

SUPPORTING STATEMENT

REPRESENTATIVE FEE REQUEST OMB NO. 1215-0078

A. Justification.

1. Individuals filing for compensation benefits with the Office of Workers' Compensation Programs (OWCP) may be represented by an attorney or other representative. The representative is entitled to request a fee for services under 20 CFR 10.700-703 (Federal Employees' Compensation Act) and 20 CFR 702.132 (Longshore and Harbor Workers' Compensation Act). The fee must be approved by the OWCP before any demand for payment can be made by the representative.

2. Under the FECA, the representative is required to submit for review any fees resulting from representing the claimant in filing for benefits. The program does not make payment, but reviews the fee request to ensure that it is consistent with services provided, and with customary local charges for similar services. Generally, only one fee request is received in a compensation claim. A representative is not prohibited from submitting a fee request before the claim is resolved, and then requesting approval of additional services rendered. Fee requests received have been used to approve attorney's fees, allowing the attorney to pursue payment of an appropriate amount from the claimant. If the fee requested is considered excessive, in view of the criteria outlined in the regulations, the fee approved would be reduced accordingly.

Longshore provisions, found at 20 CFR 702.132, provide similar oversight functions as those provided under FECA. However, in the case where fees are actually authorized under the Longshore provisions, insurance companies and self-insured employers make payment.

If the information were not collected, OWCP would be unable to properly evaluate applications for representatives' fees.

3. In accordance with the Government Paperwork Elimination Act (GPEA), DOL recognizes the requirement that all OMB collections be made electronically interactive by October 2003 and have reviewed the CA-143/CA-155, Attorney Acknowledgement and Instructions with consideration of this

goal. However, there is no form associated with this submission; the response requires a narrative attachment. The acknowledgement letter and instructions are sent in response to a new authorization of representation or receipt of a request for attorney fees.

For numerous reasons, including but not limited to the low volume of usage and cost, and the fact that the CA-143/CA-155, Attorney Acknowledgement and Instructions is initiated by OWCP, not by the general public, this collection is not available online. Burden has been minimized to the extent possible by allowing the information to be submitted in whatever format is convenient to the respondent.

4. The information requested in this collection is unique to the particular claim in which it is provided, and is not available from any other source.

5. To the extent that some law firms are incorporated and have a small number of attorneys practicing within the firm, the collection affects small businesses. Experience has proved that the amount of information requested is the minimal amount necessary to substantiate the representatives' claim. The respondents are not required to use any particular form and may submit their fee on their own letterhead.

6. The information is provided on an as submitted basis. Representatives submit a fee approval request when they have complied with the applicable statute governing the program under which they are applying. If the information were collected less frequently, fees for services could not be claimed and the intent of the law and regulations, which is to pay representatives of eligible claimants, would not be met.

7. There are no special circumstances for the collection of this information.

8. Consultations take place periodically on an individual basis between representatives and OWCP staff when addressing requests for interpretation of the regulations. A Federal Register notification inviting public comment was published on September 26, 2006. No comments were received.

9. No payments or gifts are provided to respondents.

10. Records pertaining to compensation cases are covered under the Privacy Act.

11. There are no questions of a sensitive nature.

12. Burden Hour Estimates

Longshore: It is estimated based on experience that fee requests will be submitted in approximately 40% of lost-time injuries received each year. During the last three fiscal years, averages of 23,351 lost-time injuries were reported each year. It is therefore estimated that approximately 9,340 fee requests will be submitted each year ($.40 \times 23,351 = 9,340$ rounded to 9,350). Each fee request takes an estimated 30 minutes to assemble, format, prepare, and submit. This estimate should be considered as an average since some fee requests may cover long periods of time and therefore may take more time to prepare and submit while others may cover much shorter periods of time and therefore take less time. Fee requests are submitted on the representatives' own letterhead. Total burden for Longshore is therefore estimated to be hours ($9,350 \times .5/\text{hr} = 4,675$).

FECA: Approximately 3,000 fee requests under FECA are received annually. Representative fee requests under FECA are generally much more detailed and lengthy than Longshore. Accordingly, we have estimated the burden for FECA at approximately 60 minutes to assemble, prepare, and submit the required fee request information. Total burden for FECA is therefore estimated at 3,000 hours ($3,000 \times 1 \text{ hr} = 3,000$).

Total burden hours for FECA(3,000) and Longshore(4,675) equal 7,675.

The annualized cost of the burden hours to the respondents has been estimated to be approximately \$1,151,200. This estimate was determined by using an hourly rate of \$150.00 for representatives who practice under the Acts. This hourly rate is based on reviews of fees approved under the Acts and is considered an average as some hourly fees for very complex cases may be greater and some hourly fees for certain routine cases may be smaller. The computation is therefore as follows: ($\$150/\text{hr} \times 7,675 \text{ hrs} = \$1,151,250$).

13. This information collection does not require the use of systems or technology for generating, maintaining or

disclosing the data above that which would already be kept as a customary business practice. Therefore, for Longshore, a mailing cost of \$1.26 covering the mailing of copies to the district office, claimant, and the responsible employer or carrier at \$.42 per copy (\$.39 postage and \$.03 envelope charge) is applied as an operation cost and amounts to \$11,781 ($\$1.26 \times 9,350 = \$11,781$). For FECA, a mailing cost of \$.84 covering the mailing of a copy to the FECA District Office and a copy to the employee is applied as an operation cost and amounts to \$2,520 ($\$.84 \times 3,000 = \$2,520$.) A purchase cost for letterhead stationary of \$25 per 100 sheets is also applied and amounts to \$3,150 ($12,340 \text{ FECA and Longshore responses divided by } 100 = 124 \times \$25 = \$3,100$). The total operation and maintenance cost is therefore approximately \$17,401 ($\$11,781 + \$2,520 + \$3,100 = \$17,401$).

14. Federal Cost:

Longshore: Approximately 9,350 fee petitions are reviewed annually. The fees are approved by a GS-13 District Director at an hourly rate of \$35.49. The average time for review is approximately 30 minutes depending on the complexity of the case and the hours reflected on the petition. The estimated time for review has been increased to account for time spent in reducing certain fees that are considered excessive and the justification that now must be provided under these circumstances. In addition, a mailing cost of \$1.26 covering the mailing of an original and two copies at \$.42 per copy (\$.39 postage + \$.03 envelope charge) is associated with each approved fee. The computations are as follows:

Review Cost:	$9,350 \times .5 = 4,675 \text{ hrs} \times \$35.49/\text{hr} =$	\$165,915
Mailing Cost:	$9,350 \times \$1.26$	$= \underline{11,781}$
Total Longshore		\$177,696

FECA: Approximately 3,000 requests are reviewed on an annual basis. The request is reviewed by a Claims Examiner with an average grade of GS 11/4, at an hourly rate of \$27.39. Review of these fee requests averages about a 1/2 hour. In addition, a mailing cost of \$.84 covering the mailing of an original and one copy at \$.42 per copy (\$.39 postage + \$.03 envelope charge) is associated with each approved fee. The computations are as follows:

Review Cost:	$3,000 \times \$27.39 \times \frac{1}{2} \text{ hour} =$	\$ 41,085
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Mailing Cost: 3,000 X \$.84 =	\$ 2,520
Total FECA:	<u>\$ 43,605</u>
TOTAL, BOTH PROGRAMS	\$221,301

15. There has been a decrease in the Longshore burden hours because of a decrease in Longshore lost-time injuries reported and fee requests submitted. The increase in cost burden results from increase in postage costs.

16. The information will not be published for statistical use.

17. There are no specific forms used to submit fee requests. The parties submit the fee requests on their own letterhead. The OMB number and expiration date appear on the FECA cover letter for the instructions.

18. There are no exceptions to the certification.