

Supporting Statement for Form SSA-820-BK
Work Activity Report - Self-Employment
20 CFR 404.1520(b), 404.1571-404.1576, 404-1584-404.1593, and 416-971-416.976
OMB No. 0960-0598

A. Justification

1. Introduction/Authoring Laws and Regulations

Social Security Title II disability recipients and Title XVI Supplemental Security Income (SSI) claimants receive payments based on their inability to engage in substantial gainful activity (SGA) because of a physical or mental condition. When Title II disability or Title XVI SSI recipients resume work, they must report the work so SSA can evaluate and determine if they continue to meet the disability requirements of the law. Sections 223(d)(4) and 1633 of the *Social Security Act (Act)* authorize SSA to collect this data. These sections direct the Commissioner to provide regulations for administering the disability provisions of the law. Sections 20 CFR 404.1520(b), 404.1571-404.1576, 404.1584-404.1593, and 416.971-416.976 of the *Code of Federal Regulations* contain the regulations codifying these requirements.

2. Description of Collection

One of the requirements for being eligible to receive SSDI or SSI or (in most cases) continue to receive disability under SSDI is the claimant's inability to engage in SGA due to a physical or mental condition. In situations where a claimant has reported income from self-employment (e.g. during an initial claim he or she alleges work after the disability onset date; reports that he or she is working after becoming entitled to benefits), or in situations where SSA has identified via third parties (e.g. IRS reporting) potential income from self-employment, SSA (typically the field office or program service center)) uses Form SSA-820-BK to further evaluate whether the income earned indicates work at an SGA level.

To initiate the process, the field office or program service center will complete certain aspects of the form to reflect the self-employment income SSA believes the respondent may have earned. The questions on the SSA-820-BK are intended to learn more about the nature of the income, value of the work, and the time period of the work, to determine if the work constituted SGA. The general criteria for evaluating self-employment work for SGA purposes consist of three tests if the work is within 24 months of entitlement. Under test one, we determine if the individual has performed significant services and has substantial income. The individual's work activity is SGA if he or she renders services that are significant to the operation of the business, and if he or she receives from it a substantial income. Under test two, we examine if the individual's work activity is SGA if, in terms of all relevant factors, is comparable to that of unimpaired individuals in the same community engaged in the same or similar businesses as their means of livelihood. Under test three, we examine the worth of work activity. The

individual's work activity is SGA if, although not comparable to that of unimpaired individuals, it is, nevertheless, clearly worth more than the amount shown in the SGA Earnings Guidelines when considered in terms of its effect on the business, or when compared to the salary an owner would pay to an employee for such duties in that business setting.

As discussed in the previous paragraph, we use the data we obtain to evaluate disability claims, and to help us determine if the claimant meets current disability provisions under Titles II and XVI. Since applicants for disability or SSI payments must prove an inability to perform any kind of SGA generally available in the national economy for which we expect them to qualify based on age, education, and work experience, any work an applicant performed until, or subsequent to, the date the disability allegedly began, affects our disability determination. SSA may collect the information for this form in person, via a phone interview, or by sending the form to the individual to complete. While the means of submission depends on the situation, typically if the initial claim takes place via in-office or the phone, the technician completes the form with the individual during that interview if the respondent's prior responses regarding self-employment indicate the need for completing the SSA-820-BK. If the individual files online, the technician typically calls to complete the form over the phone, but will mail it if the phone call is unsuccessful. For post entitlement situations, technicians are required to call the individual over the phone and complete/attest the form. If unsuccessful, the technician mails the form. There are some instances that it may be completed in-office for post-entitlement.

The respondents are applicants and claimants for SSI payments or Social Security disability payments.

3. Use of Information Technology to Collect the Information

Respondents can complete the form via an in-office or phone interview, as SSA field office employees transcribe the information onto the form directly, or the public may print out a PDF version of the form from our website to complete it. If respondents choose to print the form, they must complete it and mail it or hand-deliver it back to the SSA Field Office. This collection does not currently have a public-facing Internet version and cannot be submitted electronically as described in GPEA.

4. Why We Cannot Use Duplicate Information

The nature of the information we collect and the manner in which we collect it precludes duplication. SSA does not use another collection instrument to obtain similar data.

5. Minimizing Burden on Small Respondents

This collection does not affect small businesses or other small entities.

6. **Consequence of Not Collecting Information or Collecting it Less Frequently**
We use Form SSA-820-BK whenever claimants or beneficiaries perform work after the alleged onset of their disability. Since this work could be SGA, if we did not collect this information, it could cause an incorrect initial disability decision, or result in overpayments to a claimant who was receiving payments despite engaging in SGA. Because we collect this information on an as needed basis, we cannot collect it less frequently. There are no technical or legal obstacles to burden reduction.
7. **Special Circumstances**
There are no special circumstances that would cause SSA to conduct this information collection in a manner inconsistent with 5 *CFR* 1320.5.
8. **Solicitation of Public Comment and Other Consultations with the Public**
The 60-day advance Federal Register Notice published on August 18, 2020 at 85 FR 50862, and we received no public comments. The 30-day FRN published on October 16, 2020 at 85 FR 65893. If we receive any comments in response to this Notice, we will forward them to OMB.
9. **Payment or Gifts to Respondents**
SSA does not provide payment or gifts to the respondents.
10. **Assurances of Confidentiality**
SSA protects and holds confidential the information it collects in accordance with 42 *U.S.C.* 1306, 20 *CFR* 401 and 402, 5 *U.S.C.* 552 (Freedom of Information Act), 5 *U.S.C.* 552a (Privacy Act of 1974), and OMB Circular No. A-130.
11. **Justification for Sensitive Questions**
The information collection does not contain any questions of a sensitive nature.
12. **Estimates of Public Reporting Burden**
Please see the burden chart below:

Modality of Completion	Number of Respondents	Frequency of Response	Average Burden per Response (minutes)	Estimated Total Annual Burden (hours)	Average Theoretical Hourly Cost Amount (dollars)*	Average Wait Time in Field Office (minutes)**	Total Annual Opportunity Cost (dollars)***
SSA-820-BK	100,000	1	30	50,000	\$10.73*	24**	\$965,700***

* We based this figure on average DI payments, as reported in SSA's disability insurance payment data. <https://www.ssa.gov/legislation/2020Fact%20Sheet.pdf>

** We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients

of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. **There is no actual charge to respondents to complete the application.**

In addition, OMB’s Office of Information and Regulatory Affairs is requiring SSA to use a rough estimate of a 30-minute, one-way, drive time in our calculations of the time burden for this collection. OIRA based their estimation on a spatial analysis of SSA’s current field office locations and the location of the average population centers based on census tract information, which likely represents a 13.97-mile driving distance for one-way travel. We depict this on the chart below:

Total Number of Respondents Who Visit a Field Office	Frequency of Response	Average One-Way Travel Time to a Field Office (minutes)	Estimated Total Travel Time to a Field Office (hours)	Total Annual Opportunity Cost for Travel Time (dollars)****
100,000	1	30	50,000	\$536,500

****We based this dollar amount on the Average Theoretical Hourly Cost Amount in dollars shown on the burden chart above.

Per OIRA, we include this travel time burden estimate under the 5 CFR 1320.8(a) (4), which requires us to provide “time, effort, or financial resources expended by persons [for]...transmitting, or otherwise disclosing the information,” as well as 5 CFR 1320.8(b)(3)(iii) which requires us to estimate “the average burden collection...to the extent practicable.” SSA notes that we do not obtain or maintain any data on travel times to a field office, nor do we have any data, which shows that the average respondent drives to a field office, rather than using any other mode of transport. SSA also acknowledges that respondents’ mode of travel and, therefore, travel times vary widely dependent on region, mode of travel, and actual proximity to a field office.

NOTE: We included the total opportunity cost estimate from this chart in our calculations when showing the total opportunity cost estimates in the paragraph below.

The total burden for this ICR is **50,000** burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **\$1,502,200**. SSA does not charge respondents to complete our applications.

13. Annual Cost to the Respondents (Other)

This collection does not impose a known cost burden on the respondents.

14. Annual Cost To Federal Government

The annual cost to the Federal Government is approximately \$1,825,611. This estimate accounts for costs from the following areas:

Description of Cost Factor	Methodology for Estimating Cost	Cost in Dollars*
Designing and Printing the Form	Design Cost + Printing Cost	\$2,278
Distributing, Shipping, and Material Costs for the Form	Distribution + Shipping + Material Cost	0
SSA Employee (e.g., field office, 800 number, DDS staff) Information Collection and Processing Time	GS-9 employee x # of responses x processing time	\$1,750,000
Full-Time Equivalent Costs	Out of pocket costs + Other expenses for providing this service	\$0
Systems Development, Updating, and Maintenance	GS-9 employee x man hours for development, updating, maintenance	\$73,333
Quantifiable IT Costs	Any additional IT costs	\$0
Total		\$1,825,611

* We have inserted a \$0 amount for cost factors that do not apply to this collection.

SSA is unable to break down the costs to the Federal government further than we already have. It is difficult for us to break down the cost for processing a single form, as field office and State Disability Determination Services staff often help respondents fill out several forms at once, and the time it takes to do so can vary greatly per respondent. As well, because so many employees have a hand in each aspect of our forms, we use an estimated average hourly wage, based on the wage of our average field office employee (GS-9) for these calculations. However, we have calculated these costs as accurately as possible based on the information we collect for creating, updating, and maintaining these information collections.

15. Program Changes or Adjustments to the Information Collection Request

There are no changes to the public reporting burden.

16. Plans for Publication Information Collection Results

SSA will not publish the results of the information collection.

17. Displaying the OMB Approval Expiration Date

OMB granted SSA an exemption from the requirement to print the OMB expiration date on its program forms. SSA produces millions of public-use forms

with life cycles exceeding those of an OMB approval. Since SSA does not periodically revise and reprint its public-use forms (e.g., on an annual basis), OMB granted this exemption so SSA would not have to destroy stocks of otherwise useable forms with expired OMB approval dates, avoiding Government waste.

18. Exceptions to Certification Statement

We are not requesting an exception to the certification requirements at 5 *CFR* 1320.9 and related provisions at 5 *CFR* 1320.8(b)(3).

B. Collections of Information Employing Statistical Methods

We do not use statistical methods for this information collection.