

**Supporting Statement for the SSA-3288  
Privacy and Disclosure of Official Records and Information;  
Availability of Information and Records to the Public;  
20 CFR 401 and 402  
OMB No. 0960-0566**

**A. Justification**

**1. Introduction/Authoring Laws and Regulations**

The *Privacy Act of 1974*, 5 U.S.C. 552a, Sections (b), (d)(1)-(2), (e)(2), and (f)(3) of the *United States Code*, provides the authority for the Commissioner of the Social Security Administration (SSA) to obtain information needed to access records, designation of a representative to receive an individual's medical records, information needed to amend or correct records, and consent statements from persons requesting information about an individual in SSA records. These rules are also set forth under Sections 20 CFR 401.40(b)&(c), 401.45, 401.55(b), 401.65(a), and 401.100(a)&(b) of the *Code of Federal Regulations*. The *Freedom of Information Act*, 5 U.S.C. 552, Sections (a)(3)(A) and (a)(4)(A)(iii), provides the authority for collecting information needed for record requests and fee waiver or reductions. SSA implemented these provisions under 20 CFR 402.130 and 20 CFR 402.185.

**2. Description of Collection**

Under the Privacy and Disclosure of Official Records and Information, SSA has established methods in which the public can request the following: access to their SSA records; disclosure of SSA records; corrections/amendments to their SSA records; consent for release of records; records accessible through the Freedom of Information Act (FOIA); and waiver/reduction of fees normally charged for release of FOIA records. SSA often collects the necessary information for these requests through a written letter, with the exception of the consent for release of records for which there is the Form SSA-3288. The respondents are individuals requesting any of the following from SSA:

- a. **Access to Records** – 20 CFR 401.40(b) & (c); 401.45 – SSA has developed a procedure for records notification and access that requires individuals to provide data sufficient to identify themselves and their record(s), and authorize any requested third party access to their records. The intent is to provide access and at the same time safeguard against access by unauthorized persons or to someone else's records.
- b. **Designating a Representative for Disclosure of Medical Records** – 20 CFR

401.55(b) – SSA has developed a special procedure for obtaining sensitive medical records that requires an individual to name a representative, preferably a qualified health professional, to receive the medical records on behalf of the individual. The representative reviews the complete medical records and determines whether SSA should make all of the contents available to the individual, such as sensitive psychological records that might have an adverse effect on the individual or a doctor/patient relationship. The designated representative makes the disclosure decisions on medical records.

- c. **Amendment of Records** – 20 CFR 401.65(a) – SSA has developed a procedure for individuals who seek to amend or correct their data maintained in SSA systems of records. We request the individual to submit sufficient specified information to SSA to identify the individual, the data they wish to amend or correct, and to evaluate their request.
- d. **Consent for Release of Records** – 20 CFR 401.100(a)&(b) – The required consent(s) are obtained (with certain exceptions specified by law) from anyone requesting information in SSA systems of records about another individual. Consents may be obtained on Form SSA-3288, "Consent for Release of Information" (attached for clearance), or on other non-SSA forms often used by large employers incorporating SSA approved consent language. SSA will not release information requested about an individual until we obtain the required consent from that individual. Under the Privacy Act (5 U.S.C. 552a (b)), an individual may give SSA written consent to disclose his or her personal information to a third party of his or her choosing. In addition, an individual may have multiple needs for the disclosure of his or her personal information, such as for qualification for a mortgage or pre-employment screenings.
- e. **FOIA Request for Records** – 20 CFR 402.130 – SSA has developed a procedure for FOIA record requests which collects data needed to identify the requester, the record requested and an address where SSA should send the record. We only obtain the minimum amount of information needed to process the request.
- f. **Waiver/Reduction of Fees** – 20 CFR 402.185 – SSA has developed a procedure for individuals who seek waiver or reduction of the fees normally charged for information sought from SSA records under the Freedom of Information Act. We collect data sufficient to determine if waiver or fee reduction is in the public interest as defined by law.

3. **Use of Information Technology to Collect the Information**

Form SSA-3288 (Consent for Release of Information) is available to the public on the Internet in PDF format, which individuals can download, print out, fill in, and send to SSA for processing. However, since the SSA-3288 and any request to designate a representative for disclosure of medical records (items b and d above) fall under the Privacy Act laws, these actions currently require a wet signature under the law. For this reason, SSA did not create an electronic version of form SSA-3288 under the Agency's Government Paperwork Elimination Act.

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 use a similar electronic-only collection instrument to obtain similar data. Currently, SSA has procedures by which the public can access and make corrections to their records online through the Request for Internet Services – Authentication (RISA) (0960-0596), items a and c above. However, this collection is used for other purposes, and, therefore, SSA has cleared it separately. SSA cleared an entirely electronic procedure by which the public can make FOIA requests and can request a waiver/reduction of fees for said requests through our eFOIA system (0960-0716), items e and f above.

5. **Minimizing Burden on Small Respondents**

This collection does affect small businesses or other small entities. However, if we did not impose this burden, we would be unable to compensate the employers and third-party representative organizations that will be completing the form. We minimized the burden by carefully reviewing the forms and ensuring that we only ask small businesses and entities to complete relevant and necessary questions.

6. **Consequence of Not Collecting Information or Collecting it Less Frequently**

If we did not use Form SSA-3288, we would not be able to process individuals request to: (1) access their SSA records; (2) allow SSA to disclose records; (3) correct or amend their SSA records; (4) consent to release of their records; (5) request records under FOIA; and (6) request SSA waive or reduce fees we normally charged for release of FOIA. Because we collect the information on an as needed basis, we cannot collect it less frequently.

There are no technical or legal obstacles to burden reduction.

7. **Special Circumstances**

There are no special circumstances that would cause SSA to conduct this information collection in a manner inconsistent with 5 CFR 1320.5.

8. **Solicitation of Public Comment and Other Consultations with the Public**  
The 60-day advance Federal Register Notice published on September 24, 2012, at 77 FR 58903, and we received no public comments. The 30-day FRN published on November 29, 2012 at FR 71204. If we receive any comments in response to this Notice, we will forward them to OMB.
9. **Payment or Gifts to Respondents**  
SSA does not provide payments or gift to the respondents.
10. **Assurances of Confidentiality**  
SSA protects and holds confidential the information it collects 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 does not contain any questions of a sensitive nature.

12. **Estimates of Public Reporting Burden**

<b>Modality of Completion</b>	<b>Number of Responses</b>	<b>Frequency of Response</b>	<b>Average Burden Per Response (minutes)</b>	<b>Estimated Total Annual Burden (hours)</b>
Access to Records	10,000	1	11	1,833
Designating a Representative for Disclosure of Records	3,000	1	2	6,000
Amendment of Records	100	1	10	17
Consent of Release of Records	3,000,000	1	3	150,000
FOIA Requests for Records	15,000	1	5	1,250
Waiver/Reduction of Fees	400	1	5	33
<b>Totals</b>	<b>3,028,500</b>			<b>159,133</b>

The total burden for this ICR is 159,133 hours. This figure represents burden hours, and we did not calculate a separate cost burden

13. **Annual Cost to the Respondents (Other)**  
This collection does not impose a known cost burden on the respondents.

14. **Annual Cost To Federal Government**  
The annual cost to the Federal Government is approximately \$1,120,000. This estimate is a project of the costs for collecting and processing the information.
15. **Program Changes or Adjustments to the Information Collection Request**  
There are no changes to the public reporting burden.
16. **Plans for Publication Information Collection Results**  
SSA will not publish the results of the information collection.
17. **Displaying the OMB Approval Expiration Date**  
OMB granted SSA an exemption from the requirement to print the OMB expiration date on its program forms. SSA produces millions of public-use forms with life cycles exceeding those of an OMB approval. Since SSA does not periodically revise and reprint its public-use forms (e.g., on an annual basis), OMB granted this exemption so SSA would not have to destroy stocks of otherwise useable forms with expired OMB approval dates, avoiding Government waste.
18. **Exceptions 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. Collection of Information Employing Statistical Methods**

SSA does not use statistical methods for this information collection.