

OMB SUPPORTING STATEMENT

SF 3106 *Application for Refund of Retirement Deductions*
SF 3106A *Current/Former Spouse's Notification of Application for Refund of Retirement Deductions*

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.

5 USC, Chapter 84 provides for the payment from the Federal Employees Retirement System of lump sum refunds of retirement deductions and any other monies to the credit of the eligible individual, plus any interest provided by law.

5 USC, Chapter 84 also provides for the notification of any current spouse and any former spouse of the application for refund of retirement deductions prior to payment of the lump sum credit.

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 permits OPM to determine whether the respondent is eligible to receive the refund, whether to withhold for Federal income tax and to meet requirements of the law. If this information is not collected, OPM cannot pay the refund. The Privacy Act Statement (PAS) is current due to a systematic review by our Privacy Officer. The Public Burden Statement meets the requirements of 5 CFR 1320.8(b)(3). This Information Collection Request (ICR) has been revised to update the display of the OMB control number.

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.

The information collected can only be obtained from the respondents. New methods of information technology would do little to reduce the burden on the respondents; they must sign the application attesting to its truth, under penalty of law, to the best of their knowledge. The form is available in PDF fillable format on our website at www.opm.gov/forms and meets the GPEA requirements.

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.

These applications are filed individually each time a former employee requests a refund of retirement contributions. This request is not recorded elsewhere. Duplication is minimized as up-to-date, similar information is not available.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize.

This information collection request has no impact on small businesses and organizations.

6. Describe the consequence to Federal/DHS program or policy activities if the collection of information is not conducted, or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The collection of this information is performed as needed to determine eligibility. Less frequent collection is not applicable. This information collection is consistent with the guidelines in 5 CFR 1320.6.

7. Explain any special circumstances 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 is 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 involved in the collection of this information.

8. Federal Register Notice: Provide a copy and identify the date and page number of the publication in the Federal Register of the agency's notice soliciting comments on the information collection prior to submission to OMB.

On December 30, 2020, a 60 Day Federal Register Notice was published at 85 FR 86583. One comment was received: *"I posted a comment on "Civil Service Retirement System and Federal Employees Retirement System; Correcting Miscalculations in Veterans' Pension Act" where this was more appropriate but it was apparently censored and removed from that article so I will post here again where this is also appropriate.*

There needs to be guidance and policy from OPM to the agencies for correction of the military service deposit program which has been managed incorrectly since the implementation of FERS and made even more out of

statutory compliance after the enactment of USERRA. Employees maintained in leave without pay status have been required to pay a military service deposit to cover time spent for military service deposits while in leave without pay status. This is unstatutory under FERS because 5 USC 411(d) allows service credit for time spent in leave without pay status for military service with no limit. While calculating retirement payments under 5 USC 8415, all credit allowed under 5 USC 8411 is required to be counted. There is no requirement for service under 5 USC 8411(d) to be followed by a service deposit in order to receive credit. Unlike CSRS, there is also no other law calling for the removal of such service under FERS when a service deposit has not been paid, therefore the service deposit requirement by OPM and the agencies to receive retirement credit is illegal and all employees and retirees affected under FERS are entitled to a refund without reduction in annuity computations.

USERRA added another service deposit provision under 38 USC 4318 which has been completely ignored by OPM and other federal agencies, and yes, it does apply to federal employees basic annuity. This is the law that should take precedence for those who separate from service while covered by FERS (not carried under LWOP) and returned to duty within the time limits allowed under USERRA. Under this law and applicable DOL regulations which OPM is required to fall in line with (unless providing for a benefit that is greater to the employee) the employer cannot charge interest even when the payment period extends over two years (as long as the payments are made within the period allowed by 38 USC 4318) and the employee is authorized retirement credit for any amount of the service that was paid; they cannot require the deposit for the whole period of time be paid in full in order to receive credit of the time for which it was paid. This provision also allows service credit for all types of Title 32 active duty, inactive duty for training, the time frame spent between military service before returning to duty and several other types of service traditionally not covered by 5 USC military service deposit definitions of military service. 38 USC 4318 also applies to CSRS and so does 38 USC 4316(b) (4) which makes it clear that anyone in LWOP status for military service cannot be charged an amount greater than any other employee carried in LWOP for any other reason; meaning an employee cannot be charged a service deposit for the first 6 months aggregate leave without pay (to include leave without pay for military service) in any calendar year. This is supported by the sections of 5 USC which determine military service deposit amounts for those with interrupted service because on a maximum payment is determined where it cannot exceed the amount the employee would have paid had the military service never occurred, meaning since no minimum is determined, the employee can be charged \$0 for the first 6 months aggregate in any calendar year as required under USERRA. All affected CSRS employees since the effective date of USERRA are entitled to refund of erroneously charged service deposits described in this section.

A final point, why is an employee REQUIRED to submit documents to allow for calculations of a service deposit based on their military pay when the employee already knows the service deposit amount based on military pay will far exceed the amount required when based on civilian pay? Why not allow the employee the ability to waive calculation of deposits based on military pay when returning to duty under USERRA? I have personally found that deposits based on military pay are as much as 4x the cost, but I'm still required to provide documents to support calculations I know will never be used. Also, there is no need to require DD214s to pay a service deposit. An SF50 showing USERRA return is sufficient because you have to meet all USERRA return requirements to be returned to duty, which is more stringent than military service deposit requirements, and the simple act of returning under USERRA entitles the employee to a service deposit made under 38 USC 4318.

I've already made a Congressional complaint with Dan Sullivan's office. Compare the notes here to that complaint which has far more legal references and make the correction to policy and provide a method for the required refunds. Don't censor my comment from the public this time either.”.

Our response is as follows: “This is written in response to the comment on Federal Register Document #2020-28900 regarding the Application for Refund of Retirement Deductions, Standard Form (SF) - 3106 and Current/Former Spouse(s) Notification of Application for Refund of Retirement Deductions Under FERS, SF-3106A.

The Standard Form 3106 is used by former Federal employees under the Federal Employees Retirement System (FERS) to apply for a refund of retirement deductions withheld during Federal employment, plus any interest provided by law. Standard Form 3106A, Current/Former Spouse(s) Notification of Application for Refund of Retirement Deductions under FERS, is used by refund applicants to notify their current/former spouse(s) that they are applying for a refund of retirement deductions, which is required by law.

The Office of Personnel Management finds that the comments received are not relevant to the use of these forms. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) covers certain Federal employees in the armed forces, the reserves, the National Guard and commissioned corps of the Public Health Service. The USERRA law allows for restoration to the position he or she would have attained had the employee not entered the uniformed service provided certain conditions are met. Since enactment of the law, OPM has provided guidance to agencies on processing service credit deposits for such cases.

It appears that the comments are case specific to the processing of service credit deposits. If denied the opportunity to make the service credit deposit, the individual would have received a denial decision and provided information on his/her right to file a request for reconsideration.”.

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

No gifts or payments of any kind have been provided to any individuals who are connected to this collection.

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

This information collection is protected by the Privacy Act of 1974 and OPM regulations (5 CFR 831.106). The routine uses of disclosure appear in the *Federal Register* for OPM/Central-1 (73 FR 15013, *et seq.*, March 20, 2008, effective April 21, 2008).

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.

This information collection does not include questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

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

- a. 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 desired. 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. Generally, estimates should not include burden hours for customary and usual business practices.
- b. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
- c. 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.

A total of approximately 4,534 hours are used to complete the SF 3106 and SF 3106A annually.

Approximately 8,000 SF 3106, *Application for Refund of Retirement Deductions*, will be processed annually. The SF 3106 takes 30 minutes to complete for a total of 4,000 hours annually.

Approximately 6,400 SF 3106A, *Current/Former Spouse's Notification of Application for Refund of Retirement Deductions*, will be processed annually. The SF 3106A takes 5 minutes to complete for a total of 534 hours annually.

Form Name	Form Number	No. of Respondents	No. of Responses per Respondent	Average Burden per Response (in hours)	Total Annual Burden (in hours)	Average Hourly Wage Rate	Total Annual Respondent Cost
Application for Refund of Retirement Deductions	SF 3106	8,000	1	30 minutes	4,000	\$10.75	\$107,500
Current/Former Spouse's Notification of Application for Refund of Retirement Deductions	SF 3106A	6,400	1	5 minutes	534	\$1.80	\$14,400

The Total Annual Respondent Cost is \$121,900.

13. Provide an estimate of 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 shown in Items 12 and 14.)

The cost estimate should be split into two components: (1) 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 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 to keep records for the government, or (4) as part of customary and usual business or private practices.

There is no change in the respondent burden.

14. Provide estimates of 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), and any other expense that would have been incurred without this collection of information. You may also aggregate cost estimates for Items 12, 13, and 14 in a single table.

The annualized cost to the Federal government for both forms is \$136,512. This cost includes employee salary hours devoted to this program, forms and overhead.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I. Changes in hour burden, i.e., program changes or adjustments made to annual reporting and recordkeeping **hour** and **cost** burden. A program change is the result of deliberate Federal government action. All new collections and any subsequent revisions of existing collections (e.g., the addition or deletion of questions) are recorded as program changes. An adjustment is a change that is not the result of a deliberate Federal government action. These changes that result from new estimates or actions not controllable by the Federal government are recorded as adjustments.

This Information Collection Request (ICR) has been revised to update the display of the OMB control number.

There is no change in the hour or cost burden.

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 of information, completion of report, publication dates, and other actions.

No information collected from the form will be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain reasons that display would be inappropriate.

The Retirement Services program office is the lone processor of the data collected on these ICRs from approximately 2.8 million customers. The substance of each information collection does not substantively change at each OMB renewal cycle, but according to changes in law and regulation. These forms are printed and published (internet, intranet and on-board systems) through various agencies for distribution to and implementation

by Government customers. Pursuant to title 5 CFR 1320.8(b)(1), it would not be appropriate to display the OMB clearance expiration date where the form will not be revised for the foreseeable future (e.g., because it is used to collect applicant, annuitant, or beneficiary information required by long-standing statutory provisions), where use of the paper form is prevalent, and where, accordingly, it will be expensive and burdensome to restock the paper forms inventory with a new version. Last year, under current practice, Retirement Services printed approximately 2 million documents subject to OMB clearance at a cost of approximately \$85,000. Our costs would rise substantially if additional revision cycles are added. Lastly, by adding the OMB clearance expiration date to the existing format, the end users of OPM's ICRs may erroneously assume that the expiration date affects the validity of the information collection when it is the OMB clearance expiration date and not reflective of the substance. This may lead to additional submissions by customers, possible litigation and increasing pressures on our Operations workloads. Therefore, we seek approval to not display the OMB clearance expiration date on the forms and to communicate version changes to the public via the revision date.

18. Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

There are no exceptions to the certification statement.