

## Supporting Statement A

### Federal Tort Claims Act (FTCA) Program Deeming Applications for Free Clinics

OMB Control No. 0915-0293, Revision

#### 1. Circumstances Making the Collection of Information Necessary

The Health Resources and Services Administration (HRSA), Bureau of Primary Health Care (BPHC) is requesting continued Office of Management and Budget (OMB) approval for the FTCA Program Deeming Applications for Free Clinics. The current information collection request has OMB Number 0915-0293 and expires November 30, 2020. *This is a revision request.*

Congress enacted FTCA medical malpractice protection for volunteer Free Clinic health professionals through Section 194 of HIPAA of 1996 (Public Law 104-191) by amending Section 224 of the Public Health Service (PHS) Act (42 U.S.C. 233). However, Congress appropriated funds for the Free Clinic FTCA Program for the first time in late January 2004. In 2010, the Patient Protection and Affordable Care Act (Affordable Care Act) (Public Law 111-148) expanded eligible individuals to include employees, officers, board members, and contractors, in addition to volunteers.

#### 2. Purpose and Use of Information Collection

Deeming applications must address certain specified criteria required by law in order for deeming determinations to be issued, and FTCA application forms are critical to BPHC's deeming determination processes. This form provide BPHC with the information essential for application evaluation and determination of whether an individual meets the requirements for deemed PHS employee status for the purposes of FTCA coverage. This application form seeks information verifying that the free clinic meets the criteria to sponsor a deeming application and that the individual being sponsored is eligible to be deemed as a PHS employee with associated FTCA coverage for their activities within the scope of deemed employment on behalf of the health center.

*For this ICR, HRSA proposes updates to FTCA Program Deeming Applications for Free Clinics questions in the following ways: (1) Specifically, throughout the application, alternate terminology was utilized to provide greater clarity and specificity. These changes were based on stakeholder feedback and information received from the HRSA Health Center Program Support. These changes are not substantive in nature; (2) Added Service Type and clarifications regarding professional designation: Specifically, section VI of the application was updated to*

*include service type which will allow HRSA to verify whether an individual is performing clinical or non-clinical services. In addition to the inclusion of service type, a note was added to request that free clinics include the professional designation for each individual; (3) Deleted remark in section IX: It has been determined that the information requested in this section, which related to offsite events and particularized determinations is no longer necessary to evaluate eligibility for deeming. Because these updates will increase clarity and reduce confusion, HRSA anticipates minimal impact on health centers' burden and increased efficiency in processing the applications.*

### **3. Use of Improved Information Technology**

The FTCA Program has a web based application system, the Electronic Handbooks (EHBs). This electronic application form minimizes the time and effort required for completion.

### **4. Efforts to Avoid Duplication**

This application form is unique to this requirement. The information requested is specific to this activity and is needed to make FTCA deeming decisions for Free Clinic professionals.

### **5. Involvement of Small Entities**

This activity does not have a substantial impact on small entities or small businesses.

### **6. Consequences of Collecting the Information Less Frequently**

As required by statute, the FTCA Program deeming application for Free Clinics must be submitted annually. If free clinics do not submit an annual deeming application, their covered individuals will not be eligible for FTCA coverage for purposes of medical malpractice.

### **7. Consistency with the Guidelines in 5 CFR 1320.5(d)(2)**

The data are collected in a manner consistent with guidelines contained in 5 CFR 1320.5(d)(2).

### **8. Consultation Outside the Agency**

A Federal Register notice announcing the FTCA Program deeming applications for Free Clinics was published on August 6, 2020, vol. 85, No. 152; pp. 47803–04. One public comment was received but the comment is outside of the scope of this ICR.

In 2020 BPHC consulted with several individuals familiar with the FTCA Free Clinic application

process. Overall, these outside consultants noted that the information requested should be readily available to the free clinic, and that the application instructions are clear. BPHC used feedback from these outside consultants to estimate the burden hours required for gathering information and completing this application.

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## **9. Remuneration of Respondents**

Respondents will not receive any payments or gifts.

## **10. Assurance of Confidentiality**

Sponsoring health centers are required to provide personal identifiers for each sponsored individual, such as home address and phone number. This information is not available to the public and is considered confidential.

## **11. Questions of a Sensitive Nature**

There are no questions of a sensitive nature.

## **12. Estimates of Annualized Hour Burden**

BPHC has designed the FTCA Program deeming applications for Free Clinics as a user-friendly mechanism for Free Clinics to apply for deemed status on behalf of their eligible health professionals.

Estimated Annualized Burden Hours:

| <b>Form Name</b>                                  | <b>Number of Respondents</b> | <b>Number of Responses per Respondent</b> | <b>Total Number of Responses</b> | <b>Average Burden per Response (in hours)</b> | <b>Total Burden Hours</b> |
|---|------------------------------|---|----------------------------------|---|---------------------------|
| FTCA Program Deeming Application for Free Clinics | 374                          | 3   | 1,122                            | 2   | 2,244                     |
| <b>Total</b>                                      | <b>374</b>                   |   | <b>1,122</b>                     |   | <b>2,244</b>              |

The burden estimates for completing the FTCA Program deeming applications for Free Clinics have been determined based on the experience of the program since its implementation. Individual Free Clinic burden is estimated to be 2 hours per respondent for completing the FTCA Program deeming application for Free Clinics. BPHC estimates that there will be approximately 374 respondents annually.

Estimated Annualized Burden Costs:

| <b>Type of Respondent</b>                        | <b>Total Burden Hours</b> | <b>Hourly Wage Rate</b> | <b>Total Respondent Costs</b> |
|--|---------------------------|-------------------------|-------------------------------|
| Medical and Health Services Manager <sup>1</sup> | 2,244                     | \$55.37                 | \$124,250                     |
| <b>Total</b>                                     | <b>2,244</b>              |                         | <b>\$124,250</b>              |

**13. Estimates of other Total Annual Cost Burden to Respondents or Record Keepers/Capital Costs**

The costs to respondents is comprised of their time, recordkeeping, reporting, data management, and auditing, as well as employer overhead and fringe benefits.

<sup>1</sup> Wages for Medical and Health Services Managers are based on Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Employment Statistics*, Medical and Health Services Managers, at <https://www.bls.gov/oes/current/oes119111.htm>.



#### **14. Annualized Cost to the Federal Government**

The estimated annual cost to the government for data processing and review of the applications is approximately \$203,342 (Contractor, 1 GS-13, FTEs - 33% time of work).

#### **15. Change in Burden**

BPHC estimates that there will be approximately 1,122 responses annually which represents an increase from the currently approved 684 estimated number of responses. This has resulted in a proportional increase in total burden estimates for completing the FTCA Program deeming applications for Free Clinics from 1,368 to 2,244 hours annually.

#### **16. Plans for Analysis and Timetable of Key Activities**

At this time, no statistical analysis will be conducted with the information collected. At this time, no information collected will be published.

#### **17. Exemption for Display of Expiration Date**

The expiration date will be displayed.

#### **18. Certifications**

This project fully complies with CFR 1320.9. The certifications are included in this package.