Information Collection Request Supporting Statements: Part A
[Whistleblower Program Forms]
OMB Control No. 2127-0767

Abstract:

This information collection request (ICR) relates to three new forms necessary for the efficient operation of the National Highway Traffic Safety Administration's (NHTSA) whistleblower program, as established by 49 U.S.C. § 30172 (the Whistleblower Act). The Whistleblower Act authorizes the Secretary of Transportation (the Secretary) to pay an award to eligible whistleblowers who voluntarily provide original information, if the information provided leads to the successful resolution of a covered action. The three forms are the WB-INFO form, the WB-AWARD form, and the WB-RELEASE form. All of the information collections are collected on an as-needed basis. One of the information collections is completely voluntary and the other two are voluntary, but required to receive a benefit. Under the final rule, a potential whistleblower is required to submit a WB-INFO form and to submit a WB-AWARD form in order to qualify for a whistleblower award. A potential whistleblower may choose to voluntarily submit the WB-RELEASE form. Only minor changes, for clarity, were made to the forms in the final rule.

The WB-INFO form will be used to permit NHTSA and its staff to collect information from potential whistleblowers about themselves, their legal representatives, and their allegations relating to any potential violation of the Safety Act or regulation thereunder. If a potential whistleblower proceeds anonymously, the individual must have a legal representative. That legal representative will retain their client's signed WB-INFO form. The WB-AWARD form will permit NHTSA to collect information relating to a claimant's eligibility for an award. This will allow NHTSA's Administrator to determine claims for whistleblower awards. The WB-RELEASE form will provide a means for the potential whistleblower to provide consent for NHTSA to disclose information which could reasonably be expected to reveal the identity of the potential whistleblower. Being able to disclose this information may allow NHTSA to open a public investigation or proceed more efficiently with an investigation into the potential whistleblower's allegations.

The likely respondents to the forms (the WB-INFO, the WB-AWARD, and the WB-RELEASE form) are those employees or contractors of motor vehicle manufacturers, part suppliers, and dealerships who wish to provide NHTSA with information relating to any potential motor vehicle defect, potential noncompliance, or any violation or alleged violation of any notification or reporting requirement of the Safety Act or regulation thereunder. The anticipated recipients of the WB-INFO, WB-AWARD and WB-RELEASE forms are those individuals at NHTSA who have a need to know the information. This may include attorneys in NHTSA's Office of the Chief Counsel and staff in NHTSA's Office of Enforcement.

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal and 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.

Whistleblowers from the motor vehicle industry have particularized knowledge and access to information and can identify motor vehicle safety issues that otherwise might not come to light. Such whistleblowers can and have provided critical assistance to NHTSA in understanding and investigating safety issues. 49 U.S.C. § 30172 authorizes the Secretary of Transportation to pay awards of 10 to 30 percent of monetary sanctions collected in covered actions to whistleblowers who voluntarily provide original information that leads to the successful resolution of any administrative or judicial action, including any related administrative or judicial action, brought by the Secretary or the Attorney General under 49 U.S.C. Chapter 301 that in the aggregate results in monetary sanctions exceeding $1,000,000. 49 CFR Part 513 explains the scope of the program to the public and potential whistleblowers, defines certain terms critical to the operation of this program, outlines the procedures for potential whistleblowers to submit information to NHTSA, and outlines the procedures for applying for awards and NHTSA's Administrator's procedures for making decisions on the claims.

For the program to effectively operate, the rule, 49 CFR Part 513, contains "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 and implement forms WB-INFO, WB-AWARD and WB-RELEASE to collect this information.

Copies of 49 U.S.C. § 30172 and the final rule establishing 49 CFR Part 513 are attached.

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 final rule implementing the whistleblower provisions of the Whistleblower Act helps ensure NHTSA receives whistleblower information in a manner that is most useful to its safety mission and helps it carry out the legal protections afforded to whistleblowers. The use of three standardized forms will assist NHTSA in managing and tracking the whistleblower information it receives. This will also better enable NHTSA to connect whistleblower information to requests for award payment under the whistleblower provisions.

The WB-INFO form will be used to permit NHTSA to collect information from potential whistleblowers regarding any potential motor vehicle defect, potential noncompliance, or any violation or alleged violation of any notification or reporting requirement of the Safety Act or regulation thereunder for which NHTSA has enforcement authority. The WB-INFO form will also be used to permit NHTSA to collect information from potential whistleblowers about themselves, their legal representatives, and their allegations. NHTSA investigators consider information provided by potential whistleblowers, which may lead to formal actions like an investigation, recall, or civil penalty enforcement action. If the information leads to a successful resolution of a covered action resulting in monetary sanctions collected by the United States in excess of $1,000,000, a whistleblower may be eligible for an award.

The WB-INFO form requests the following information:

1. Background information regarding the person submitting the form, including the person's name, contact information and occupation, and relationship to the company about whom the concern is raised;
2. Information about the motor vehicle manufacturer, part supplier or dealership about whom the concern is raised;
3. If the person is represented by a legal representative, the name and contact information for the person's legal representative (in cases of anonymous submissions the person must be represented by a legal representative);
4. Information regarding the issue involving a motor vehicle manufacturer, part supplier, or dealership, including the date of the alleged issue, including if the conduct is continuing, and information related to whether the information has been previously provided to NHTSA;
5. Information related to any potential safety-related defect, potential noncompliance with an applicable FMVSS, and a detailed description of the allegation and how the allegation affects vehicle/system/component performance and/or compliance, and the make, model, model year, part number, component number, etc. if known;
6. Information related to any violation or alleged violation of any notification or reporting requirement of Chapter 301 or a regulation thereunder and detailed descriptions related to the allegations;
7. A description of supporting materials in the whistleblower's possession and the availability and location of other additional supporting materials;
8. A description of how the person learned about or obtained the information submitted and if any information was obtained from a public source, a description of that source;
9. Identification of documents or other information in the submission that the person believes could reasonably be expected to reveal the person's identity and the basis for that belief;
10. Whether the person or his or her legal representative has taken any other action regarding the issue, and if so, a description of that action;
11. Whether the person acquired the information through a means or manner that has been determined by a United States federal court or a state court to violate applicable federal or state criminal law, and if so, details regarding that determination;
12. Whether the person acquired the information that he or she is submitting to NHTSA solely through a communication that was subject to a privilege, such as the attorney-client privilege or attorney work product doctrine;
13. Any other relevant information;
14. A declaration, signed under penalty of perjury under the laws of the United States that the information provided to NHTSA is true and correct to the best of the person's knowledge, information and belief and acknowledgement from the person that they may be subject to prosecution and ineligible for a whistleblower award if, in their submission of information, their other dealings with the NHTSA, or their dealings with another authority in connection with a related action, they knowingly and willfully make any false, fictitious or fraudulent statements or representations, or use any false writing or document knowing that the writing or document contains any false, fictitious or fraudulent statement or entry; and

15. If represented by a legal representative, the legal representative's certification that the legal representative has verified the identity of the individual who completed the WB-INFO form by viewing that individual's valid, unexpired government issued identification, reviewed the individual's WB-INFO form for accuracy, and that the information contained therein is true and correct to the best of the legal representative's knowledge, information and belief; the legal representative will retain an original, signed copy of the form with section F filled out by their client in their file; and that the legal representative has obtained the whistleblower's non-waivable consent to provide NHTSA with the whistleblower's original signed WB-INFO form in the event that NHTSA requests it.

The WB-AWARD form would permit NHTSA to collect information relating to a claimant's eligibility for an award, the claimant's position on why they should receive an award, and the claimant's view on the criteria for determining the amount of an award. This will allow NHTSA's Administrator to determine claims for whistleblower awards.

The WB-AWARD form requires the following information:

1. The claimant's name, address, and contact information;
2. If the person is represented by a legal representative, the name and contact information for the legal representative;
3. Details concerning the issue, including the manner in which the information was submitted to NHTSA, the date when the information was submitted, the form in which it was submitted, and the name of the motor vehicle manufacturer, part supplier and/or dealership to which the issue or information relates;
4. Information concerning the Notice of Covered Action to which the claim relates, including the date of the Notice, the Notice Number, and the Case name and number; and information regarding related actions, if applicable;
5. Information and explanations relating to the claimant's eligibility for an award, including whether the person acquired the information solely through a communication that was subject to the attorney-client privilege or attorney work product doctrine; whether the person acquired the original information by a means or manner that was determined by a United States federal court or state court to violate applicable federal or state criminal law; and whether the person is currently a subject or target of a criminal investigation or convicted of a criminal violation in connection with the allegations or conduct the person submitted to NHTSA;
6. An explanation of the reasons that the person believes that he or she should receive an award in connection with the person's submission of information to NHTSA, including any information that might be relevant considering the criteria for determining the amount of an award set forth in 49 U.S.C. § 30172 and 49 CFR Part 513; and
7. A declaration by the claimant under penalty of perjury under the laws of the United States that the information provided in the WB-AWARD form is true and correct to the best of the person's knowledge, information and belief and acknowledgement from the person that they may be subject to prosecution and ineligible for a whistleblower award if, in their submission of information, their

other dealings with NHTSA, or their dealings with another authority in connection with a related action, they knowingly and willfully make any false, fictitious or fraudulent statements or representations, or use any false writing or document knowing that the writing or document contains any false, fictitious or fraudulent statement or entry.

The WB-RELEASE form will provide a means for the potential whistleblower to provide consent for NHTSA to disclose information which could reasonably be expected to reveal the identity of the potential whistleblower. Being able to disclose this information may allow NHTSA to open a public investigation or proceed more efficiently with an investigation into the potential whistleblower's allegations. This information will be collected on an as-needed basis.

The WB-RELEASE form requests the following information:

1. Background information regarding the person submitting the WB-RELEASE form, including the person's name and address;
2. The name of the motor vehicle manufacturer, part supplier and/or dealership to which the potential whistleblower's issue or information relates;
3. An acknowledgment that the person consents to disclosure of information that could reasonably be expected to reveal the person's identity; and
4. Signature of the whistleblower and date.

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.

Each of the collections of information discussed above is anticipated to be submitted to NHTSA's dedicated email address or by other submission method expressly designated on NHTSA's website for such submissions. Electronic submission would allow NHTSA to receive the information more quickly than other methods, such as submission by U.S. mail. Electronic submission also would assist NHTSA in managing and tracking the whistleblower information it receives and better enable NHTSA to connect whistleblower information to requests for award payment under the whistleblower provisions.

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.

This is not applicable. Under the statute, to be eligible for an award, the information that the whistleblower submits must be "original information." Original information as defined under 49 U.S.C. § 30172(a)(3) is information that is derived from the independent knowledge or analysis of an individual, is not known to the Secretary from any other source, unless the individual is the original source of the information and is not exclusively derived from an allegation made in a judicial or administrative action, in a governmental report, a hearing, an audit, or an investigation, or from the news media, unless the individual is a source of the

information. The WB-INFO form allows whistleblowers to provide original information to NHTSA.

The WB-AWARD form permits NHTSA to collect information relating to a claimant's eligibility for an award, the claimant's position on why they should receive an award, and the claimant's view on the criteria for determining the amount of an award. This would allow NHTSA's Administrator to determine claims for whistleblower awards. This information is not available through an already existing collection or from any other source.

The WB-RELEASE form provides a means for the whistleblower to provide consent for NHTSA to disclose information which could reasonably be expected to reveal the identity of the whistleblower. This authorization is not available through an already existing collection.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

NHTSA believes that the collections of information will be from individuals and not from small businesses or other small entities. NHTSA anticipates that the submissions will almost exclusively be from employees or contactors of motor vehicle manufacturers, part suppliers, or dealerships, or their legal representatives. NHTSA believes this because only whistleblowers may be eligible for an award, and the statutory definition of a "whistleblower" in 49 U.S.C. § 30172(a)(6) states: "The term 'whistleblower' means any employee or contractor of a motor vehicle manufacturer, part supplier, or dealership who voluntarily provides to the Secretary original information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter, which is likely to cause unreasonable risk of death or serious physical injury."

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.

The objectives of the program under the Whistleblower Act could not be met if the information was not collected or was collected less frequently. This information collection provides NHTSA with information it needs to carry out its statutory mandate to protect the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident.

Furthermore, the Whistleblower Act authorizes the Secretary of Transportation to pay an award, subject to certain limitations, to eligible whistleblowers who voluntarily provide original information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of 49 U.S.C. Chapter 301, which is likely to cause unreasonable risk of death or serious physical injury, if the information provided leads to the successful resolution of a covered action. The requested information would be needed to make a determination on a whistleblower award application.

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

a. requiring respondents to report information to the agency more often than quarterly;
b. requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
c. requiring respondents to submit more than an original and two copies of any document;
d. requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
e. 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;
f. requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
g. 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
h. requiring respondents to submit proprietary trade secrets, 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.

There are limited circumstances requiring information to be collected in a manner other than as specified in 5 CFR 1320.5(d)(2). There is a substantial need in accordance with the Whistleblower Act for the rule to require the legal representative of a potential whistleblower submitting information anonymously to retain their client's signed original WB-INFO form. If such a potential whistleblower seeks a monetary award, he or she can no longer be anonymous due to the eligibility requirements in the statute. The original signed WB-INFO form may be necessary to the Agency's award determination or in the event of other specific circumstances, such as a fraudulent submission to the agency. Due to the length of time that it may take for the successful resolution of a covered action resulting in monetary sanctions collected by the United States in excess of $1,000,000, the form may need to be retained for more than three years. However, the Agency anticipates that a legal representative would retain the original signed form for his or her own business purposes even in the absence of the Agency's retention requirement.

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 prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to the 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, and on the data elements to be recorded, disclosed, or reported.

NHTSA is submitting with this ICR a copy of the final rule titled "Implementing the Whistleblower Provisions of the Vehicle Safety Act," which was published in the Federal Register on December 17, 2024. The final rule can be found on page 101952 of Volume 89 of the Federal Register. NHTSA addressed comments that it received in the final rule.

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

No payment or gift will be provided to any respondent for providing the information to NHTSA. However, providing the information is a prerequisite to be eligible for an award under 49 U.S.C. § 30172.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

The Whistleblower Act contains provisions designed to protect a whistleblower's identity. NHTSA notes its intention to protect all potential whistleblowers, to the extent they can be identified, regardless of whether they file a WB-INFO form.

The collected information, which could reasonably be expected to reveal the identity of a whistleblower, will not be made publicly available except as provided by the statute.

49 U.S.C. § 30172(f)(1) provides that notwithstanding section 30167 and except as provided in paragraphs (4) and (5), the Secretary, and any officer or employee of the Department of Transportation, shall not disclose any information, including information provided by a whistleblower to the Secretary, which could reasonably be expected to reveal the identity of a whistleblower, except in accordance with the provisions of section 552a of title 5, unless ---

(A) required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Secretary or any entity described in 49 U.S.C. § 30172(f)(5);
(B) the whistleblower provides prior written consent for the information to be disclosed; or
(C) the Secretary, or other officer or employee of the Department of Transportation received the information through another source, such as during an inspection or investigation under section 30166, and has authority under other law to release the information.

49 U.S.C. § 30172(f)(2) provides that the Secretary, and any officer or employee of the Department of Transportation, shall take reasonable measures to not reveal the identity of the whistleblower when disclosing any information under 49 U.S.C. § 30172(f)(1).

49 U.S.C. § 30172(f)(3) provides that 49 U.S.C. § 30172(f)(1) shall be considered a statute described in 5 U.S.C. § 552(b)(3)(B).

49 U.S.C.§ 30172(f)(4) provides that "nothing in this subsection is intended to limit the ability of the Attorney General to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation."

49 U.S.C. § 30172(f)(5) provides: Availability to Government agencies.--

(A) In general. --Without the loss of its status as confidential in the hands of the Secretary, all information referred to in paragraph (1) may, in the discretion of the Secretary, when determined by the Secretary to be necessary or appropriate to accomplish the purposes of this chapter and in accordance with subparagraph (B), be made available to the following:

(i) The Department of Justice.

(ii) An appropriate department or agency of the Federal Government, acting within the scope of its jurisdiction.

(B) Maintenance of information.-- Each entity described in subparagraph (A) shall maintain information described in that subparagraph as confidential, in accordance with the requirements in paragraph (1).

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.

The WB-INFO and WB-AWARD forms ask the respondent whether the respondent acquired information provided to NHTSA through a means or manner that has been determined by a United States federal court or a state court to violate applicable federal or state criminal law. In accordance with the Whistleblower Act, NHTSA believes that a respondent should not be rewarded for violating a federal or state criminal law.

The WB-AWARD form asks the claimant whether they are currently a subject or target of a criminal investigation in connection with the allegations or conduct the claimant submitted to NHTSA. The WB-AWARD form also asks whether any of the factors in 49 CFR 513.7 apply, one of those factors is whether the person has been convicted of a criminal violation related to the covered action for which the whistleblower otherwise could receive an award under this part. Such questions are asked because a whistleblower is prohibited by statute from an award if the whistleblower is convicted of a criminal violation related to the covered action for which the whistleblower otherwise could receive an award. 49 U.S.C. § 30172(c)(2)(A).

12. Provide estimates of the hour burden of the collection of information on the respondents and estimates of the annualized labor cost to respondents associated with that hour burden.

NHTSA estimates that the total hour burden for potential whistleblowers and any legal representatives engaged on behalf of individuals to submit the forms necessary for the whistleblower program will be approximately 791 hours (rounded). The burden hours for each form are detailed below.

Form WB-INFO:

In the time since the enactment of the FAST Act in 2015, NHTSA has received approximately 300 submissions that it has considered potential whistleblower submissions.[1] NHTSA estimates that there will be approximately 50 individuals per fiscal year who may wish to file such form. NHTSA estimated the number of individuals based on the current number of whistleblower submissions and NHTSA's view that submissions will increase once the whistleblower reward program is more widely known, now that the final rule is published, and additional whistleblower awards are made.

NHTSA expects that an individual will complete one form detailing all potential issues. The collection is estimated to involve approximately 10 burden hours per individual who completes the WB-INFO form, and 20 hours per individual who has a legal representative complete the WB-INFO form.[2] NHTSA believes that approximately half (25) of the 50 anticipated submissions will be by individuals who will complete the WB INFO form themselves. The completion time will depend largely on the complexity of the alleged violation and the amount of information the whistleblower possesses in support of the allegations. We estimate that the burden hours for individuals to complete the WB-INFO form who do not use a legal representative to complete and submit the applicable form will be 250 hours (25 respondents × 10 hours).

NHTSA estimates that the remainder of the WB-INFO forms (approximately 25 of the 50 anticipated WB-INFO forms) will be submitted by legal representatives on behalf of individuals. NHTSA estimates that each legal representative will take 20 hours to fill out each form, for a total burden of 500 hours (25 respondents × 20 hours).

Therefore, NHTSA estimates that the total annual hour burden of form WB-INFO is 750 hours (25 respondents × 10 hours (self-completed form) + 25 respondents with a legal representative × 20 hours).

Form WB-RELEASE:

NHTSA estimates that it will receive 45 WB-RELEASE forms per year. NHTSA expects that a potential whistleblower will complete one form per year and anticipates there will be approximately 45 individuals per fiscal year who may wish to file a form WB-RELEASE.

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[1] Because there was no required method or form of submission prior to issuance of the final rule, NHTSA has taken a broad view of what is considered whistleblower information. Such information comes from a variety of sources, such as Vehicle Owner Questionnaires ("VOQ"), information provided by telephone, and information submitted by letter or email to NHTSA. NHTSA takes this broad view not only to review and track the information submitted, but also to better protect the confidentiality of those who have provided whistleblower information to NHTSA.

[2] This estimate includes time spent to engage the legal representative, as well as time for the legal representative to gather information from the client or review sources of information needed to complete the form.

NHTSA estimates that it will take 15 minutes per individual to complete the form. Thus, NHTSA estimates that that annual hour burden for form WB-RELEASE is 11.25 hours. We anticipate that 20 individuals will complete the WB-RELEASE form themselves and that approximately 25 individuals will have an attorney review the completed form ((20 individuals × 15 min.) + (25 legal representatives × 15 min.)).

Form WB-AWARD:

Each individual who has submitted a form WB-INFO and wishes to be considered for an award under the program would be required to provide a WB-AWARD form to NHTSA. A claimant could only submit a WB-AWARD form after there has been a "Notice of Covered Action" published on NHTSA's website pursuant to 49 CFR 513.9. NHTSA estimates that it will post approximately 1-2 such Notices each year. NHTSA arrived at this estimate by looking at the enforcement actions resulting in civil penalties exceeding $1,000,000 over the last several years, not including deferred penalties not collected or performance amounts. In some years, NHTSA has not collected any civil penalties exceeding $1,000,000. However, in one year, NHTSA had several instances where it collected more than $1,000,000 in civil penalties in connection with an enforcement action. NHTSA believes that, as this whistleblower program grows, more actionable submissions will be made and, as a consequence, NHTSA will have more actions resulting in collected monetary sanctions exceeding $1,000,000.

Considering the estimate of the anticipated yearly covered actions, and NHTSA's experience to date, NHTSA estimates that it will receive approximately 2 WB-AWARD forms each year.[3] NHTSA expects that a whistleblower/claimant will complete one form and anticipates there will be approximately 2 individuals per fiscal year who may wish to file such. NHTSA believes that all individuals submitting a WB-AWARD form will use a legal representative.

The collection is estimated to involve approximately 10 burden hours per individual seeking to be considered for an award under NHTSA's whistleblower program. NHTSA estimates that the estimated annual hour burden for form WB-AWARD is 20 hours per fiscal year (2 responses × 10 hours).

Optional Annual Burden Cost Associated with Collection of a WB-INFO Form

The Agency estimates that each private counsel will take approximately two hours to review a binding nondisclosure agreement, and the Agency estimates that five potential whistleblowers, out of 50 total potential whistleblowers, may consult with private counsel about a binding nondisclosure agreement per year. Thus, the Agency estimates that the estimated annual PRA burden of consulting with private counsel about a binding nondisclosure agreement is 10 hours per fiscal year (five respondents × two hours).

[3] While it is unlikely that there will be whistleblower information provided in connection with every Notice of Covered Action posted by NHTSA, this estimate calculates burden hours as if there were one claim for each Covered Action.

Below is a summary table detailing the estimated annual hour burden for submitting the forms associated with this information collection.

Table 1: Total Estimated Annual Hour Burden

Form	Annual Respondents	Annual Number of Respondents	Annual Responses	Estimated Time Per Response	Total Burden Hours
WB-INFO	Individual	25	25	10 hours	250 hours
	Individual with Legal Representative	25	25	20 hours	500 hours
WB-INFO Totals		**50**	**50**	**15 hours**	**750 hours**
WB-RELEASE	Individual	20	20	15 min.	5 hours
	Individual with Legal Representative	25	25	15 min.	6.25 hours
WB-RELEASE Totals		**45**	**45**	**15 min.**	**11.25 hours**
WB-AWARD	Individual	0	0	N/A	N/A
	Individual with Legal Representative	2	2	10 hours	20 hours
WB-AWARD Totals		**2**	**2**	**10 hours**	**20 hours**
Optional Private Counsel for Binding Nondisclosure Agreement		**5**	**5**	**2 hours**	**10 hours**
Total Estimated Annual Hour Burden		**50 Respondents**	**102 Responses**		**791.25 hours**

For those individuals who do not use a legal representative to complete and submit the applicable forms, NHTSA believes such individuals will complete the forms themselves. NHTSA believes that approximately 25 potential whistleblowers will complete and submit the WB INFO form themselves annually. To calculate the opportunity cost to potential whistleblowers who complete the forms themselves, NHTSA used the average hourly earnings of all employees on private nonfarm payrolls, which the Bureau of Labor Statistics lists at

$33.36.[4] NHTSA estimates that individuals will take 10 hours to complete and submit form WB-INFO. Therefore, NHTSA estimates that each year the opportunity cost of individual, non-attorney time for completion of the form WB-INFO will be $8,340.00 (($33.36 × 10 hours) × 25 respondents).

NHTSA believes that approximately 20 potential whistleblowers will complete the WB-RELEASE form themselves annually. To calculate the opportunity cost to potential whistleblowers who complete the forms themselves, NHTSA used the average hourly earnings of all employees on private nonfarm payrolls, which the Bureau of Labor Statistics lists at $33.36.[5] NHTSA estimates that individuals will take 15 minutes to complete and submit form WB-RELEASE. Therefore, NHTSA estimates that each year the cost of individual, non-attorney time for completion of the WB-RELEASE forms will be $166.80 (($33.36 × 15 minutes/60) × 20 respondents)).

NHTSA believes that all individuals submitting a WB-AWARD form will use a legal representative; therefore, it has not estimated opportunity cost for this form. Costs for engaging a legal representative to complete and submit forms on behalf of a claimant are estimated in response to question 13 below.

Table 2: Burden Hours and Costs by Form (Completed by Individuals)

Form	Annual Number of Respondents	Annual Responses	Est. Time Per Response	Ave. Hourly Wage	Est. Opportunity Cost per Form	Total Burden Hours	Total Opportunity Cost per Form
WB-INFO	25	25	10 hours	$33.36	$333.60	250 hours	$8,340.00
WB-RELEASE	20	20	15 min.	$33.36	$8.34	5 hours	$166.80
WB-AWARD	0	0	N/A	N/A	N/A	N/A	N/A
Total	45	45				255 hours	$8,506.80

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 already reflected in the response provided in question 12.

There are no start-up costs with this collection of information and this collection imposes no maintenance or recordkeeping requirements on individual submitters. To the extent that a potential whistleblower wishes to submit information anonymously through the use of a legal representative, the rule requires the legal representative to keep a copy of the form signed by the potential whistleblower. Furthermore, under the final rule, if the potential whistleblower makes

[4] Table B-3. Average hourly and weekly earnings of all employees on private nonfarm payrolls, April 2023, available at https://www.bls.gov/news.release/empsit.t19.htm (accessed May 10, 2023).
[5] Table B-3. Average hourly and weekly earnings of all employees on private nonfarm payrolls, April 2023, available at https://www.bls.gov/news.release/empsit.t19.htm (accessed May 10, 2023).

a whistleblower award claim, the individual may no longer be anonymous. We anticipate that the annual burden cost to the legal representative to retain this form will be de minimus.

NHTSA anticipates that the vast majority of whistleblowers/claimants will submit the forms using electronic means rather than mail. Therefore, the expected cost of submission of the forms is $0.00.

NHTSA estimates the annual burden costs of completing the forms and submitting them using a legal representative below. Under the final rule, a potential whistleblower who discloses their identity may elect to retain a legal representative to represent them, while an anonymous potential whistleblower is required to retain a legal representative to represent them. NHTSA expects that in most of those instances where a legal representative is retained, the potential whistleblower's legal representative will complete or assist in the completion of some or all of the required forms on the client's behalf. NHTSA also expects that in the vast majority of cases in which a whistleblower/claimant is represented by a legal representative, such person will enter into a contingency fee arrangement with such legal representative, providing that the legal representative will provide representation in exchange for a fixed percentage of any recovery under the whistleblower award program. Therefore, NHTSA believes that most persons will not incur any direct expenses for attorneys' fees for the completion of required forms. NHTSA also anticipates that a very small number of people will enter into hourly fee arrangements with counsel. Regardless of whether the fee is contingent or hourly, NHTSA has estimated the cost of using a legal representative.

Estimated Total Annual Burden Cost for Form WB-INFO using a Legal Representative:

NHTSA estimates the total annual burden cost for the Form WB-INFO to be $266,000. We base the estimate on the following:

NHTSA will receive approximately 50 WB-INFO forms per year. NHTSA believes that approximately half of potential whistleblowers, will have a legal representative submit form WB-INFO on their behalf; therefore 25 WB-INFO forms a year will be submitted by a legal representative. The cost of a legal representative will be on average $532[6] per hour; and legal representatives will bill on average 20 hours to review materials and complete form WB-INFO.

Based on those assumptions, NHTSA estimates that each year the cost of legal representative time for completion of the forms will be $266,000 for the completion of form WB-INFO (25 Forms × ($532 × 20 hours)).

Estimated Total Annual Burden Cost for Form WB-RELEASE using a Legal Representative:

NHTSA estimates the total annual burden cost for the Form WB-RELEASE to be $3,325.00. We base the estimate on the involvement and cost of legal representatives:

[6] This amount is based on the U.S Attorney's Office for the District of Columbia Fees Matrix for 2015-2021, assuming that an attorney with 11-15 years of experience assists the whistleblower. *See* https://www.justice.gov/file/1461316/download.

NHTSA will receive 45 WB-RELEASE forms annually and potential whistleblowers will have a legal representative submit approximately 25 WB-RELEASE forms annually. The legal representative cost will be on average $532[7] per hour; and legal representatives will bill on average 15 minutes to complete form WB-RELEASE.

Based on those assumptions, NHTSA estimates that each year the cost of legal representative time for completion of the forms will be $3,325 for the completion of form WB-RELEASE (25 Forms × ($532 × 15 min./60)).

Estimated Total Annual Burden Cost for Form WB-AWARD using a Legal Representative:

NHTSA estimates the total annual burden cost for the Form WB-AWARD to be $10,640. NHTSA estimates those costs based on the following assumptions: NHTSA will receive approximately 2 WB-AWARD forms annually, and claimants will have a legal representative submit 2 WB-AWARD forms annually; legal representative cost will be on average $532[8] per hour; and legal representatives will bill on average 10 hours to complete a form WB-AWARD.

Based on those assumptions, NHTSA estimates that each year the cost of legal representatives' time will be $10,640 for the completion of form WB-AWARD (2 Forms × ($532 × 10 hours)).

Estimated Annual Cost of Respondents Consulting Private Counsel About a Binding Nondisclosure Agreement:

NHTSA estimates the total annual burden cost for respondents consulting with private counsel about a binding nondisclosure agreement to be $5,320. NHTSA estimates those costs based on the following assumptions: the Agency will receive 50 whistleblower submissions annually; five potential whistleblowers will consult with private counsel about a binding nondisclosure agreement annually; attorney costs will be on average $532[9] per hour; and attorneys will bill on average two hours to review a binding nondisclosure agreement.

Based on those assumptions, the Agency estimates that each year the cost of attorney time for consultation about a binding nondisclosure agreement will be $5,320 (($532 × two hours) × five respondents).

[7] This amount is based on the U.S Attorney's Office for the District of Columbia Fees Matrix for 2015-2021, assuming that an attorney with 11-15 years of experience assists the whistleblower. *See* https://www.justice.gov/file/1461316/download.

[8] This amount is based on the U.S Attorney's Office for the District of Columbia Fees Matrix for 2015-2021, assuming that an attorney with 11-15 years of experience assists the whistleblower. *See* https://www.justice.gov/file/1461316/download.

[9] This amount is based on the U.S Attorney's Office for the District of Columbia Fees Matrix for 2015-2021, assuming that an attorney with 11-15 years of experience assists the whistleblower. *See* https://www.justice.gov/file/1461316/download.

Below is a summary table detailing the estimated annual cost burden for submitting the forms associated with the information collection using a legal representative.

Table 3: Total Estimated Cost Burden – Legal Representative

Form	Annual Responses	Estimated Burden Per Response	Average Hourly Legal Rep. Cost	Legal Rep. Cost Per Submission	Total Hours	Total Legal Rep. Costs
WB-INFO	25	20 hours	$532	$10,640	500	$266,000
WB-RELEASE Form	25	15 minutes	$532	$133	6.25	$3,325
WB-AWARD Form	2	10 hours	$532	$5,320	20	$10,640
Optional Private Counsel for Binding Nondisclosure Agreement	5	2 hours	$532	$1,064	10	$5,320
Total Cost Burden – Legal Representative	**57**	**32.25 hours**		**17157**	**536.25 hours**	**285285**

14. Provide estimates of annualized costs to the Federal government. 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.

The collections of information referenced in this supporting statement are new. Therefore, NHTSA staff does not have historical data on which to prepare a reliable estimate of the cost to the government. The annualized costs to the Federal government involve costs associated with reviewing the WB-INFO form, the WB-RELEASE form and the WB-AWARD form and estimates are included below.

This burden includes the estimated time for NHTSA personnel to spend reviewing the WB-INFO form to determine which reports warrant further investigations. Burden beyond the initial time for screening is not included as costs associated with this information collection. This burden estimate includes the time NHTSA personnel may spend reviewing the WB-RELEASE form to determine whether it was properly executed, and the final burden estimate includes the estimated time that NHTSA personnel would spend to review the WB-AWARD form to make a preliminary determination that the form was filled out properly. Burden beyond the initial time for screening is not included as costs associated with this information collection.

NHTSA estimates the cost of reviewing forms by a NHTSA attorney at a GS-14 salary. The hourly wage of a GS-14-5 employee is $71.88.[10] To estimate total compensation costs, NHTSA used the Bureau of Labor Statistics' estimate that wages and salary only represent 62 % of total employee compensation cost for State and local employees,[11] which brings the total hourly cost for this employee's time to approximately $116.45. Review time will vary significantly depending on the form and the information provided.

NHTSA estimates that 80% of all WB-INFO forms will take 2 hours to review. For the remaining 20% of WB-INFO forms, NHTSA estimates that the review will take, on average, 1 hour. Assuming that NHTSA receives 50 WB-INFO forms, NHTSA estimates the associated review time for the WB-INFO forms will be 90 hours ((50 reports x .80 x 2 hours=80 hours) plus (50 reports x .2 x 1 hour=10 hours), with an associated labor cost of $10,480.50 (90 hours x $116.45 per hour)).

NHTSA estimates that 100% of all WB-RELEASE forms will take 5 minutes to review. Assuming that NHTSA receives 45 WB-RELEASE forms, NHTSA estimates that the associated review time will be 3.75 hours (45 forms x 5 minutes), with an associated labor cost of $436.69 (3.75 hours x $116.45 per hour).

NHTSA estimates that 100% of all WB-AWARD forms will take 2 hours to review. Assuming that NHTSA receives 2 WB-AWARD forms, the associated review time will be 4 hours (2 forms x 2 hours), with an associated labor cost of $465.80 (4 hours x $116.45.00 per hour).

Information storage is currently contemplated to be provided in existing systems with little or no impact.

Therefore, the estimated annualized cost to the federal government is $11,382.99.

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet. If this is a new collection, the program change will be the number of burden hours reported in response to question 12 and the entire burden cost reported in response to question 13. If this is a renewal or reinstatement, the change is the difference between the new burden estimates and the burden estimates from the last OMB approval.

This is the implementation of a new program. NHTSA estimates that the burden hours will be 750 hours for the WB-INFO form, 11.25 hours for the WB-RELEASE form, 20 hours for the WB-AWARD form, and 10 hours for private counsel to review a binding nondisclosure agreement. The estimated annual burden hour total for this information collection is 791 hours (rounded).

[10] 2023 General Schedule hourly rate with Washington DC locality pay: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/DCB_h.pdf.
[11] Employer Costs for Employee Compensation, https://www.bls.gov/news.release/ecec.t01.htm. Accessed 05/14/2023.

The estimated burden cost for the WB-INFO form is $266,000 in legal representation fees. The estimated burden cost for the WB-RELEASE form is $3,325.00 in legal representation fees, and the estimated burden cost for the WB-AWARD form is $10,640 in legal representation fees. The estimated burden cost for private counsel to review a binding nondisclosure agreement is $5,320. The total estimated cost burden for using legal representation is $285,285.

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 as applicable.

This question does not apply. NHTSA is not permitted under existing law to publicly disclose certain information, including personally identifiable information and information that could reasonably be expected to reveal the identity of the whistleblower (except under certain situations).

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.

Approval is not sought to not display the expiration date for OMB approval.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions." The required certifications can be found at 5 CFR 1320.9.

There are no exceptions to the certifications statement.