

SUPPORTING STATEMENT

Statement of Recovery Forms
CA-1108 and CA-1122
OMB No. 1240-0001, Formerly 1215-0200

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collections. Attach a copy of the appropriate section of each statute and of each regulation mandating or authorizing the collection of information.

A Federal employee can sustain a work-related injury, for which he or she is eligible for compensation under the Federal Employees' Compensation Act (FECA), under circumstances that create a legal liability in some third party to pay damages for the same injury. When this occurs, the FECA authorizes the Secretary of Labor to either require the employee to assign his or her right of action to the United States or to prosecute the action. See 5 U.S.C. § 8131. When the employee receives a judgment or a settlement of the action, he or she must reimburse the United States for past compensation payments and if there is a surplus future compensation payments as (5 U.S.C. § 8132) of the FECA provides that the employee "shall refund to the United States the amount of compensation paid by the United States and credit any surplus on future payments of compensation..."

<http://www.dol.gov/owcp/dfec/regs/statutes/8132.htm>

http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=6fa95d423eaa859a783d78509a7f4860&tpl=/ecfrbrowse/Title20/20cfr10_main_02.tpl

To help it exercise its responsibility to enforce the United States' statutory right of reimbursement, the Office of Workers' Compensation Programs (OWCP) has promulgated regulations. The regulations require both the reporting of these types of payments (20 CFR 10.710) and the submission

of the type of detailed information necessary to calculate the amount of the required refund and or surplus (20 CFR 10.707 (e)). The information collected by Form CA-1108 requests this information from the FECA beneficiary or his or her attorney, if one was hired to sue the third party.

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 information collected through form CA-1108 and CA-1122 is used by claims examiners in OWCP, and SOL personnel to determine the amount to be reimbursed to the United States out of the proceeds of an action asserted by an injured Federal employee against a liable third party for a compensable injury. Furthermore, by memorandum of agreement between OWCP with the United States Postal Service (USPS), USPS may administer the third party aspects of certain cases. The USPS must follow the guidelines established by OWCP for processing any funds recovered from the third party, including the use of the OMB-approved Statement of Recovery (SOR).

The cover letters (CA-1108) and the (CA-1122) that previously accompanied both statement of recovery forms, the (EN-1108) and the (EN-1122), are not necessary and obsolete. The cover letters were completed by DOL/SOL/USPS personnel and collected no data. Therefore, the enclosures are now being identified as the actual forms (CA-1108 and CA-1122) as they are completed by the respondents.

Extensive legal analysis was undertaken in connection with the development of this collection of information by SOL. The wording ensures that a false or fraudulent response can be used as the basis for prosecution for fraud.

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.

In accordance with the Government Paperwork Elimination Act (GPEA), the Division of Federal Employees' Compensation seeks to allow individuals and entities that deal with the Federal Employees' Compensation Act the option to submit information or transact with the agency electronically, where practicable, and to maintain records electronically where appropriate. While these forms may be locally generated from DFEC Correspondence Library, they also may be downloaded, completed on-line, printed, and submitted by mail.

These forms are located on DOL/DFEC website at

<http://www.dol.gov/owcp/dfec/regs/compliance/forms.htm>

Forms CA-1108, and CA-1122 are initiated by claims examiners in OWCP, SOL, and USPS personnel to determine the amount of the refund due to the United States out of the proceeds of an action asserted by an injured Federal employee against a liable third party for a compensable injury.

Due to changes in newer versions of the Adobe software, submitting these forms electronically would not be a viable option on the present DFEC website. To upgrade the Adobe infrastructure would require additional investment in software *and* development time from our developers.

However, to improve upon the capabilities for the general public to submit DFEC documents, the agency is presently developing an alternative for the electronic submission of not only the above documents, but multiple types of documents associated with an individual's particular claim. This application will be made available to the claimant, employing agency, and the medical provider.

This new electronic feature, called the Employee Compensation Operations and Management Portal, or ECOMP was recently implemented in November 2011. This innovative system is internet based, and will allow the users the ability to submit these forms electronically to their respective claim. There will be no cost to the users.

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.**

The financial information requested in these collections is not duplicative of any information available elsewhere in OWCP, SOL or in any other Federal executive agency. While some State and Federal courts may have some of this information in court records, the information is not complete enough to allow OWCP, SOL or USPS to calculate the required refund, and some cases are settled without ever getting to court. The respondent is the only source of all the required information.

5. **If the collection information impacts small businesses or other small entities (Item 5 of 014B Form 83-1), describe any methods used to minimize burden.**

This information collection has been streamlined to obtain the necessary information while imposing the minimum burden on the respondent. This information collection does not have a significant economic impact on a substantial number of small entities.

6. **Describe the consequence of 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.**

If this information were not collected, OWCP, SOL, or USPS would be unable to enforce the United States' statutory right to reimbursement out of the proceeds of third-party recoveries.

7. **Explain any special circumstance.**

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

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.**

A Federal Register Notice inviting comment was published on February 9, 2012 in Vol. 77, No. 27, page 6823. The agency did/did not receive any comments in response to this notice.

9. **Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payment or gift is provided to a respondent.

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

The information collected by these requests is maintained in FECA claim files and/or SOL files, which are fully protected under the Privacy Act. Records pertaining to compensation cases are covered under the Privacy Act. The Privacy Act Notice is provided on each of the forms. All forms used to initiate a compensation claim contain a statement advising the claimant of the revisions of the Privacy Act. The applicable Privacy Act system of records is called DOL/GOVT-1 (<http://www.dol.gov/sol/privacy/dol-govt-1.htm>)

11. **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.

No questions regarding sexual behavior, religious beliefs, etc. are asked by the CA-1108 or CA-1122.

12. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not make special surveys to obtain information on which to base burden estimates. Consultation with a sample of potential respondents is desirable. If the burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated burden and explain the reason for the variance. Generally, estimates should not include burden hours for customary and usual business practices. Provide estimates of the hour burden of the collection of information.

The following chart shows the projected burden hours for this collection. The total number of respondents is estimated to be 2,832. There are 2,549 business respondents and 283 individual respondents. This figure is derived from the number of cash receipts received by OWCP and SOL during a single year. Each estimate represents the average time it takes one respondent to complete one response.

Form	Time to Complete	Frequency of Response	Number of Respondents	Number of Responses	Hours Burden
CA-1108 Business Respondent	30 min.	1	2,549	2,549	1,275
CA-1122 Individual Respondent	15 min.	1	283	283	71
Totals	NA	NA	2,832	2,832	1,346

The requirements have a total respondent burden hour

estimate of 1,346. The estimate cost of the burden hours for completion of the CA-1108 by attorney business respondents has been calculated using the May 2010 Bureau of Labor Statistics, Occupational Employment Statistics (OES) median wage rate of \$62.23 for lawyers. The estimated burden hour cost for the completion of the CA-1122 by the claimant, an individual respondent, has been calculated at \$22.77 (mean hourly earnings) using the Bureau of Labor Statistics, 2010 National Compensation Survey. Therefore, the total respondent cost estimates for this collection are

$$1,275 \times \$62.23 = \$79,343 \text{ (Attorney business respondents)} + 71 \times \$22.77 = \$1,617 \text{ (Individual respondents)} = \$80,960$$

<http://www.bls.gov/oes/current/oes231011.htm>

<http://www.bls.gov/ncs/ocs/sp/nctb1476.pdf>

13. Annual Costs to Respondents (capital/start-up & operation and maintenance).

Because the information requested is kept as a usual and customary business practice by the attorney for the completion of the CA-1108, and the information collected from the claimant will be readily known, there are no capital/start-up costs. Therefore, the only actual cost the respondents must bear is the cost of mailing the forms.

The mailing costs are calculated as follows:

Total attorney costs - Forms CA-1108 [\$0.45 (postage) + \$0.03 (envelopes)] x (2,549) (forms)=	\$1,223
Total claimant costs Form CA-1122 [\$0.45) (Postage) + \$0.03 (envelopes)] x 283 (forms) =	<u> \$136</u>
Total combined costs (\$1,223 + \$136.00) =	\$1,359

14. Provide estimates of annualized cost to the Federal government:

Federal Cost Estimates:

Printing Cost: There will be no printing cost since the CA-1108, and CA-1122 will only be stored in OWCP's and SOL's ADP systems in a word processing program. The USPS also maintains a word processing program.

Mailing and Envelope Cost: $[2,832 \text{ requests} \times \$0.45 \text{ (postage)}] + [\$0.03 \text{ (envelope)} \times 2,523] = \$1,359.$

Review Cost: Time needed to review each form = 30 minutes
Hourly wage OWCP/SOL reviewer (*GS-12/1) = \$32.97
 $(2,832 \times 30 \text{ minutes}) \div 60 \text{ minutes} = 1,416 \text{ hours} \times \$32.97 = \$46,686.$

***Hourly rate was taken from Salary Table 2010-RUS, as Federal salaries have been frozen since that time.**

<http://www.opm.gov/oca/10tables/index.asp>

Total Federal Cost:
 $\$1,359 \text{ (postage)} + \$46,686 \text{ (review cost)} = \$48,045.00$

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

The adjustments in the burden hours are due to a decrease in the number of third party claims. The previous approved number of annual responses, 3,000 is being reduced to 2,832 which represent a reduction of 168. The approved number of hours is 1,425 and the requested number of hours is 1,417, a decrease of 8. However, due to an increase in maintenance and reporting costs, this figure has been adjusted by \$9.00, from \$1,350 to \$1,359.

16. **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 information, completion of report, publication dates, and other actions.

Data collected by the CA-1108 and CA-1122 will not be published.

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

No exception to the display of the expiration date is sought.

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

This request is in compliance with 5 CFR 1320.9

B. Collections of Information Employing Statistical Methods

Statistical methods are not used in these collections of information.