

**SUPPORTING STATEMENT**

**Certification of Funeral Expenses  
1240-0040 (LS-265)**

**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 Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend Longshore Act coverage to certain other employees.

Section 9(a) of the Act provides that reasonable funeral expenses not to exceed \$3,000 shall be paid in all compensable death cases. Form LS-265 has been provided for use in submitting the funeral expenses for payment. See 33 U.S.C. 909(a). Section 13 generally provides for the filing of claims under the Act, and section 39 provides authorization for the Department to administer the Act, including promulgating rules and regulations. See 33 U.S.C. 913 and 939. Regulations 20 CFR 702.121 provides that the OWCP may prescribe forms and require their use to report of any required information. See 20 CFR 702.121.

**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 form is submitted to OWCP district offices that have responsibility for monitoring and processing death cases. The information is usually incorporated into a compensation order at the time death benefits are ordered paid in a case. It is used to certify the amount of funeral expenses incurred in the case. If the information were not collected, we would be unable to determine the amount of funeral expenses that should be paid.

Certification of Funeral Expenses (LS-265)

1240-0040

March 2020

**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.**

Respondents now have the option to complete and submit the form in this collection electronically using our secure web portal (seaportal.dol-esa.gov). The website for accessing this document is <http://www.dol.gov/owcp/dlhwc/ls-265.pdf>. OWCP estimates 50 percent of all responses will be submitted through the portal.

**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.**

All forms in the Longshore program have been carefully reviewed to eliminate all requests for duplicate information. The LS-265 is a unique form in that it pertains to the certification of funeral expenses.

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

The collection does not have a significant economic impact on a substantial number of small businesses.

**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.**

The information is only collected on occasion when certification of funeral expenses is required. It therefore cannot be collected less frequently.

**7. Explain any special circumstances.**

\* Requiring respondents to report information to the agency more often than quarterly;

\* Requiring respondents to prepare a written response to a

Certification of Funeral Expenses (LS-265)

1240-0040

March 2020

collection of information in fewer than 30 days after receipt of it;

- \* Requiring respondents to submit more than an original and two copies of any document;
- \* Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- \* In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- \* Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- \* That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- \* Requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances for the collection of this information. The form is only completed following the death of a claimant.

**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.**

The LS-265 has been in use for a number of years and no complaints have been received relative to the information it requests. It requests only basic information relative to the amount of funeral expenses incurred and only a small number of copies are used each year. Should any suggestions for improvement be received, they will be reviewed and appropriate action will be taken.

A Federal Register Notice inviting public comment on this collection of information was published in the Federal Register on April 9, 2020 at 85 FR 19962. No comments were received.

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

No payments 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.**

To the extent records pertaining to specific compensation cases are disclosed, they are protected under the Privacy Act. Otherwise, the information collected is not protected under the Privacy Act.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, 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.**

There are no questions of a sensitive nature.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- 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.

Burden has been estimated to be approximately 19 hours. It is estimated that about 75 funeral directors will file approximately one form each for a total annual number of forms filed of 75. The source for the estimates is derived from the actual number of forms received annually. The time needed to complete the form,

Certification of Funeral Expenses (LS-265)

1240-0040

March 2020

including the time needed to obtain the information required by the form from existing records, has been estimated to be 15 minutes or .25 hours. 75 responses x 0.25 hours = 18.75 hours. This estimate is considered reasonable in light of the information required by the form, which is the amount of services rendered which is readily available to the funeral director.

The annualized burden cost to the respondents has been estimated to be approximately \$371.00. This estimate is derived from use of the National Average Weekly Wage (NAWW) as computed by the Bureau of Labor Statistics and which is based on the national average earnings of production or non-supervisory workers on private non-agriculture payrolls. See <https://www.bls.gov/data>. Section 6(b) of the Act mandates the use of the NAWW in setting the maximum and minimum compensation rates under the Act and in determining the amount of annual adjustments due to permanent total disability and death beneficiaries. While the form is filed on behalf of funeral directors, the form may be completed by employees in the administrative office or by other clerical personnel. Since it is not possible to determine the specific occupation or wages for each person who will provide the information covered by this clearance, and wages can vary considerably from person to person depending on duties and length of service, use of a national average weekly wage covering all occupations appears reasonable under the circumstances.

The current applicable NAWW is \$780.04. The computations are therefore as follows:

$\$780.04 \div 40 \text{ hrs} = \$19.50/\text{hr}$

$\$19.50 \times 19 \text{ hrs} = \$370.50 \text{ annualized burden cost.}$

**13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).**

**\* The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which**

Certification of Funeral Expenses (LS-265)

1240-0040

March 2020

costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

\* If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate. \* Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices

Since the information required by Form LS-265 is kept as a usual and customary business practice, the only operation and maintenance cost for this information is for mailing. The cost is therefore approximately \$22.00

$(75 \text{ responses} \times \$0.55 \text{ postage} + \$0.03 \text{ envelope}) = \$43.50 - \$21.75$   
 $(50\% \text{ reduction due to SEAPortal access}) = \$21.75.$

**14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.**

The cost to the government has been estimated to be approximately \$66,297.00. This estimate was determined by taking into consideration analysis costs associated with the review of Form LS-265. Analysis and handling costs were determined by applying the hourly rate of a GS-13, Step 5 claims examiner (currently \$49.54 hour) to the total annual hours required for review. See <https://www.opm.gov/policy-data-oversight/pay-leave/salaries->

[wages/salary-tables/pdf/2020/RUS\\_h.pdf](#). The annual review hours were determined by applying an estimate of .08 hour or 5 minutes for review and analysis of each form against the 75 forms, which are received each year. The calculations are as follows:

$(75 \text{ responses} \times .08 \text{ hrs.} = 6 \text{ hours} \times \$49.54/\text{hr.}) = \$297.24 + \$66,000.00$  for the maintenance of the SEAPortal website  
maintenance = \$66,297.24.

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

There has been a decrease of \$12.00 in the operation and maintenance costs due to the increased number of respondents utilizing the electronic submission option.

**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.**

The information collected will not be published for statistical use.

**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 expiration date will be displayed on the form.

**18. Explain each exception to the certification statement ROCIS.**

There are no exceptions to the certification.

**B. Collections of Information Employing Statistical Methods**

Statistical methods are not used in these collections of information.