

**Supporting Statement for
Filing Claims Under the Federal Tort Claims Act
20 CFR Part 429, Subpart 100**

OMB No. 0960-0667

A. Justification

- 1. Introduction/Authoring Laws and Regulations** - The Federal Tort Claims Act, 28 U.S.C. 2671-2680 of the *United States Code*, authorizes the collection of this information. One can also find it in the *Code of Federal Regulations*, 20 CFR 429.101-429.110.
- 2. Description of Collection** – SSA uses the information we collect to investigate and determine whether to make an award, compromise, or settlement under the Federal Tort Claims Act. The Federal Tort Claims Act is the legal mechanism for compensating persons injured by negligent or wrongful acts that occur during the performance of official duties by Federal employees. In accordance with the law, SSA accepts monetary claims filed under the Federal Tort Claims Act for damages against the United States, loss of property, personal injury, or death resulting from an SSA employee’s negligent or wrongful act or omission. The regulation sections cleared under this information collection request require claimants to provide information SSA can use to investigate and determine whether to make an award, compromise, or settlement under the Federal Tort Claims Act. The respondents are individuals or entities filing a claim under the Federal Tort Claims Act.

In accordance with the law, SSA accepts claims filed under the Federal Tort Claims Act money damages against the United States for the following:

- 20 CFR 429.102 - .103: Filing a Claim. To file a claim, a person must complete the Department of Justice’s Standard Form 95 or submit written notification of the incident accompanied by a claim for the money damages in a sum for damage to or loss of property caused by the incident.
- 20 CFR 429.104 (a): Damage to or loss of property. To claim property damage, the individual may be required to submit the following types of evidence: proof of ownership; itemized statements of the amount claimed; itemized receipt of payment for necessary repairs; statements listing purchase, purchase price, market value, and salvage value; or any other evidence bearing on the responsibility of the United States for the injury to or loss of property.
- 20 CFR 429.104 (b): Personal injury. To claim personal injury, the individual must submit a written report from a physician explaining the nature

and extent of injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, any diminished earning capacity, itemized bills for treatment expenses, and a statement of expected duration of and expenses for treatment. We may also require the individual to submit a written statement from the individual's employer showing actual time lost from employment, or, if self-employed, documentary evidence showing the amount of earnings actually lost. The individual may also submit any other evidence bearing on the responsibility of the United States for the personal injury or damages claimed.

- 20 CFR 429.104 (c): Death that a negligent or wrongful act or omission an SSA employee caused. To claim a death caused by an SSA employee, the claimant must submit evidence and information such as the following: an authenticated death certificate showing cause of death, date of death, and age at time of death; the employment or occupation at time of death, including the deceased's monthly or yearly salary or earnings (if any), and the duration of last employment or occupation. We may also require information regarding the deceased's survivors; the deceased's general health before death; itemized bills for medical and burial expenses; a physician's detailed statement specifying the injuries suffered; and the deceased's physical condition. In addition, the individual may submit any other evidence or information bearing on the responsibility of the United States for the death or damages claimed.

All of the above pertain to the claims individuals submit to the agency along with the appropriate evidence or information pertaining to their claims. Due to the nature of the Federal Tort Claims Act, the Federal employee must cause the loss, damage, injury or death in the performance of official duties, under circumstances in which the United States, if a private person, would be liable in accordance with the law of the place where the act or omission occurred.

If SSA denies the claim, before filing suit and before the expiration of the six-month period after the date of mailing the denial notice, the claimant may take the following action:

- 20 CFR 429.106 (b): File a written request with SSA for reconsideration. The individual must send this written request via certified or registered mail.

The respondents are individuals/entities making a claim under the Federal Tort Claims Act.

3. **Use of Information Technology to Collect the Information** - SSA collects the information through OMB-approved standard form(s), chiefly the SF-95. SSA did not create an electronic version due to the low volume of respondents as stated under the agency's Government Paperwork Elimination Act (GPEA) plan.

- 4. Why We Cannot Use Duplicate Information** - The nature of the information we are collecting and the manner in which we are collecting it preclude duplication. SSA does not use another collection instrument to obtain similar data.
- 5. Minimizing Burden on Small Respondents** - This collection does not affect small businesses or other small entities.
- 6. Consequences of Not Collecting Information or Collecting it Less Frequently** - If we did not collect this information, SSA would be unable to investigate and determine whether to make an award, compromise, or settlement under the Federal Tort Claims Act. Therefore, we cannot collect it less frequently. There are no technical or legal obstacles that prevent burden reduction.
- 7. Special Circumstances** - There are no special circumstances that would cause SSA to collect this information in a manner inconsistent with 5 CFR 1320.5.
- 8. Solicitation of Public Comment and Other Consultations with the Public** - SSA published the 60-day advance Federal Register Notice on November 16, 2011 at 76 FR 71105, and SSA received no public comments. SSA published the 30-day advance Federal Register Notice on January 31, 2012 at 77 FR 4854. SSA had no outside consultations with members of the public.
- 9. Payment or Gifts to Respondents** - SSA provides no payment or gifts to the respondents.
- 10. Assurances of Confidentiality** - SSA protects and holds confidential the information we collect in accordance with 42 U.S.C. 1306, 20 CFR 401 and 402, 5 U.S.C. 552 (Freedom of Information Act), 5 U.S.C. 552a (Privacy Act of 1974) and OMB Circular No. A-130.
- 11. Justification for Sensitive Questions** - The information collection sometimes contains questions or information of a sensitive nature. Those agency employees who need the information in the scope of their official duties are the only ones who use the information to make decisions in accordance with the law.
- 12. Estimates of Public Reporting Burden** - See the chart below for estimated burden hours. The total burden reflects burden hours, and SSA has not calculated a separate cost burden.

Section	Number of Responses	Frequency of Response	Average Burden Per Response (minutes)	Estimated Annual Burden (hours)
429.102; 429.103 ¹	1	-	-	¹

429.104(a)	31	1	5	3
429.104(b)	25	1	5	2
429.104(c)	2	1	5	0
429.106(b)	10	1	10	2
Totals	69			8

13. Cost to Respondents - There is no known cost burden to the respondents.

14. Annual Cost to the Federal Government – The Department of Justice supplies the form (SF-95). SSA staff costs to collect the information are approximately \$540 per year.

15. Program Changes or Adjustments to the Information Collection – There are no changes in the public reporting burden. There was an increase in the number of respondents for one of the regulations sections (by 1); however, it was not enough to affect the overall public reporting burden.

16. Plans for Publication Information Collection Results - SSA will not publish the results of the information collection.

17. Displaying the OMB Expiration Date - SSA is not requesting an exemption from the requirement to display an expiration date.

18. Exception to Certification Statement - SSA is not requesting an exception to the certification requirements at 5 CFR 1320.9 and related provisions at 5 CFR 1320.8(b) (3).

B. Collections of Information Employing Statistical Methods

SSA did not use statistical methods for this information collection.

1 The 1 hour represents a placeholder burden. We are not reporting a burden for this collection because we did not want to double count the burden—respondents complete OMB-approved, Department of Justice Form SF-95. SSA estimates 207 SF-95s filed over the last 3-year period.