

Supporting Statement for:
Fiduciary Bond (38 CFR Part 13)

OMB #2900-0804

A. JUSTIFICATION:

1. Explain the circumstances that make the collection of information necessary. Identify legal or administrative requirements that necessitate the collection of information.

The Department of Veterans Affairs (VA), through its Veterans Benefits Administration (VBA), administers the Fiduciary Program. The Fiduciary Program provides oversight to VA beneficiaries who, because of injury, disease, the infirmities of advanced age, or minority are unable to manage their VA benefits.

Due to Congress authorizing VA to require a prospective fiduciary to obtain a surety bond as a part of the certification process of a prospective fiduciary, VA is requiring fiduciaries to submit proof of adequate bonding with annual accounting to facilitate its oversight responsibility as mandated.

OMB Control number 2900-0804 is associated with final rule, RIN # 2900-0804.

RIN #2900-AR11, *Fiduciary Bond*, final rule is amending its regulation that governs fiduciary activities. More specifically, the amendment would revise procedures to exempt a VA appointed fiduciary who is also serving as a court-appointed fiduciary from posting multiple bonds and to also exempt a VA-appointed fiduciary that is also, a state agency with existing state mandated liability insurance or a blanket bond from having to obtain an additional bond payable to the Secretary of Veterans Affairs.

This final rule, also reduces the burden on beneficiaries with paying for a second bond when there already is adequate protection in place, remaining consistent with current policy and statutory requirements. Furthermore, this change reduces the number of respondents because fewer individuals would be required to send VA proof of bondage.

The information collection requirement in §13.230 is currently approved by OMB and has been assigned OMB # 2900-0804. This final rule includes provisions involving a revised collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et., seq). There would be no change in the need for information nor the use of information collected for OMB #2900-0804. The information is needed to facilitate VA's oversight regarding the funds under management protection requirements prescribed in §13.230.

2. Indicate how, by whom, and for what purposes the information is to be used; indicate actual use the agency has made of the information received from current collection.

As there isn't a form to collect information, VA field fiduciary personnel make a request either verbally or by letter that informs the fiduciary to submit the original bond certificate or the contractual agreement between the fiduciary and the bonding company as proof of

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adequate bonding. The amended collection of information is required to fulfill VA requirements mandated by Congress, for oversight of fiduciaries.

- 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.**

This amended collection of information would not involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

- 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.**

Program reviews were conducted to identify potential areas of duplication; however, none were found to exist. There is no known Department or Agency which maintains the necessary information, nor is it available from other sources within our Department.

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

The amended collection of information does not involve small businesses or entities.

- 6. Describe the consequences to 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.**

Due to Congress authorizing VA to require a prospective fiduciary to obtain a surety bond as a part of the certification process of a prospective fiduciary, VA is requiring fiduciaries to submit proof of adequate bonding with annual accounting to facilitate its oversight responsibility as mandated. RIN 2900-AR11, *Fiduciary Bond*, does not use a form to collect this information. However, the amended information request is made by VA field fiduciary personnel. They make the request either verbally or by letter that informs the fiduciary to submit the original bond certificate or the contractual agreement between the fiduciary and the bonding company as proof of adequate bonding. The amended collection of information is required to fulfill VA requirements mandated by Congress, for oversight of fiduciaries.

The VA Fiduciary Program would not be able to provide adequate oversight of certain fiduciaries appointed to receive VA benefits in excess of \$25,000 on behalf of a beneficiary without proof that surety bonds are in place to protect these funds.

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- 7. Explain any special circumstances that would cause an information collection to be conducted more often than quarterly or require respondents to prepare written responses to a collection of information in fewer than 30 days after receipt of it; submit more than an original and two copies of any document; 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 and require the use of a statistical data classification that has not been reviewed and approved by OMB.**

There is no special circumstance requiring collection in a manner inconsistent with 5 CFR 1320.6 guidelines.

- 8. If applicable, provide a copy and identify the date and page number of publications in the Federal Register of the sponsor'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 sponsor in responses to these comments. Specifically address comments received on cost and hour burden.**

The Department notice was published in the Federal Register on September 29, 2021, Volume 86, No. 186, pages 53913 to 53915. No comments were received in response to this notice.

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

No payments or gifts to respondents have been made under this amended collection of information.

- 10. Describe any assurance of privacy to the extent permitted by law provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

The records are maintained in the appropriate Privacy Act System of Records identified as "Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records-VA (58VA21/22/28)," published at 74 FR 29275 on June 19, 2009, last amended at 87 FR 8740 (February 16, 2022).

- 11. Provide additional justification for any questions of a sensitive nature (Information that, with a reasonable degree of medical certainty, is likely to have a serious adverse effect on an individual's mental or physical health if revealed to him or her), such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private; include 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.**

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There are no questions of a sensitive nature.

12. Estimate of the hour burden of the collection of information:

- a. Number of Respondents is estimated at 9,670 per year.
- b. Frequency of Response is one time.
- c. Annual burden hours are 161 hours.
- d. The estimated completion time for each form is 1 minute.
- e. The respondent population for this collection is composed of fiduciaries who are required to obtain surety bonds. VA cannot make further assumptions about the population of respondents because of the variability of factors such as the educational background and wage potential of respondents. Therefore, VBA used general wage data to estimate the respondents' costs associated with completing the information collection.

The Bureau of Labor Statistics (BLS) gathers information on full-time wage and salary workers. According to the latest available BLS data, the mean hourly wage is \$28.01 based on the BLS wage code – “00-0000 All Occupations.” This information was taken from the following website: https://www.bls.gov/oes/current/oes_nat.htm.

Legally, respondents may not pay a person or business for assistance in completing the information collection. Therefore, there are no expected overhead costs for completing the information collection. VBA estimates the total cost to all respondents to be \$4,509.61 (161 burden hours x \$28.01 per hour).

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).

This submission does not involve any recordkeeping costs.

14. Provide estimates of annual cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operation expenses (such as equipment, overhead, printing, and support staff), and 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 in a single table.

Estimated Costs to the Federal Government:

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Grade	Step	Burden Time	Fraction of Hour	Hourly Rate	Cost Per Response	Total Responses	Total
3	3	1	0.02	\$12.65	0.211	9,670	\$ 2,038.76
Overhead at 100% Salary							\$ 2,038.76
9	3	1	0.02	\$24.07	0.401	9,670	\$ 3,879.28
Overhead at 100% Salary							\$ 3,879.28
10	3	1	0.02	\$26.51	0.442	9,670	\$ 4,272.53
Overhead at 100% Salary							\$ 4,272.53
Processing / Analyzing Costs							\$ 20,381.14
Total Cost to Government							\$ 20,381.14

Overhead costs are 100% of salary and are the same as the wage listed above and the amounts are included in the total.

There are no printing or production costs as there is no form associated with this amended information collection.

Note: The hourly wage information above is based on the hourly 2022 General Schedule (Base) Pay ([SALARY TABLE 2022-GS \(opm.gov\)](https://www.opm.gov/policy-data-oversight/salary-tables/)). This rate does not include any locality adjustment as applicable.

The processing time estimates above are based on the actual amount of time employees of each grade level spend to process to completion a claim received on this form. The within-grade step (3) of each employee represents the average experience of employees within each grade.

15. Explain the reason for any burden hour changes since the last submission.

The respondent burden has decreased due to the amended information collection.

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.

The amended information collection is not for publication or tabulation use.

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17. If seeking approval to omit the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We are not seeking approval to omit the expiration date for OMB approval. This amended information collection does not contain a form.

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

This submission does not contain any exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods

No statistical methods are used in this data collection.