

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

**New Emergency Agency Information Collection Activity Under OMB Review: <Sensitive>
<Security> <Information> Threat Assessments**

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice of emergency clearance request.

SUMMARY: This Notice announces that the Transportation Security Administration (TSA) has forwarded the new Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for emergency processing and approval under the Paperwork Reduction Act. The ICR describes the nature of information collection and its expected burden.

DATES: Send your comments by December 1, 2006. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: Katrina Kletzly, Attorney-Advisor, Office of the Chief Counsel, TSA-2, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202-4220; telephone (571) 227-1995; facsimile (571) 227-1381.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501*et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Sensitive Security Information Threat Assessments.

Type of Request: Emergency processing request of new collection.

OMB Control Number: Not yet assigned.

Forms(s): Security Threat Assessment Application.

Affected Public: Individuals seeking access to Sensitive Security Information (SSI) for use in civil proceedings in Federal court.

Abstract: Section 114(s) of title 49 of the U.S.C. requires the Transportation Security Administration (TSA) to promulgate regulations governing the protection of Sensitive Security Information (SSI). SSI includes information that would be detrimental to transportation security if publicly disclosed. TSA's SSI regulation, 49 CFR part 1520, establishes certain requirements for the recognition, identification, handling, and dissemination of SSI, including restrictions on disclosure and civil penalties for violations of those restrictions. Individuals may only access SSI if they are a covered person with a need to know as defined by the regulation. Section 525 of the Department of Homeland Security Appropriations Act of 2007 (DHS Appropriations Act) provides that in civil proceedings in the U.S. District Courts, where a party seeking access to SSI demonstrates a substantial need for relevant SSI in the preparation of the party's case and an undue hardship to obtain equivalent information by other means, the party or party's counsel shall be designated as a covered person under 49 CFR part 1520.7, provided that the overseeing judge enters an order protecting the SSI from unauthorized disclosure; the individual undergoes a criminal history records check (CHRC) and threat assessment; and the provision of access to the specific SSI in question in a particular proceeding does not present a risk of harm to the nation.

TSA is implementing sec. 525 of the DHS Appropriations Act by establishing a process whereby a party seeking access to SSI in a civil proceeding in Federal court that demonstrates a substantial need for relevant SSI in preparation of the party's case may

request that the party, or if represented, an attorney, be granted access to the SSI. In order to determine if the individual may be granted access to SSI for this purpose, TSA will conduct a criminal history records check (CHRC) and security threat assessment. TSA is seeking emergency processing of this information collection request to implement sec. 525 of the DHS Appropriations Act and meet ongoing litigation deadlines in pending litigation, including those in *In Re: September 11 Litigation*, 21 MC 97 &101 (S.D.N.Y.).

The Aviation and Transportation Security Act (ATSA), Pub. L. 107-71, sec. 114 (f), authorizes TSA to perform threat assessments. To accomplish this, individuals will be required to submit identifying information, information regarding the litigation, an explanation supporting the party's need for the information, information concerning the individual's bar membership, if applicable, and information concerning sanctions, if any, issued by a court or other judicial body to the individual or any of the individual's clients to TSA via secure electronic mail or regular or express mail. These individuals must also submit fingerprints for purposes of conducting the CHRC.

TSA will use the information to conduct name-based security threat assessments and CHRCs for the purpose of identifying actual or potential threats to transportation security and the nation. The results of the CHRC and threat assessment will be used to make a final determination on whether the individual may be granted access to SSI.

Number of Respondents: 80.

Estimated Annual Burden Hours: An estimated 80 hours annually.

Issued in Arlington, Virginia, on October 27, 2006.

Peter Pietra,

Director of Privacy Policy and Compliance.

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