Supporting Statement

OMB Control Number 1506-XXXX

Proposal of Rule Implementing Section 6314 of the Anti-Money Laundering Act of 2020 and the Anti-Money Laundering Whistleblower Improvement Act to Establish a Whistleblower Program

1. Circumstances necessitating collection of information.

The Financial Crimes Enforcement Network (FinCEN) is issuing this statement to support its request that the Office of Management and Budget (OMB) approve a collection of information proposed in a notice of proposed rulemaking (NPRM) that would implement Section 6314 of the Anti-Money Laundering Act of 2020[1] and the Anti-Money Laundering Whistleblower Improvement Act.[2]

The Anti-Money Laundering Act of 2020 (AMLA) amended the Bank Secrecy Act at 31 U.S.C. 5323 to establish a whistleblower program administered by FinCEN. Accordingly, pursuant to 31 U.S.C. 5323 (as further amended by the Anti-Money Laundering Whistleblower Improvement Act), FinCEN is proposing a rule to fully implement the FinCEN whistleblower program (Whistleblower NPRM).[3] FinCEN assesses that this rule would improve efforts to safeguard the U.S. financial system from illicit use, promote national security, and combat money laundering, terrorist financing, proliferation financing, and related crimes.

As proposed, the rule would set out the process for individuals to voluntarily submit original information relating to violations or conspiracies to violate the Bank Secrecy Act (BSA), the International Emergency Economic Powers Act (IEEPA), the Trading with the Enemy Act of 1917 (TWEA), and the Foreign Narcotics Kingpin Act (Kingpin Act) (collectively, the "covered statutes"), as well as a process for individuals to submit applications for monetary whistleblower awards. Both processes require a collection of information by FinCEN. The information collection is necessary for FinCEN to receive whistleblower tips, assess the credibility and relevance of submitted information, communicate with whistleblowers as appropriate, and administer the whistleblower award process in accordance with statutory requirements.

2. Method of collection and use of data.

Under the proposed rule, FinCEN would collect information voluntarily submitted by individuals or their attorneys through designated electronic submission mechanisms. The

[1] The AML Act was enacted as Division F, §§ 6001-6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116-283, 134 Stat 3388 (2021).
[2] The Anti-Money Laundering Whistleblower Improvement Act (AML Whistleblower Improvement Act) is Title IV of Division AA of the Consolidated Appropriations Act, 2023, Public Law 117-328 (Dec. 29, 2022); 31 U.S.C. 5223(a)(1).
[3] *See* FinCEN, *Whistleblower Incentives and Protection*, 91 FR 16328 (Apr. 1, 2026).

information collection consists of two primary components: (1) whistleblower submissions of original information relating to potential violations of the covered statutes; and (2) applications for whistleblower awards.

Specifically, under the proposed rule, individuals would use the proposed "Tip, Complaint, or Referral" form, or a successor form, to submit original information relating to violations of the covered statutes. The form would be submitted to FinCEN through a secure online portal. The initial submission of information via a standardized form would enable FinCEN to receive, review, and track each whistleblower's submission. Furthermore, under the proposed rule, individuals who seek consideration for a whistleblower award would then be required to submit a separate application form, the proposed "Application for Award" form, or a successor form. The award application form would allow FinCEN to collect information necessary for it to determine eligibility for an award, including information sufficient to identify the applicant, establish the applicant's connection to the original submission, and evaluate whether the statutory and regulatory criteria for an award are satisfied.

Generally, FinCEN would use the information collected to: evaluate the credibility, relevance, and usefulness of whistleblower submissions in potentially advancing enforcement investigations involving the covered statutes; determine whether the information warrants further review or referral within the Department of the Treasury (Treasury) or to the Department of Justice; communicate with whistleblowers or their attorneys as necessary regarding their submissions; and administer the whistleblower award process in accordance with the proposed rule's implementation of AMLA Section 6314 and the Anti-Money Laundering Whistleblower Improvement Act. The information collected may also be used to support program administration, oversight, and reporting requirements

FinCEN currently receives and maintains information voluntarily submitted by individuals who provide tips relating to potential violations of the covered statutes. Currently, there is no required format for the submission of this information to FinCEN and these submissions are received through existing FinCEN intake mechanisms, such as the whistleblower.submissions@fincen.gov email address, and through the Regulatory Support Section "Contact us" Page on the FinCEN website. As FinCEN has not yet promulgated regulations to fully implement the statutory whistleblower award framework set forth in 31 U.S.C. 5323, it has not issued any whistleblower awards.

3. Use of improved information technology to reduce burden.

FinCEN currently permits individuals to submit information relating to potential violations of the covered statutes through electronic means. Building on this approach in the proposed rule, FinCEN intends to employ information technology to minimize burden on whistleblowers and their attorneys by streamlining data entry, limiting the scope of the information collected to what is necessary to carry out statutory and programmatic functions, and avoiding duplicative requests for information. For example, FinCEN intends to establish a public-facing portal that allows for an online submission method for whistleblowers and their attorneys to provide information more efficiently and without the need for in-person or paper submissions. The use of the portal to submit information to FinCEN also would support the confidential handling of whistleblower information by enabling secure transmission, storage, and access controls consistent with applicable legal and regulatory requirements.

When appropriate, FinCEN may also permit alternative submission methods to ensure accessibility or to address technical limitations, while minimizing whistleblower burden to the extent practicable.

4. <u>Efforts to identify duplication.</u>

FinCEN has reviewed existing information collections and determined that the information to be collected for the FinCEN whistleblower program cannot be obtained from other sources, as it consists of original information voluntarily submitted by whistleblowers. Although FinCEN currently receives whistleblower information through existing intake mechanisms, including by email, those mechanisms do not provide a duplicative source of information. As set forth in the proposed rule, the forms would reflect the proposed requirements in the rule that relates to the submission of original information and award application, and the forms would provide a standard mechanism for the submission of this information.

5. <u>Methods to minimize burden on small businesses or other small entities.</u>

The information collection associated with the FinCEN whistleblower program is voluntary and directed primarily toward individuals who choose to submit information relating to potential violations of the covered statutes. Under 31 U.S.C. 5323 and the proposed rule, a whistleblower must be an individual and, thus, small businesses and other small entities are not the intended respondents for this collection. Furthermore, FinCEN's use of electronic submission methods and streamlined intake processes are intended to reduce burden on whistleblowers and their attorneys by minimizing time and resources required to provide information.

6. <u>Consequences to the Federal government of not collecting the information or less frequent collections.</u>

If FinCEN did not collect the information associated with the FinCEN whistleblower program, or collected the information less frequently, then FinCEN would be unable to effectively carry out, at an appropriate scale, its statutory responsibilities under 31 U.S.C. 5323. The program's effectiveness depends on the timely and ongoing receipt of information from whistleblowers who voluntarily submit original information relating to potential violations of the covered statutes.

Less frequent collection would impede FinCEN's ability to receive, review, and assess whistleblower submissions as they arise, potentially delaying appropriate review, referral, or other programmatic actions. Because whistleblower submissions are event-driven and not predictable in timing or volume, periodic or infrequent collection would not be practicable.

In addition, failure to collect this information would prevent FinCEN from fully implementing the whistleblower award framework established by statute and would undermine the effectiveness of the whistleblower program.

7. <u>Special circumstances requiring data collection inconsistent with guidelines in 5 CFR 1320.5(d)(2).</u>

There are no special circumstances associated with this information collection. The collection is conducted in a manner consistent with the guidelines set forth in 5 CFR 1320.5(d)(2).

8. <u>Consultation with individuals outside of the agency on availability of data, frequency of collection, clarity of instructions and forms, and data elements.</u>

In accordance with the Paperwork Reduction Act and 5 CFR 1320.8(d), FinCEN will solicit public comment on this information collection through publication of the Whistleblower NPRM in the Federal Register. The notice provides a 60-day public comment period during which interested parties may submit comments on the proposed information collection, including the estimated cost and hour burden, the availability of data, the frequency of collection, the clarity of instructions and recordkeeping requirements, and the data elements to be collected.

Because this Supporting Statement accompanies a proposed rule, FinCEN has not yet received or evaluated public comments submitted in response to the Federal Register notice. FinCEN will review and consider all comments received, including comments related to cost and hour burden, and will describe any changes made in response to such comments in the final rule and accompanying Supporting Statement submitted to OMB.

In developing the proposed rule and associated information collection, FinCEN considered existing practices and approaches used in whistleblower programs administered by other federal agencies as discussed in the *Baseline of Current Practices and Activities* section of the Whistleblower NPRM. These sources informed FinCEN's approach to the availability of data, frequency of collection, clarity of instructions, and identification of data elements necessary to administer the whistleblower program.

Because this information collection is associated with a proposed rule, opportunities for consultation with prospective whistleblowers will occur through the public notice and comment process. FinCEN also anticipates continued consultation through future PRA renewals and rulemakings as appropriate.

9. Explanation of decision to provide any payment or gift to respondents.

FinCEN does not provide any payments or gifts to whistleblowers, other than the awards contemplated in 31 USC 5323(b), in connection with this information collection.

10. Assurance of confidentiality of responses.

Consistent with the mandate set forth in the statute establishing the whistleblower program, FinCEN recognizes the importance of preserving the confidentiality of whistleblowers. FinCEN will handle information collected under the FinCEN whistleblower program in accordance with applicable statutory, regulatory, and policy requirements governing confidentiality, privacy, and information security. 31 U.S.C. 5323(g)(4) provides the statutory basis for protecting the confidentiality of whistleblower information, including the identity of whistleblowers.

Information collected under this program is subject to the Privacy Act of 1974, as applicable, and will be maintained in a system of records covered by the following system of records notice: Treasury/FinCEN .001—FinCEN Investigations and Examinations System.[4] FinCEN has implemented administrative, technical, and physical safeguards to protect information collected under this program from unauthorized access or disclosure. Access is limited to authorized personnel who receive appropriate training.

Information may be shared within Treasury or with the Department of Justice. At FinCEN's discretion and consistent with the statute, FinCEN may also make original information available to other appropriate agencies and authorities and/or to foreign law enforcement authorities when appropriate and consistent with certain purposes. Furthermore, consistent with 31 USC 5323(g)(4)(A), the proposed rule provides that FinCEN shall not disclose any information, including information provided by a whistleblower to FinCEN, that could reasonably be expected to reveal the identity of a whistleblower, except in certain circumstances set out in the statute.

11. Justification of sensitive questions.

This information collection does not contain questions of a sensitive nature, such as questions concerning sexual behavior or attitudes, religious beliefs, or other categories of information commonly considered private. Any personally identifiable information, which may be considered sensitive information, is submitted voluntarily by respondents. Such collected information is necessary for FinCEN to evaluate the credibility, relevance, and usefulness of whistleblower submissions; to evaluate the eligibility of whistleblowers for awards; and to otherwise administer the whistleblower program in accordance with statutory requirements.

---

[4] Treasury Department, *Privacy Act of 1974, as Amended*; *System of Records Notice: Treasury/FinCEN .001—FinCEN Investigations and Examinations System*, 79 FR 20969, 20970 (April 14, 2014) https://www.federalregister.gov/documents/2014/04/14/2014-08254/privacy-act-of-1974-as-amended-system-of-records-notice.

12. Estimated annual hourly burden.

Proposed Whistleblower Tip, Complaint, or Referral Form (Form TCR)

Description: To be eligible to receive an award under FinCEN's whistleblower program, individuals seeking to submit information of a possible violation of a covered statute to Treasury or the Department of Justice must do so by providing information and completing the Form TCR through FinCEN's online portal, unless another manner is authorized by FinCEN.

Frequency: As required

Estimated Number of Annual Responses: 400 Form TCRs.[5]

Estimated Burden per Response: The burden associated with this information collection would vary, depending on the type of submission provided (i.e., original submission only, original submission with one or more supplemental submissions, or supplemental submission only), and whether a whistleblower submits information without legal representation (i.e., *pro se*) or through counsel. FinCEN estimates the average burden per response type in Table 1 below.

Table 1. Aggregate Annual Time Burden of Form TCR

Submission Type	Representation Type	Number of Responses	Time per Response (Minutes)	Total Burden Hours
Original	Represented by Counsel	58	36.75	35.53
	Pro Se	42	36.25	25.38
Original and Supplemental	Represented by Counsel	87	53.75	77.94
	Pro Se	63	52.75	55.39
Supplemental Only	Represented by Counsel	87	17.0	24.65
	Pro Se	63	16.5	17.33
Total		**400**		**236.20**

Estimated Total Annual Burden Hours for the Form TCR: 236.2 hours.[6]

[5] This estimate is informed by FinCEN's historical experience receiving tips and observable historical trends in Form TCR filings submitted to other federal agencies under their own respective whistleblower programs and is detailed in Section VI.E.1 of the Whistleblower NPRM.

[6] The estimated average annual burden per response type associated with the collection of information in this proposed rule varies by submission and representation type. *See* Section VI.E.1 of the Whistleblower NPRM.

Proposed Whistleblower Award Application (WB-APP)

Description: Individuals seeking to apply for a financial award must submit their application by completing the Form WB-APP through FinCEN's online portal, unless another manner is authorized by FinCEN.

Frequency: As required.

Estimated Number of Annual Responses: 15 WB-APPs.[7]

Estimated Burden per Response: The burden associated with this information collection varies depending on whether a whistleblower submits information without legal representation (i.e., *pro se*) or through counsel. FinCEN estimates the average burden per response type in Table 2 below.

Table 2. Aggregate Annual Time Burden of Form WB-APP

Representation Type	Number of Responses	Time per Response (Minutes)	Total Burden Hours
Represented by Counsel	10	13.25	2.21
Pro Se	5	12.75	1.06
Total	**15**		**3.27**

Estimated Total Annual Burden Hours for the Form WB-APP: 3.27 hours.[8]

Total Combined Annual Burden – Form TCR and Form WB-APP

Estimated Total Annual Combined Burden Hours for Form TCR and Form WB-APP: 239.47 hours. The total annual burden hours are comprised of the total number of hours between the estimates for each form type: Form TCR: 236.2 hours; Form WB-APP: 3.27 hours.

13. Estimated annual cost burden.

Proposed Form TCR

Estimated Cost per Response: The cost associated with this information collection would vary, depending on the type of submission provided (i.e., original submission only, original

[7] This estimate is based on an estimated tip-to-award application turnover rate of three percent applied to a rolling annual base of approximately 500 Form TCRs (which is based on the estimated number of annual submissions of Form TCRs and a number of TCRs already received that may be the subject of future award applications following issuance of a final rule) and takes into account the possibility of up three years in lag time between the date of the Form TCR and corresponding Form WB-APP. *See* Section VI.E.2 of the Whistleblower NPRM.

[8] The estimated average annual burden per response type associated with the collection of information in this proposed rule varies by representation type. *See* Section VI.E.2 of the Whistleblower NPRM.

submission with one or more supplemental submissions, or supplemental submission only), and on whether a whistleblower submits information without legal representation (i.e., *pro se*) or through counsel. FinCEN estimates the average annual cost per response type in Table 3 below.

Table 3. Aggregate Annual Cost of Form TCR

Submission Type	Representation Type	Total Burden Hours	Hourly Wage Rate	Total Cost Burden
Original	Represented by Counsel	35.53	$792.94 [a]	$28,169
	Pro Se	25.38	$133.08 [b]	$3,377
Original and Supplemental	Represented by Counsel	77.94	$792.94	$61,800
	Pro Se	55.39	$133.08	$7,371
Supplemental Only	Represented by Counsel	24.65	$792.94	$19,546
	Pro Se	17.33	$133.08	$2,306
Total		**236.20**		**$122,568**

[a] The wage rate applied here is the average wage rate for attorneys as found in the "Hourly Rates for Legal Fees for Complex Federal Litigation in the District of Columbia," published by the U.S. Attorney's Office for the District of Columbia, Civil Division.
[b] The wage rate applied here is the hourly wage rate for attorneys ($93.72), scaled by a private-sector benefits factor of 1.42 ($133.08 = $93.72 x 1.42), that incorporates the mean wage data (available for download at https://www.bls.gov/oes/2024/may/oessrci.htm, "May 2024 — National industry-specific and by ownership") associated with the occupational code for "Lawyers" (23-1011) for cross-industry private and public sector workers. The benefit factor is one plus the benefit/wages ratio, where as of December 2024, Total Benefits = 29.5 and Wages and salaries = 70.5 (29.5/70.5= 0.42) based on the private industry workers series data downloaded from https://www.bls.gov/news.release/pdf/ecec.pdf (accessed Apr. 22, 2025). Given that many occupations provide benefits beyond cash wages (e.g., insurance, paid leave, etc.), the private sector benefit is applied to reflect the total cost to the employer.

Estimated Total Annual Cost of Form TCR: $122,568.[9]

Proposed Form WB-APP

Estimated Cost per Response: The cost associated with this information collection would vary, depending on whether a whistleblower submits information without legal representation (i.e., *pro se*) or through counsel. FinCEN estimates the average annual cost per response type in Table 4 below.

Table 4. Aggregate Annual Cost of Form WB-APP

Representation Type	Total Burden Hours	Hourly Wage	Total Cost

[9] *See* Section VI.E.1 of the Whistleblower NPRM.

		Rate	Burden
Represented by Counsel	2.21	$792.94	$1,751
Pro Se	1.06	$133.08	$141
Total	**3.27**		**$1,892**

Estimated Total Annual Cost of Form WB-APP: $1,892.[10]

Total Combined Annual Cost – Form TCR and WB-APP

Estimated Total Annual Combined Cost for Form TCR and Form WB-APP: $124,460. The cost is comprised of the total cost between the estimates for each form type: Form TCR: $122,568; Form WB-APP: $1,892.

14. Estimated annual cost to the Federal government.

To implement the rule, FinCEN expects to incur certain operating costs that would include approximately $1.8 million in the first year and approximately $1.6 million each year thereafter.[11] These estimates include anticipated novel expenses related to technological implementation,[12] stakeholder outreach, and informational support, as well as certain incremental increases to pre-existing administrative and logistical expenses. These estimates are generally consistent with previous estimates provided by the Congressional Budget Office that anticipated costs of approximately $1 million per operational year and average direct spending of approximately $300,000 per year on program development through the first two years of full operation.[13]

15. Reason for change in burden.

This is a new information collection associated with the proposed rule implementing 31 U.S.C. 5323, as amended by Section 6314 of AMLA and subsequently by the Anti-Money Laundering Whistleblower Improvement Act.

16. Plans for tabulation, statistical analysis, and publication.

---

[10] *See* Section VI.E.2 of the Whistleblower NPRM.

[11] This estimate is consistent with the combined cost of development contract support plus internal staff labor at the GS-15 level in year 1, operations and management contract support plus internal staff labor at the GS-15 level in year 2, and operations and management contract support plus internal staff labor at the GS-15 and GS-14 level in year 3.

[12] Technological implementation for a new reporting form contemplates expenses related to development, operations, and maintenance of system infrastructure, including design, deployment, and support.

[13] U.S. House Committee on Financial Services. (2020). *Coordinating Oversight, Upgrading and Innovating Technology, and Examiner Reform Act of 2019* (H. Rept. 116 245). U.S. Government Publishing Office.

The information collected under the FinCEN whistleblower program will not be tabulated, statistically analyzed, or compiled for publication. This information is collected on an ongoing, event-driven basis, and is used solely for program administration and related purposes consistent with applicable statutory and regulatory requirements.

17. Request not to display the OMB expiration date.

FinCEN requests approval to not display the expiration date of OMB approval for this information collection. Displaying the expiration date would require FinCEN to amend the implementing regulations solely to update the expiration date every three years, which would impose unnecessary administrative burden without providing a corresponding benefit to the public. This request will not affect FinCEN’s obligation to comply with the Paperwork Reduction Act or the normal three-year PRA renewal process.

18. Exceptions to the certification statement.

There are no exceptions to the certification statement.