



## DEPARTMENT OF HOMELAND SECURITY

[Docket Number DHS-2020-0047]

### Agency Information Collection Activities: DHS Civil Rights Evaluation Tool

1601-0024, DHS Form 3095

**AGENCY:** Department of Homeland Security, (DHS).

**ACTION:** 60-Day Notice and request for comments; extension without change of a currently approved Collection, 1601-0024

**SUMMARY:** The Department of Homeland Security, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted until **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. This process is conducted in accordance with 5 CFR 1320.1

**ADDRESSES:** You may submit comments, identified by docket number Docket # DHS-2020-0047, at:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Please follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name and docket number Docket # DHS-2020-0047. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

### SUPPLEMENTARY 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 CFR part 21 and 44 CFR 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 CFR part 17, and 44 CFR 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 CFR part 7, which prohibits discrimination on the basis of age by recipients of Federal financial assistance.
- U.S. Department of Homeland Security regulation 6 CFR 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 CFR part 42, provide for the collection of data and information from recipients (see 28 CFR 42.406).

DHS uses DHS Form 3095: DHS Civil Rights Evaluation Tool as the primary tool to implement this information collection. DHS is seeking an extension of the form for another three-year period. DHS is not proposing any changes to the information collected in the form but is proposing changes to Section 1 of the form on instructions to streamline the process for submitting the completed form.

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 30 days from acceptance 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.

DHS requires recipients to submit their completed forms and supporting information electronically, via email, to the Department, in an effort to minimize administrative burden on the recipient and the Department. 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. DHS allows recipients to scan and submit documents that are not already maintained electronically.

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

DHS is pursuing further streamlining of the submission process through development of an online portal that would allow recipients to submit the data directly in a fully electronic form and eliminate the need for recipients to email the form and supporting documents as attachments.

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 and procedures to assist recipients in completing Section 4 of the Form, and providing technical assistance directly to the recipient as needed.

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.

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.

DHS is seeking an extension of the form for another three-year period. DHS is not proposing any changes to the information collected in the form but is proposing changes to Section 1 of the form on instructions to streamline the process for submitting the completed form. The changes to Section 1 do not impact the burden analysis. The changes in costs in Item 14 reflect increased hourly rates for Federal staff as reported by Office of Personnel Management for 2020, as well as an increase in the number of staff participating in the review process. Despite these increases, because the number of recipients subject to the collection has decreased from the previous reporting period, the total costs reported in Item 13 and 14 have also decreased.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
  2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
  3. Enhance the quality, utility, and clarity of the information to be collected;
- and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**ANALYSIS:**

AGENCY: Department of Homeland Security, (DHS)

Title: DHS Civil Rights Evaluation Tool

OMB Number: 1601-0024

Frequency: On Occasion

Affected Public: State, Local and Tribal Government

Number of Respondents: 2929

Estimated Time Per Respondent: 1 Hour

Total Burden Hours: 11716

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