing technical assistance on developing or improving policies and procedures to prevent discrimination and ensure accessibility.

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.

DHS is transitioning the submission process from an email-based system to a new online portal platform. The portal will streamline and improve the submission process by allowing recipients to view the requirements contained in the form, report civil rights complaint and lawsuit data in a standardized chart, upload responsive documents and supporting information, and access technical assistance templates and other resources all in one space. DHS anticipates that records or files that will be used to respond to the information collection are already maintained in electronic format by the recipient, so providing the information electronically further minimizes administrative burden.

When fully deployed, recipients will also be able to view and update contact information, the status of their submission with DHS, and submission due dates.

DHS conducted usability testing in May 2024 with four volunteer recipients representing both small public service providers and a large state administrative agency. The testing gathered feedback from recipients on key features of the new online portal, specifically

how to provide required information on discrimination complaints and lawsuits, and how to review organizational information and submission status. Key takeaways from the testing include:

- All testers reported that they appreciated seeing the checkbox at the top of the portal page to indicate that they have no complaints or lawsuits to report.
- All testers reported that the information on reporting complaints and lawsuits, and the organizational information was clear or straightforward.
- On the create a complaint or lawsuit feature, three testers indicated that it would be helpful to have more information on the difference between employment and non-employment related complaints, and two testers suggested a help icon that the recipient could hover over to provide additional information.
- Other suggestions from testers included repeating the required information on the create a complaint or lawsuit feature, and in particular the date range; including descriptors for the covered bases for complaints/lawsuits; developing a standard excel spreadsheet template that recipients can use if they choose to upload their complaints and lawsuits; adding an additional complaint/lawsuit status to account for closed or settled matters; and adding a pop-up reminder to upload the required complaint information for non-employment complaints with findings.
- Testers also had various questions including how to view previous submissions, how to print off a summary of the submission, and the timing for 2-year updates.

DHS will consider how best to address all feedback and questions in immediate updates to the portal, future releases, and through portal related training to recipients.

Additionally, DHS conducted user acceptance testing of the new portal platform with nine federal employees, which included testing all portal features for functionality and clarity. Based on tester feedback, DHS made several changes to instructional language for recipients to improve clarity.

If the recipient is unable to submit their information electronically, alternative arrangements will be made to submit responses in hard copy.

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

DHS is taking steps to ensure that the information collected will not be duplicated through coordination with the U.S. Department of Justice, Civil Rights Division, Federal Coordination and Compliance Section, which has responsibility for ensuring that all federal agencies consistently and effectively enforce civil rights statutes and Executive

Orders that prohibit discrimination in federally conducted and assisted programs and activities.

To the extent that DHS shares recipients in common with other federal agencies, and those federal agencies require similar information from their recipients, DHS will contact those recipients prior to the information collection to discuss modifications to their submission and coordinate with the appropriate federal agencies to obtain the applicable information. DHS estimates that only a small percentage (less than 5%) of its recipients provide similar information to other federal agencies.

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

The information collection will impact some small entities (e.g., non-profit service providers, local fire departments, etc.), however as described in response to Question 2, recipients will only be required to provide this information once every two years, not every time a grant is awarded. Additionally, in responding to *Section 4: Required Information*, if the recipient's responses have not changed in the two-year period since their initial submission, the recipient does not need to resubmit the information. This will dramatically reduce the administrative burden on recipients after the initial submission. Additionally, DHS will further minimize burden on recipients by making available sample policies, procedures, and templates to assist recipients in completing *Section 4* of the Form, and providing technical assistance directly to the recipient as needed.

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.

In accordance with the authorities identified in Question 1, the Department is required to obtain a signed assurance of compliance from recipients and to ensure that its federally assisted programs and activities are administered in a nondiscriminatory manner. If the information collection is not conducted or is conducted less frequently, the Department will not be able to fulfill its obligations to ascertain recipient compliance and enforce nondiscrimination in recipient programs. This could lead to the award of federal financial assistance to recipients that are not complying with federal civil rights law, and the perpetuation of discrimination in the provision of benefits and services to members of the public.

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;**

Not applicable.

- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

Not applicable.

- **requiring respondents to submit more than an original and two copies of any document;**

Not applicable.

- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

Not applicable

- **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;**

Not applicable.

- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

Not applicable.

- **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**

Not applicable.

- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

Not applicable.

8. **If applicable, provide a copy and identify the data 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.

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, disclosed, 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 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

In accordance with 5CFR 1320.8(d), a 60-day notice for public comment was published in the Federal Register on February 8, 2024, at 89 FR 8692; and a 30-day notice on June 18, 2024, at 89 FR 51545, requesting comments from the public. No comments were received from either of the notices requesting comments.

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

There is no payment/gift to respondents.

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

There are no confidentiality assurances associated with this collection. The only privacy-sensitive information the form collects are the names of Point of Contacts (POCs) from recipient organizations. Coverage for the collection of this information is provided under a Department Privacy Impact Assessment, DHS/ALL/PIA-006 General Contacts List.

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 person's form whom the information is requested, and any steps to be taken to obtain their consent.

The information collection requires recipients of federal financial assistance (state administering agencies, educational institutions, non-profit organizations, etc.) to disclose allegations, complaints and findings of discrimination made against their organizations. These disclosures may contain information on the complainant's basis(es) for the

discrimination complaint (e.g., discrimination based on race, color, national origin, sex, age, or disability) as well as other details of the allegations, however DHS does not collect any PII on the complainant or parties involved in the complaint. Per the authorities listed in Question 1, DHS is authorized to collect this information in order ascertain recipient compliance with nondiscrimination requirements and identify potential patterns and practices of discrimination in recipient programs that may lead to noncompliance.

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

- **Indicate 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 burden, and explain the reasons for the variance. Generally, 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 burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- **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**

DHS estimates that there are 5000 entities that will be subject to the DHS Civil Rights Evaluation Tool. This estimate is based on data provided by the DHS funding components on the number of organizations that receive an award of federal financial assistance from the Department in a given year. Respondents will vary in size and scope of covered programs, and DHS estimates it will take 4 hours per respondent to complete the initial submission.

It is important to note that recipients will respond to the collection once every two years. However, if the recipient's responses have not changed in the two-year period since their previous submission, the recipient does not need to resubmit the information. DHS anticipates that only a minority of recipients will have significant changes to the required information after the initial submission. Accordingly, DHS estimates it will take 2 hours per respondent for the second submission.

Based on these estimates, the average burden in hours to complete the form is estimated at 3 hours per response (for 2 responses over a 3-year period).

The average hourly wage rate for State or Tribal Administering Agency respondents was calculated based on mean hourly wage data from the Bureau of Labor Statistics (BLS) May 2022 National Occupational Employment and Wage Estimates for three categories of workers: lawyers (state government) at \$49.71 hourly mean wage, human resources assistants (except payroll and timekeeping) at \$22.55 mean hourly wage, and secretaries and administrative assistants at \$22.92 mean hourly wage, for an average wage rate of \$31.73, multiplied by 1.4 for a loaded wage rate of \$44.42

The average hourly wage rate for Other Respondents (e.g., direct service providers, educational institutions, etc.) was calculated based on mean hourly wage data from the Bureau of Labor Statistics (BLS) May 2022 National Occupational Employment and Wage Estimates for three categories of workers: lawyers at \$78.74 hourly mean wage, human resources assistants (except payroll and timekeeping) at \$22.55 mean hourly wage, and secretaries and administrative assistants at \$22.92 mean hourly wage, for an average wage rate of \$41.40, multiplied by 1.4 for a loaded wage rate of \$57.96.

Based on the total annualized burden hours and average hourly wage rate for each respondent category, DHS estimates that the total annualized cost to respondents will be \$579,776.46.

Annualized Burden to Respondent

Type of Respondent	Form Name / Form Number	No. of Respondents	Annualized Number of Responses per Respondent	Avg. Burden (in hours)	Total Annualized Burden (in hours)	Avg. Hourly Wage Rate	Total Annualized Respondent Cost
State or Tribal Administering Agencies	DHS Civil Rights Evaluation Tool	100	.67	3	201	\$44.42	\$8,928.42
Other Respondents (e.g., Direct Service Providers, Educational Institutions, etc.)	DHS Civil Rights Evaluation Tool	4900	.67	3	9,849	\$57.96	\$570,848.04
Total	DHS Civil Rights Evaluation Tool	5000	.67		10,050		\$579,776.46

DHS estimates that initially the burden will not change with the use of the online portal. While the transition process will require recipients to learn how to use the new portal environment, it is allocated in the 3-hour burden estimate. DHS expects upon the next renewal of the ICR, to have actual data to show whether the burden decreased for new users as well as returning users with

subsequent submissions.

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).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices.**

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

14. Provide estimates of 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), and 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 in a single table.

Annualized Burden to Federal Government – Staffing Expenses

Staff Type	Total number of staff	Hourly Rates	Wage Rate Multiplier	Estimated Annual Burden to Fed. Gov't (in hours)	Total Annualized Cost to Fed Gov.t
Contractor (Analyst)	3	91.45	N/A	1920	\$526,752
Contractor (Administrative)	2	65.94	N/A	1920	\$253,209.6
FTE -GS15 (Program Management)	3	84.55	1.4	936	\$332,382.96
FTE -GS15 (Submission Review)	2	84.55	1.4	208	\$49,241.92
FTE -GS14 (Submission Review)	3	71.88	1.4	208	\$62,794.37
Total	13			5,192	\$1,224,380.85

DHS estimates staff supporting the collection to include 3 analyst contractors at an hourly rate of \$91.45 each providing 1920 hours annually of submission review support and related work; 2 administrative contractors at an hourly rate of \$65.94 each providing 1920 hours annually of submission intake, processing, and related work; 3 FTEs at the GS-15 level at an hourly rate of \$84.55 each providing 936 hours annually of program management and development work; 2 FTEs at the GS-15 level at an hourly rate of \$84.55 each providing 208 hours annually of submission review work; and 3 FTEs at the GS-14 level at an hourly rate of \$71.88 each providing 208 hours annually of submission review work. All hourly rates for FTEs have been multiplied by a wage rate multiplier of 1.4 (contractors rates reflect what the vendor is paid). Based on these estimates, DHS estimates the total annualized cost to the Department for staffing will be \$1,224,380.85.

In addition to staffing, DHS also estimates \$1,634,539 in expenditures to develop the online portal to support submission of the collection, or an annual average expenditure of \$544,846.33

Based on the total annualized staffing cost and the portal expenditures (\$1,224,380.85 + \$544,846.33), DHS estimates that the total annualized cost to the Department will be **\$1,769,227.18**.

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

DHS is seeking a revision of the form for another three-year period. DHS is proposing changes to *Section 1* of the form on *Instructions* to extend the deadline for initial submissions from 30 days of receipt of the Notice of Award to 60 days; to update the method of submission from email to an online portal; and to make other minor clarifying revisions. DHS also proposes minor changes to *Section 2* of the form on *Organization Information* to remove the fields for reporting Grant Agreement Number and Federal Award Identification Number as DHS now obtains that information from Department data sources. DHS also proposes minor changes to *Section 5* of the form on *Additional Information* to streamline communication with recipients by providing a single, centralized point of contact for questions and technical assistance. Lastly, DHS is changing the name of the collection from “*DHS Civil Rights Compliance Form*” to “*DHS Civil Rights Evaluation Tool*.”

The changes to Section 1, 2, and 5 do not impact the burden analysis. The changes in burden in Items 12 and 14 reflect the increase in the number of entities that are required to respond to the collection (as a result of increased Department grantmaking) increase in hourly wage rates as reported by BLS in the 2022 National Occupational Employment and Wage Estimates, increase in hourly wage rates for Federal staff as reported by Office of Personnel Management for 2023, increases in the number of staff supporting the program, and development of an online portal to streamline and modernize the submission process.

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.

This information collection will not be published for statistical purposes.

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 will display the expiration date for OMB approval of this information collection.

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

DHS does not request an exception to the certification of this information collection.