

Justification  
**Availability for Work**  
 RRB Forms UI-38, UI-38s, and ID-8k

1. Circumstances of information collection - Under Section 1(k) of the Railroad Unemployment Insurance Act (RUIA) (45 U.S.C. 231), unemployment benefits are not payable for any day for which the claimant is not available for work.

Under Railroad Retirement Board (RRB) regulation 20 CFR 327.5, "available for work" is defined as being willing and ready for work. A claimant is "willing" to work if willing to accept and perform for hire such work as is reasonably appropriate to his or her employment circumstances. A claimant is "ready" for work if he or she is (1) in a position to receive notice of work and is willing to accept and perform such work, and (2) prepared to be present with the customary equipment at the location of such work within the time usually allotted.

Under RRB regulation 20 CFR 327.15, a claimant may be requested at any time to show, as evidence of willingness to work, that reasonable efforts are being made to obtain work. Reasonable efforts to obtain work are when the claimant takes steps toward obtaining work appropriate to his or her circumstances such as:

- registering with a union hiring or placement facility;
  - applying for employment with former employers;
  - making application with employers, including individuals and companies not covered by the Railroad Unemployment Insurance Act, who may be reasonably expected to have openings in work suitable for the claimant;
  - responding to appropriate "want ads" for work which appears suitable for the claimant;
  - actively prosecuting a claim for reinstatement in his or her former work; and
  - any other action reasonably directed toward obtaining work.
2. Purposes of collecting/consequences of not collecting the information - The following forms are used by the RRB to obtain information needed to determine whether a claimant is willing and ready for work.

**Form UI-38, UI Claimant's Report of Efforts to Find Work**, is used by a claimant to substantiate their work-seeking efforts by providing the RRB with a list of the employers they have contacted.

The information provided assists the RRB field office in making a determination as to a claimant's "willingness" to obtain work as provided under the RUIA and RRB regulations. Form UI-38 is used by the RRB when the work-seeking efforts reported by a claimant at the time of the initial eligibility interview, on RRB Form UI-35, Field Office Record of Claimant Interview, (OMB 3220-0057), are insufficient to establish the availability of the claimant for work. At the time of the initial interview, the field office will counsel the claimant on making reasonable work-seeking efforts and will furnish Form UI-38 with instructions to complete

and return it at a later date. In the event that the field office schedules a follow-up interview, the claimant may be asked to bring the completed Form UI-38 to the interview, rather than mailing it to the field office.

Form UI-38 is a two-page form. Page one is a form letter which explains that it is the claimant's responsibility to seek work in order to be eligible for unemployment benefits. The RRB representative who interviews the claimant checks various boxes indicating what actions are necessary and provides a record of advice on how and where to seek work. Page two is used by the claimant to report his or her efforts to find work. Form UI-38 is designed for self-completion.

**The RRB proposes no changes to Form UI-38.**

Since more claimants are applying for jobs online and have no means of obtaining a form signed by the State Employment Service (SES) to provide to us as proof of registration, we propose adding wording that they obtain and provide some form of proof from the SES that shows that they have registered.

**Form ID-8k, Reinstatement of Discharged or Suspended Employee**, is a questionnaire completed by a claimant's union representative to verify that there is an on-going and active effort underway to reinstate the claimant with his or her railroad employer.

Form ID-8k is released to the local union official designated by the claimant on Form UI-1, Application for Unemployment Benefits and Employment Service (3220-0022). If the completed Form ID-8k indicates the union official is no longer handling the employee's case and that reinstatement efforts have been passed on to an official at a higher level, the field office releases another Form ID-8k to the General Chairman of the union for completion.

Form ID-8k is designed for self-completion. The RRB field office enters the claimant's identifying information in the upper right-hand corner of the form before releasing it to the union official. The union official then returns the completed form to the field office in the return envelope provided.

**The RRB proposes no changes to Form ID-8k.**

**Form UI-38s, School Attendance and Availability Questionnaire**, is used by the RRB primarily to obtain detailed information concerning a claimant's attendance at school for use as possible evidence that the claimant is not available for work, as provided under the RUIA and RRB regulations (see 20 CFR 327.10(e)). Indication of a claimant's school attendance is usually obtained from one of the three following sources:

- Form UI-1, Application for Unemployment Benefits and Employment Service, OMB No. 3220-0022;
- Form UI-3, Claim for Unemployment Benefits, OMB No. 3220-0022; or
- Form UI-35, Field Office Record of Claimant Interview, OMB No. 3220-0057.

In most cases, the information obtained from these sources is not sufficient for the RRB to make a determination whether a claimant's school attendance adversely affects availability for work and consequently disqualifies the claimant from receiving unemployment benefits. Form UI-38s was developed to provide the RRB with more specific information concerning

a claimant's school attendance along with other information relating to a claimant's availability for work.

Some of the items on Form UI-38s request the same information as corresponding items on Form UI-35. However, in the majority of cases, a claimant does not complete both forms. That is because Form UI-35 is completed by no more than 40 percent of claimants. In those instances when a claimant is asked to complete both forms, there is usually an interval of approximately six to eight weeks between completion of the forms. Because of this time interval, the definite possibility exists that a claimant's responses to the same items may differ due to a change in school attendance, or a change in other circumstances. When the claimant states that he or she is presently attending school or plans to do so in the near future, Form UI-38s is completed at the same time as Form UI-35 in order to obtain the more detailed school information provided by the form. In these few instances, the RRB representative insures that the claimant does not provide duplicate information for each form.

Form UI-38s is designed for self-completion or completion during an in-person interview at an RRB office. When an in-person interview is not feasible, an RRB office mails Form UI-38s to the claimant who then returns the completed form back to that RRB office in the return envelope provided.

**The RRB proposes no changes to Form UI-38S.**

3. Planned use of improved information technology or technical/legal impediments to further burden reduction - None planned at this time as the form is initiated by the RRB with pre-filled data. The RRB will reevaluate after the completion of the RRB IT Modernization project.
4. Efforts to identify duplication – To our knowledge, no other agency uses forms similar to Forms UI-38, UI-38s, and ID-8k. This information collection does not duplicate any other RRB information collection.
5. Small business respondents - N.A.
6. Consequences of less frequent collection - Not applicable since the information is solicited once for a case.
7. Special circumstances - N.A.
8. Public comment/consultations outside the agency - In accordance with 5 CFR 1320.8(d), comments were invited from the public regarding the information collection. The notice to the public was published on page 76629 of the November 30, 2020, Federal Register. No requests for further information or comments were received.
9. Payments or gifts to respondents - None
10. Confidentiality - Privacy Act Systems of Records, RRB-6, Unemployment Insurance Record File-RRB and RRB-21, Railroad Unemployment and Sickness Insurance Benefit System-RRB. In accordance with OMB Circular M-03-22, a Privacy Impact Assessment for this information collection was completed and can be found at <https://www.rrb.gov/sites/default/files/2017-06/PIA-BPO.pdf>.

11. Sensitive questions - There are no questions of a sensitive nature.
12. Estimate of respondent burden - The current and proposed estimated annual burden for this collection is as follows:

**Current Burden**

Form Number	Annual Responses	Time (Minutes) <sup>1/</sup>	Burden (Hours)
UI-38s (in person)*	59	6	6
UI-38s (by mail)*	119	10	20
UI-38	3,485	11.5	668
ID-8k	6,461	5	538
<b>Total</b>	10,124		1,232

<sup>1/</sup>The RRB has been collecting the information on these forms since OMB approved the information collection. Based on a sampling done when the form was originally created, the office calculated the estimated time, which includes time for getting the needed data and reviewing the completed form.

13. Estimate of annual cost to respondents or record keepers - N.A.
14. Estimated cost to the Federal Government - N.A.
15. Explanation for changes in burden - N.A.
16. Time schedule for data collection and publication - The results of this collection will not be published.
17. Request to not display OMB expiration date - The RRB started an extensive multi-year IT Modernization Initiative at the beginning of Fiscal Year 2019 to transform our operations into the 21<sup>st</sup> Century using multiple contractor services to improve mission performance, expand service capabilities, and strengthen cybersecurity. In addition, we received a new Chief Information Officer (CIO) on September 2, 2019 who is reviewing our estimated project timeline milestone dates. We provided OMB with a consolidated project timeline.

Given that the forms in this collection are seldom revised; the costs associated with redrafting, reprinting, and distributing forms in order to keep the appropriate OMB expiration date in place; and our desire to reevaluate after the completion of the modernization project, **the RRB requests the authority to not display the expiration date on the forms**

18. Exceptions to Certification Statement - None