

(g) *Transparency*: enhancing and promoting public participation in economic policy formulation; and

(h) *SMEs*: improving support systems and access to export opportunities.

**L. Daniel Mullaney,**

*Assistant United States Trade Representative for Europe and the Middle East.*

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[DOT-OST-2011-0165]

### Notice of Rights and Protections Available Under the Federal Antidiscrimination and Whistleblower Protection Laws

**AGENCY:** Department of Transportation, Office of the Secretary.

**ACTION:** No FEAR Act Notice.

**SUMMARY:** This Notice implements Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No Fear Act of 2002). It is the annual obligation for Federal agencies to notify all employees, former employees, and applicants for Federal employment of the rights and protections available to them under the Federal Anti-discrimination and Whistleblower Protection Laws.

**FOR FURTHER INFORMATION CONTACT:** Caffin Gordon, Associate Director of Policy and Quality Control Division, S-35, Departmental Office of Civil Rights, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W78-312, Washington, DC 20590, 202-366-4648 or by e-mail at [caffin.gordon@dot.gov](mailto:caffin.gordon@dot.gov).

#### SUPPLEMENTARY INFORMATION:

#### Electronic Access

You may retrieve this document online through the Federal Document Management System at <http://www.regulations.gov>. Electronic retrieval instructions are available under the help section of the Web site. An electronic copy is also available for download from the Government Printing Office's Electronic Bulletin Board at <http://www.nara.gov/fedreg> and the Government Printing Office's Web page at <http://www.access.gpo.gov/nara>.

#### No Fear Act Notice

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," now recognized as the No

FEAR Act (Pub. L. 107-174). One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." (Pub. L. 107-174, Summary). In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination" (Pub. L. 107-174, Title I, General Provisions, section 101(1)). The Act also requires the United States Department of Transportation (USDOT) to provide this Notice to all USDOT employees, former USDOT employees, and applicants for USDOT employment. This Notice is to inform you of the rights and protections available to you under Federal antidiscrimination and whistleblower protection laws.

#### Antidiscrimination Laws

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions, or privileges of employment because of race, color, religion, sex, national origin, age, disability, marital status, or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b)(1), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 206(d), 29 U.S.C. 791, and 42 U.S.C. 2000e-16.

If you believe you were a victim of unlawful discrimination on the bases of race, color, religion, sex, national origin, age, and/or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or in the case of a personnel action, within 45 calendar days of the effective date of the action to try and resolve the matter informally. This must be done before filing a formal complaint of discrimination with USDOT (See, e.g., 29 CFR part 1614).

If you believe you were a victim of unlawful discrimination based on age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. As an alternative to filing a complaint pursuant to 29 CFR part 1614, you can file a civil action in a United States district court under the Age Discrimination in Employment Act (ADEA), against the head of an alleged discriminating agency, after giving the EEOC not less than a 30 day notice of the intent to file such action. You may file such notice in writing with the EEOC via mail at P.O. Box 77960, Washington, DC 20013, personal delivery, or facsimile within 180 days of

the occurrence of the alleged unlawful practice.

If you are alleging discrimination based on marital status or political affiliation, you may file a written discrimination complaint with the U.S. Office of Special Counsel (OSC) (See Contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through the USDOT administrative or negotiated grievance procedures, if such procedures apply and are available. Form OSC-11 is available online at the OSC Web site <http://www.osc.gov/index.htm>, under the filing tab (*Contact Information*). Additionally, you can download the form under the same filing tab, under OSC Forms. Complete this form and mail it to the Complaints Examining Unit, U.S. Office of Special Counsel at 1730 M Street, NW., Suite 218 Washington, DC 20036-4505. You also have the option to call the Complaints Examining Unit at 800-872-9855 for additional assistance.

If you are alleging compensation discrimination pursuant to the Equal Pay Act (EPA), and wish to pursue your allegations through the administrative process, you must contact an EEO counselor within 45 calendar days of the alleged discriminatory action as such complaints are processed under EEOC's regulations at 29 CFR part 1614. Alternatively, you may file a civil action in a court of competent jurisdiction within two years, or if the violation is willful, three years of the date of the alleged violation, regardless of whether you pursued any administrative complaint processing. The filing of a complaint or appeal pursuant to 29 CFR part 1614 shall not toll the time for filing a civil action.

#### Whistleblower Protection Laws

A USDOT employee with authority to take, direct others to take, recommend, or approve any personnel action must not use that authority to take, or fail to take, or threaten to take, or fail to take a personnel action against an employee or applicant because of a disclosure of information by that individual that is reasonably believed to evidence violations of law rule, or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless the disclosure of such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against a USDOT employee or applicant for making a protected disclosure is prohibited (5 U.S.C. 2302(b)(8)). If you believe you are a victim of whistleblower retaliation, you may file a written complaint with the U.S. Office of Special Counsel at 1730 M Street, NW., Suite 218, Washington, DC 202-036-4505 using Form OSC-11. Alternatively, you may file online through the OSC Web site at <http://www.osc.gov>.

### Disciplinary Actions

Under existing laws, USDOT retains the right, where appropriate, to discipline a USDOT employee who engages in conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection laws up to and including removal from Federal service. If OSC initiates an investigation under 5 U.S.C. 1214 according to 5 U.S.C. 1214(f), USDOT must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws, or permits an agency to take unfounded disciplinary action against a USDOT employee, or to violate the procedural rights of a USDOT employee accused of discrimination.

### Additional Information

For more information regarding the No FEAR Act regulations, refer to 5 CFR part 724, as well as the appropriate office(s) within your agency (e.g., EEO/civil rights offices, human resources offices, or legal offices). You can find additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws at the EEOC Web site at <http://www.eeoc.gov> and the OSC Web site at <http://www.osc.gov>.

### Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands, or reduces any rights otherwise available to any employee, former employee, or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. 2302(d).

Date Issued: August 30, 2011.

**Camille Hazeur,**

*Director, Departmental Office of Civil Rights,  
United States Department of Transportation.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

**[Docket No. FHWA-2011-0085]**

#### Agency Information Collection Activities: Notice of request for approval of a new information collection

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of request for approval of a new information collection.

**SUMMARY:** The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval of a new information collection that is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Please submit comments by November 7, 2011.

**ADDRESSES:** You may submit comments identified by DOT Docket ID Number 2011-0085 by any of the following methods:

*Web Site:* For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Fax:* 1-202-493-2251.

*Mail:* Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

*Hand Delivery or Courier:* U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lori Fields, 850-553-2204, Florida Field Office, Federal Highway Administration, Department of Transportation, 545 John Knox Road Suite 200, Tallahassee, FL 32310, Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

*Title:* FHWA Exceptional Partnership Workshop Climate Survey.

*Type of request:* New information collection requirement.

*Background:* The Federal Highway Administration (FHWA) values the long-standing relationship it shares with the State Departments of Transportation (DOT) throughout the country. These relationships provide significant and

considerable benefits to citizens of the respective States in the form of a world-class transportation system. There have been substantial changes to our business including funding, the workforce, State and National policy dynamics and the systems used to deliver products and services to the public. What has not changed is the compelling need for a strong and enduring partnership between the FHWA and the State DOTs to ensure the safety and integrity of our highways and bridges.

The FHWA has initiated a series of workshops entitled "Exceptional Partnerships" that are designed to assist its Division Administrators to create and sustain "exceptional" partnerships with their State DOTs. As part of these workshops, the FHWA proposes to use a short pre-workshop climate survey to assess the partnership of FHWA Division Administrators and their counterparts at State DOTs, the result of which will be used in the design and delivery of these workshops. The purpose of the short climate survey is to determine: (1) The perspective of the State DOT partners regarding the effectiveness of the partnerships with FHWA Divisions, (2) the factors that contribute to successful relationships, (3) the successes of and challenges to these partnerships, and (4) recommendations for improvements.

FHWA will hire independent contractors to conduct informal phone interviews, approximately thirty minutes in length, with the State DOT counterpart to the participating FHWA's Division Administrators. The contractor will manage the documentation of interview notes. Individual responses will be held in strict confidence. A summary of aggregate data will be provided to the Workshop Design Team to assist in the preparation of workshop content and materials. Quantitative and qualitative data will be gathered and analyzed to show averages, ranges, and trends. A general report of findings will be shared with participants in the workshop, but no specific answers will be shared.

*Respondents:* 42 State DOT's Chief Executive Officers (8 participants were interviewed previously).

*Frequency:* 14 respondents will be interviewed annually for three years. This is a one-time collection.

*Estimated Average Burden per Response:* It will take approximately 30 minutes per participant.

*Estimated Total Annual Burden Hours:* Approximately 7 hours annually (21 hours total over 3 years).

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including: (1)