

SUPPORTING STATEMENT FOR
Rehabilitation Action Report Form (FORM OWCP-44)

OMB CONTROL NO. 1240-0008

This ICR seeks to an extension request

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA) and the Longshore and Harbor Workers' Compensation Act (LHWCA). These acts provide vocational rehabilitation services to eligible workers with disabilities. Section 8104(a) of the FECA and § 939(c) of the LHWCA provide that eligible injured workers are to be furnished vocational rehabilitation services, and § 8111(b) of the FECA and § 908(g) of the LHWCA provide that persons undergoing such vocational rehabilitation receive maintenance allowances as additional compensation. Form OWCP-44 is used to provide prompt notification of key events in the vocational rehabilitation process that may require OWCP action related to claims and benefits. This information may be used to decide if maintenance allowances should continue to be paid. For LHWCA, regulations implementing these statutes for the collection of this information are 20 CFR 702.506 and 702.507; and for FECA, 20 CFR 10.518, 10.519.

<https://www.dol.gov/owcp/dlhwc/lslaws.htm>

<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=dc5ef26228db397b878d1cc4211783f2&r=PART&n=20y4.0.2.1.3%20#sp20.4.702.e>

<https://www.dol.gov/owcp/dfec/regs/statutes/feca.htm>

https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=c131552afa82be329e42e2c9d62a41c8&rgn=div5&view=text&node=20:1.0.1.2.2&idno=20#se20.1.10_1518

https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=c131552afa82be329e42e2c9d62a41c8&rgn=div5&view=text&node=20:1.0.1.2.2&idno=20#se20.1.10_1518

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.

Form OWCP-44 is submitted to OWCP by contractors hired to provide vocational rehabilitation services. Form OWCP-44 gives prompt notification of key events that may require OWCP

action in the vocational rehabilitation process. For example, when a disabled worker returns to work, benefits must be promptly adjusted to avoid an overpayment. All items are completed by the rehabilitation counselor from information in his or her records.

If Form OWCP-44 were not utilized, delays in acting would cause waste of government funds and additional paperwork. The form minimizes the potential for waste, fraud, and abuse by requiring involved personnel in OWCP to take appropriate action toward an expeditious return to remunerative work, to reduce wage-loss compensation, or to terminate wage-loss compensation and close the case.

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.

In accordance with the Government Paperwork Elimination Act, Form OWCP-44 is electronically interactive and is posted on the Internet at <https://www.dol.gov/general/forms>.

OWCP has developed several alternatives to mailing of documents. These applications, known as The Employee Compensation Operations and Management Portal (ECOMP), the Disability Management Portal (DMP) and the Secure Electronic Access Portal (SeaPortal) are internet based, and allow users the ability to submit a completed form electronically into the claimant's case record. As of June 2020, the respondents are required to electronically submit their response to DMP or SeaPortal. The use of these applications is of no cost to the public.

References: <https://www.ecomp.dol.gov/#>
<https://www.dmp.dol.gov/>
https://seaportal.dol-esa.gov/portal/?program_name=LS

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 A.2 above.

The information requested in this collection is not duplicative of any information available elsewhere. The vocational rehabilitation counselor is the only source of the required information.

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

The 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.

If this information were not collected OWCP would be unaware when specific points in the rehabilitation process that have an effect on the payment of compensation have been reached. The purpose of Form OWCP-44 is to assist the claims examiner and OWCP rehabilitation specialist to make an informed decision on formal rehabilitation services for the disabled worker.

7. Explain any special circumstance that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a 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 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 secret, 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 applicable special circumstances for 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. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection-of-information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

This form has been in use since 1993. Development of the form arose from OWCP's need to respond expeditiously to return-to-work and claims adjudication issues concerning injured workers. During this period, there were no complaints from our contractors about the manner in which the form has been used. If any complaints or suggestions for improvement are received, they will be carefully evaluated and appropriate action will be taken.

A Federal Register Notice inviting public comment was published on November 25, 2020 (85 FR 75377). Comments were/were not received.

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

There is no gift or payment to respondents other than remuneration to contractors for services and expenses.

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

The information collected by these forms is maintained in OWCP claim files which are fully protected under the Privacy Act. The applicable Privacy Act System of Records for LHWCA is DOL/OWCP 3 and DOL/OWCP 4, [81 Fed. Reg. 25859-61 (April 29, 2016)], and for DFEC, DOL/GOV-1, [81 FR 47418 (July 21, 2016)]: A Privacy Act Statement has been added to this form associated with this information collection. See

<https://www.dol.gov/sol/privacy/dol-owcp-3.htm>

<https://www.dol.gov/sol/privacy/dol-owcp-4.htm>

<https://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.

There are no questions of a sensitive nature contained on the form.

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 conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. General, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

Based upon experience with this form, it is estimated that 3299 forms will be filed annually and that it will require 10 minutes for each respondent (Rehabilitation Counselor) to read instructions, fill in the basic claims information and return the form to OWCP. This estimate is considered to be reasonable since the minimal identifying information requested has been provided to the respondent by OWCP and is thus readily available to them from the case materials they have for the claimant in question.

The burden estimate is based on the number of forms (3299) times the length of time to complete the form. Each form takes 10 minutes to complete. 10 minutes is .166667 of an hour (rounded up). $3299 \text{ forms} \times .166667 \text{ hours} = 549.834 \text{ hours}$, rounded up to 550 hours.

However, contractors are remunerated for all services and expenses including this information collection; consequently, there is no annualized cost of the burden hours to respondents. This is a federal cost.

Estimated Annualized Respondent Cost and Hour Burden

Activity	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage Rate	Total Burden Cost
OWCP-44	3299	1	3299	.166667	550	N/A	N/A

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **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 service 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 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 collection 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.**

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

Since June 2020, respondents have been instructed to use DMP and SeaPortal in submitting their forms; consequently, there are no associated operation and maintenance costs connected with this information collection.

14. Provide estimates of the annualized cost 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), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.

The estimated costs to the Federal government of collecting these forms are noted as follows:

Process/Review Costs:

The average hourly wage for the OWCP Rehabilitation Specialist who reviews the form is \$46.57, GS-12, step 9. See https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/RUS_h.pdf

Time to review each form is 10 minutes = 0.166667 of an hour.

Processing labor cost is calculated as $\$46.57 \times 0.166667 \times 3,299$ forms = \$25,605.7895 or \$25,606.00 rounded up.

There is no mailing cost associated with the sending of the form to the contractor because the contractors are able to access the form on the DOL website, <https://www.dol.gov/general/forms>.

Federal Processing Cost: Processing (\$25,606.00) + Contract Hosting (\$7,714.00)¹ = \$33,320.00

Reimbursement to Contractors for Labor Costs: \$90 per hour x 0.166667 hour x 3229 forms = \$ 48,435.09 or \$48,435.00 rounded down.

There is no Contractor Mailing Cost because the forms are submitted online through the DMP and/or Seaportal.

Total Federal Costs: Federal Processing Costs (\$33, 320.00) + Reimbursement to Contractors for Labor Costs (\$48,435.00) = \$81,755.00

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

¹ The ECOMP cost is \$270,000.00 for FY 2019. There are 35 forms which require OMB approval which can be downloaded through ECOMP. These forms are CA-2a, CA-5, CA-5b, CA-7, CA-12, CA-15, CA-16, CA-17, CA-20, CA-40, CA-41, CA-42, CA-155, CA-278, CA-721, CA-722, CA-1027, CA-1031, CA-1032, CA-1074, CA-1087, CA-1090, CA-1108, CA-1122, CA-1143, CA-1305, CA-1331, CA-2231, OWCP-5a, OWCP-5b, OWCP-5c, OWCP-16, OWCP-17, OWCP-20, and OWCP-44. The ECOMP figure used was based on the averaged cost for each of those collections, or 1/35 of \$270,000, which is \$7,714.29.00, \$7,714.00, rounded down.

As indicated in item 12, since the last clearance, the responses from the respondents decreased from 4066 to 3299, which is an adjustment of 767 responses. Accordingly, the burden hours decreased from 678 to 550, an adjustment of 128 hours. We attribute the reduction due to programmatic changes in both the FECA and Longshore programs that impacted the number of rehabilitation referrals.

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.

This information 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 expiration date will be displayed on the form.

18. Explain each exception to the certification statement.

There are no exceptions to the certification.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

Statistical methods are not used in these collections of information.