

SUPPORTING STATEMENT

Request for Information on Earnings, Dual Benefits, Dependents and Third Party Settlement OMB 1240-0016 (CA-1032)

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.

The information requested on the CA-1032 is obtained from each claimant receiving continuing compensation on the periodic disability roll. The form requests information on the claimant's earnings, dependents, third party settlements, and other Federal benefits received. The Office of Workers' Compensation Programs (OWCP) sends this form out each year to every claimant on the disability roll. This information is necessary because the Federal Employees' Compensation Act (FECA) states:

- 1) Compensation must be adjusted to reflect a claimant's earnings while in receipt of benefits (5 USC 8106).
- 2) Compensation is payable at the augmented rate of 75 percent only if the claimant has one or more dependents as defined by the FECA (5 USC 8110).
- 3) Compensation may not be paid concurrently with certain benefits from other Federal Agencies, such as the Office of Personnel Management, Social Security, and the Veterans Administration (5 USC 8116). At times, benefits may be reduced.
- 4) Compensation must be adjusted to reflect any settlement from a third party responsible for the injury for which the claimant is being paid compensation (5 USC 8132).
- 5) An individual convicted of any violation related to fraud in the application for, or receipt of, any compensation benefit, forfeits (as of the date of such conviction) any entitlement to such benefits, for any injury occurring on or before the date of conviction (5 USC 8148 (a)).
- 6) No Federal compensation benefit can be paid to any individual for any period during which such individual is incarcerated for any felony conviction (5 USC 8148 (b)(1)).

In accordance with 20 CFR 10.528, OWCP periodically requires each employee who is receiving compensation benefits to complete an affidavit as to any work, or activity indicating an ability to work, which the employee has performed for the prior 15 months. If an employee, who is required to file such a report fails to do so within 30 days of the date of the request, his

or her right to compensation for wage loss under 5 USC 8105 or 8106 is suspended until OWCP receives the requested report. At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.

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 the CA-1032 is used to see that compensation being paid on the periodic roll is correct. The claimant is providing information about earnings, status of dependents, advice regarding any third party settlement, and details of any other Federal benefits that they are receiving. Without this information, claimants might receive compensation to which they were not entitled, resulting in an overpayment of compensation.

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.

It has been determined that the Form CA-1032 will not be made available for electronic posting at the DFEC's current website (<http://www.dol.gov/owcp/dfec/regs/compliance/forms.htm>). It has been determined that the CA-1032 be solely internally driven and initiated by the government agency and not by the employee receiving compensation benefits as discussed below.

A feasibility study was completed 6/24/05 and it was estimated that it would cost \$1.27 million (\$1,208,400 for digital signatures + 59,800 in programming costs) compared to the total cost of non-electronic submissions of the form of approximately \$325,000. It was determined that OWCP could make the form available for electronic submission; however, the cost was exceedingly high and not absorbable by the program. Because the form must be completed and submitted in the time frame set by the program (to avoid the suspension of benefits) and not every claimant would have the ability to complete a form electronically, the printed form would still need to continue to be sent by mail each year in the month of the claimant's birth. Mailing the form would ensure that all claimants would have the same opportunity to complete the form within the allotted time specified before their benefits would be suspended. Since the duplication of mailing and the exceeding high costs of electronic submission would only further increase the costs to the government (\$1.27 million + \$325,000 a year - based on the 2005 feasibility estimates), it should not be made available for electronic submission.

However, to improve upon the capabilities for the public to submit DFEC documents, OWCP has developed an alternative for the electronic submission of not only the above documents, but also multiple types of documents associated with an individual's particular claim file. This application is available to the claimant, employing agency, and the medical provider.

The Employee Compensation Operations and Management Portal, or ECOMP, is a new

electronic feature, implemented in November 2011. This innovative system is internet based, and allows the users the ability to submit these forms electronically to their respective claim file. There is no cost to the claimant.

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.

This information is not duplicated anywhere else in the FEC program or anywhere else in the Federal sector. While the Internal Revenue Service and the Social Security Administration have some earnings information, their information is not sufficiently current or complete for the purpose of determining the claimant's entitlement to ongoing compensation. In addition, information from the IRS is not available without the claimant's written authorization, which OWCP cannot require.

5. If the collection information impacts small businesses or other small entities, describe any methods used to minimize burden.

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.

Please refer to No. 1 and No. 2. If this information collection was done less frequently, there is an excellent chance that compensation would be paid erroneously, resulting in overpayments. Overpayment collection is difficult, and experience shows that once an overpayment has occurred, it is very difficult and costly to recover the overpaid funds.

7. Explain any special circumstance.

There are no special circumstances for conducting this information collection.

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 Notification inviting public comment was published on December 20, 2013, Reference [78FR77170]. No comments were received.

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

No payment or gifts are provided to respondents.

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

All information contained in FECA claim files is fully protected under the Privacy Act of 1974. The claim forms that are used by an injured employee when initiating a compensation claim contain a statement advising the claimant of the provisions of the Privacy Act. The applicable Privacy Act system of records is DOL/GOV-1 at website: <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.

While the information collected from beneficiaries may be considered to be sensitive, it is all necessary to ensure they receive proper payments, as explained in item 1 of this supporting statement. The information collection cover letter explains the need to the claimant who is asked to provide the information.

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 are 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 information requested by the CA-1032 should be readily available to the claimant. In most cases, it should simply be a matter of filling in the form; 20 minutes has been allotted for the completion of the form.

The number of respondents is currently about 44,800 per year. This is estimated using the number of FEC claimants currently receiving compensation of the periodic roll. Therefore, hours are calculated at $44,800 \times 1/3 \text{ hr.} = 14,933 \text{ hours.}$

Because the wage category of the respondent is unknown, we have estimated the cost of the burden hours using the National Average Weekly Wage for production or non-supervisory workers on private non-agriculture payrolls as computed by BLS, at \$20.05 per hour.

Therefore, the cost is estimated at \$299, 407 (14, 933 hours x \$20.05).

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

There are no start-up costs. The only operation and maintenance cost is for postage and envelopes. The 44,800 responses at \$.49 postage + \$.03 envelope per response = \$23,296.

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

Federal Cost Estimate:

Printing Cost: There will be no printing cost since the CA-1032 is stored in OWCP's ADP systems in a word processing program.

Mailing and Envelope Cost: 44,800 X \$.52 = \$23,296

Review Cost: time to review each form - 1/4 hour

- hourly wages of reviewer GS-12/10 at \$43.29 (Ref OPM Salary Table at http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/14Tables/html/RUS_h.aspx)
- 44,800 X 1/4 X \$43.29 = \$484,848

Total Federal Cost: \$508,144 (\$23,296 + \$484,848)

15. Explain the reasons for any program changes or adjustments.

The previous approved number of annual respondents, 50,000 is now 44,800, which represents a decrease of 5,200. The previously approved number for burden hours was 16,667, and the requested number now is 14,933, a decrease of 1,734 hours. The annual cost burden likewise has reduced, from \$23,500 as previously approved, to \$23,296, an adjustment of \$204. An increase in postage rates is the reason the burden cost reduction is not proportional to the decreased number of responses.

OWCP has made a few changes and minor clarifications to the Form CA-1032 for this approval request. These changes and clarifications would not materially alter the estimated per response burden, but do help to reduce the chance of respondents providing incorrect information and augment the disclosures OWCP must make to respondents.

In Part C, Dependency, revisions were made to applicable paragraphs when augmented compensation is based on claimant's same sex spouse.

On June 26, 2013, in *United States v. Windsor*, the U.S. Supreme Court ruled that Section 3 of the Defense of Marriage Act (DOMA) is unconstitutional. Section 3 of DOMA limited the definition of spouse to a person of the opposite sex who is a husband or wife, and as a result, augmented FECA compensation was not available based on a claimant's

same sex spouse. The FECA program has long followed the policy that the validity of a marriage is determined by the law of the jurisdiction where the marriage took place. Thus, consistent with our existing procedures and the Supreme Court's decision in *Windsor*, claimants who can establish a same-sex marriage valid in the jurisdiction where it took place will be eligible for augmented FECA benefits based on that marriage regardless of their place of residence or domicile.

Additionally, the CA-1032 is revised to include an accommodation statement to inform claimants who have mental or physical limitations to contact DFEC if further assistance is needed with the claims process including accessible formats.

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 with these forms 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.

The OMB Number and expiration date will be displayed.

18. Explain each exception to the certification statement identified in ROCIS.

There are no exceptions to certification.

B. Collection of Information Employing Statistical Methods:

Statistical methods are not used in these collections of information.