

**SUPPORTING STATEMENT FOR THE
QUESTIONNAIRE FOR NON-SENSITIVE POSITIONS,
STANDARD FORM 85 (SF85)
OMB #3206-0261**

Justification:

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

The information collected on this form is used to determine acceptability for Federal and Federal contract employment. The U.S. Office of Personnel Management (OPM) is authorized to request this information under Executive Order 10577; sections 3301, 3302, and 9101 of title 5, United States Code (U.S.C.); and parts 2, 5, 731, and 736 of title 5, Code of Federal Regulations (CFR), and Federal information processing standards. Section 1104 of title 5 allows OPM to delegate personnel management functions to other Federal agencies.

- 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 SF 85 is completed by applicants for, or incumbents of, Federal Government civilian positions, or positions in private entities performing work for the Federal Government under contract. For applicants, the SF 85 is to be used only after a conditional offer of employment has been made, unless OPM has granted an exception.

- 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.**

The SF 85 is a standard form used for collecting subject data to be used in official background investigations conducted by the U.S. Government. e-QIP (Electronic Questionnaires for Investigations Processing) is a web-based system application that houses the SF 85. This electronic data collection tool provides immediate data validation to ensure accuracy of the respondent's personal information.

e-QIP automates the data collection process from the respondent, applies all required data editing rules to the respondent-supplied information, enforces data integrity, and provides sponsoring agencies an automated capability to review and approve each respondent's submission before releasing the data to an investigative services

provider (ISP). e-QIP serves as a feeder system to other governmental systems, including ISPs and sponsoring agency personnel or security systems such as that at the State Department.

A respondent's complete and certified investigative data will remain secured in the e-QIP system until the next time the respondent is sponsored by an agency to complete a new investigative form. Upon initiation, the respondent's previously entered data (except 'yes/no' questions) will populate a new investigative request and the respondent will be allowed to update his or her information and certify the data. In this instance, time to complete the form is reduced significantly.

The planned collection for the SF 85 is an electronic application that introduces additional functionality to e-QIP. The electronic application is a dynamic, interactive, web-based tool that guides users in providing biographic details, declarations, clarifications, and mitigating information necessary to conduct investigations for the hiring and clearing process.

The electronic application includes branching questions and instructions which provide for a tailored collection from the respondent based on varying factors in the respondent's personal history. The burden on the respondent is reduced when the respondent's personal history is not relevant to a particular question, since the question branches, or expands for additional details, only for those persons who have pertinent information to provide regarding that line of questioning. Accordingly, the burden on the respondent will vary depending upon how the information collected relates to the respondent's personal history.

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.

Information collected on the SF 85 is specific to the individual and thus not readily available from other sources, thus minimizing the likelihood of duplication.

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

Not applicable. This collection of information does not affect small businesses or other small entities.

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 SF 85 is used to initiate background investigations required by E.O. 10577; sections 3301, 3302, and 9101 of title 5, U.S.C.; parts 2, 5, 731, and 736 of title 5, CFR, and Federal information processing standards. All low risk, non-sensitive positions are subject to this level of investigation as are individuals working

for the government in similar positions under a contract who require issuance of a Personal Identity Verification (PIV) credential. If this information is not collected, agencies cannot comply with E.O.10577, OMB issuances regarding HSPD-12, or OPM's credentialing standards. This collection of information cannot be made less frequently.

7. **Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.**

Not applicable. This information collection is in compliance with 5 CFR 1320.6.

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 these comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

The 60-day Federal Register Notice was published on June 30, 2017 (82 FR 29948). Comments were received from the National Treasury Employees Union (NTEU), an individual at the Federal Aviation Administration (FAA), and individual at the U.S. Postal Inspection Service (USPIS), and an individual at the Security, Suitability, and Credentialing Program Management Office, Performance Accountability Council (PAC PMO).

From the PAC PMO a recommendation was submitted to modify the explanation provided in the 'Purpose of this Form' section to explain that responses provided on the SF 85P and the SF 86 may be compared with responses to previous SF 85 questionnaires. OPM accepted this comment and will update instructions to inform individuals completing the form that responses provided may be compared with responses provided on previous investigative questionnaires.

An individual from USPIS commented that Section 6, Your Identifying Information should include marital status/history, and the Sex/Gender question should be expanded to include transgender options. OPM did not accept these comments. Marital/Relationship section will remain in a separate section. Completion of the gender information on the questionnaire is based on the gender the applicant identifies

with at the time when completing the application, which includes transgender individuals.

An individual from FAA commented to include in Section 9, Citizenship a field to request the CIS number (A#) in the Naturalization Certificate. OPM did not accept this comment as a field currently exists to provide the CIS number.

An individual from FAA suggested clarifying instructions in Section 11, Where You Have Lived to require the applicant to enter a full address (House #, Street name, and identifier (Lane, Avenue, etc.)). OPM did not accept this comment as the current instructions already request this information.

An individual from USFIS commented that in Section 12, Where You Went to School, degree and diploma information should remain as part of the collection to comply with the Federal Investigative Standards (FIS). No changes were needed in response to this comment because the recommended change was included in the 60 day Federal Register Notice of proposed changes to the SF 85.

An individual from USFIS commented that separating Section 13b, Employment Activities - Former Federal Service, from the collection of other employment information could produce a duplication of information. OPM accepted this comment, will remove Section 13b, and will require reporting of employment in Section 13a, Employment Activities.

An individual from USFIS recommends removing Section 16, "People Who Know You Well", because the information is not required for the background investigation at this level. OPM accepted this comment and will remove Section 16.

NTEU commented that they do not object to the addition of Section 17, Police Record but believes that OPM requests information in this proposed section without sufficient justification. Individuals would be required to report convictions that were expunged under federal or state law or otherwise stricken from court records. It would also, in direct contrast to the current OF-306, require individuals to report charges that were dismissed. The information that the section would require, moreover, includes information about charges and proceedings (regardless of the outcome) that occurred when an individual was a minor, even if the record in the matter is under seal. OPM did not accept this comment because the questions are designed to elicit information regarding criminal history record information, to permit the individual to explain the circumstances of offenses or charges, and to obtain details to assist in locating and obtaining records for the background investigation. Collecting criminal record information from the individual provides efficiency and affords the individual the opportunity to provide contextual details about conduct. Such details are needed by agencies in applying suitability criteria and/or assessing whether granting a PIV will present an unacceptable risk to people, property, and/or information systems.

An individual from USPIS commented that in the section regarding Police Record, an applicant should be asked whether they have ever been arrested or used drugs or that information should be collected specifically regarding the past 5 or 10 years. OPM did not accept this comment because information relating to drug related arrests is already collected in the Police Record section and information regarding drug use for a specific period is collected in Section 17, Illegal Use of Drugs and Drug Activity.

9. A recommendation was received from the PAC PMO to require collection of information regarding alcohol abuse. OPM did not accept this change at this time, but will consider the modification as part of an additional review to occur later.
10. **Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

Not applicable.

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

The SF 85 includes a Privacy Act Information statement. The statement indicates that the forms are in full compliance with 5 U.S.C. 552a (the Privacy Act of 1974) and other laws protecting the rights of the respondent. Further, the forms note that the information provided by the respondent, including the identity of the respondent, may be disclosed to the respondent upon request.

A person completing the forms is granted partial confidentiality under 5 U.S.C. 552a and 5 CFR 736. The forms contain an *Authorization for Release of Information and Fair Credit Reporting Disclosure and Authorization*, signed by the person completing the form and, if applicable, *the Authorization for Release of Medical Information Pursuant to the Health Insurance Portability and Accountability Act (HIPAA)*. The authorization forms request that record custodians and sources of information contacted during the investigation provide requested data concerning the person being investigated. Individuals completing the forms are informed that information obtained from record custodians and other sources is for “official use by the Federal Government” and can be disclosed only as authorized by law. Data reported on these forms is subject to exemptions from release under the Freedom of Information Act.

12. **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 SF 85 is an investigative tool. The form is designed to collect information appropriate for determining whether an individual is suitable or fit based on character and conduct for employment or retention in a non-sensitive position in the Federal service; or fit based on character and conduct, or eligible for physical and logical access to federally controlled facilities or information systems, as a contract employee, when the duties to be performed are equivalent to the duties performed by an employee in a non-sensitive position.

The form obtains data from individuals with which to initiate an investigation to meet the adjudicative requirements for eligibility to perform non-sensitive position duties or for fitness for employment in the excepted service or under contract; and by the Director of OPM for suitability or for eligibility for an identity credential. The questions represent an effort to obtain as much relevant and required information as possible directly from the person to be investigated, in accordance with provisions of the Privacy Act.

Questions on the SF 85 that may be considered sensitive in nature are listed and explained below:

- Section 16 (Police Record): Inquiry into criminal history, including details regarding criminal conduct, arrests, and convictions is appropriate for non-sensitive positions and so that an adjudicative decision regarding suitability or fitness for the position may be made. This information is also necessary to make accurate and complete checks of investigative files. A factor in determining whether an individual is eligible to be issued a PIV credential is whether there is reasonable basis to believe, based on the individual's criminal or dishonest conduct, that issuance of a PIV card poses an unacceptable risk;

- Section 17 (Illegal Use of Drugs or Drug Activity): Inquiry into illegal drug use is appropriate for non-sensitive positions and so that an adjudicative decision regarding suitability or fitness for the position may be made. A factor in determining an individual's suitability for Federal employment is whether there has been illegal use of narcotics, drugs, or other controlled substances without evidence of substantial rehabilitation. Likewise, the credentialing standards issued by OPM require consideration of whether there is a reasonable basis to believe, based on the nature or duration of the individual's illegal use of narcotics, drugs, or other controlled substances without evidence of substantial rehabilitation, that issuance of a PIV card poses an unacceptable risk.

- Section 19 (Financial Record): Inquiry into personal finances is appropriate for non-sensitive positions and so that an adjudicative decision regarding suitability or fitness for the position may be made. It provides information used to determine trustworthiness, reliability, and honesty.

- Section 20 (Association Record): Inquiry into detailed information pertinent to a respondent's involvement in terrorist organizations, association with persons involved

in activities to further terrorism and/or to overthrow the U.S. Government by force or violence is appropriate for non-sensitive positions and so that an adjudicative decision regarding suitability or fitness for the position may be made. Factors in determining whether an individual is eligible to be issued a PIV credential is whether an individual is known to be or reasonably suspected of being a terrorist and whether an individual has knowingly and willfully engaged in acts or activities designed to overthrow the U.S. Government by force

The instructions on the SF 85 inform the respondent of the reason that the information is requested, the authority for requesting it, how it will be used, and to whom it may be disclosed. They describe the investigative process and inform the respondent that OPM or the Federal agency requesting the investigation will make the final determination.

13. Provide estimates of the hour burden of the collection of information.

OPM seeks approval for the use of a common form to be used by all federal agencies. It is estimated that 55,040 non-federal individuals will complete the SF 85 annually for investigations conducted by OPM. The SF 85 takes approximately 120 minutes to complete. The estimated annual burden is 110,080 hours for OPM investigations. The electronic application includes branching questions and instructions which provide for a tailored collection from the respondent based on varying factors in the respondent's personal history. The burden on the respondent will vary depending on whether the information collection relates to the respondent's personal history.

	<u>Number of Respondents</u>	<u>Burden Hours</u>
SF 85	55,040	110,080

Once OMB approves the use of this common form, all Federal agencies using the form not in connection with an OPM investigation may request the use of this common form without additional 60 or 30 day notice and comment requirements. At that point, each agency will account for its number of respondents and the burden associated with the agency's use.

14. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.

There is no cost to individual respondents.

15. Provide estimates of annualized cost to the Federal Government. Also provide a description of the method used to estimate cost which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff) and any other expenses that would not have been incurred without the paperwork burden.

e-QIP is an established web-based system which will house the revised SF 85. Since e-QIP is used to collect this information from both federal and non-federal respondents, there is no additional cost associated with revisions to these collections based solely on non-federal respondents.

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

Adjustments resulted from reforms to the investigative processes, which were expanded to collect, from the respondent, more accurate and relevant information, that is of investigative and adjudicative significance, earlier in the investigative process. Technological advancement mandates resulted in enhancements to the e-QIP web-based system collection tool, which provides immediate data validation, to ensure accuracy of the respondent's personal information.

17. 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.

Not applicable. Information collected on the forms will not be published.

18. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

Not applicable.

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

Not applicable.