**Supporting Statement for**

**Filing Claims Under the Federal Tort Claims Act**

**20 CFR 429.101-110**

# OMB No. 0960-0667

**A. Justification**

1. **Introduction/Authoring Laws and Regulations**

The Federal Tort Claims Act (FTCA), *28 U.S.C. 2671-2680* of the *United States Code*, is the legal mechanism for compensating persons injured by negligent or wrongful acts that occur during the performance of official duties by Federal employees. Most individuals seeking to file a claim under the FTCA complete Standard Form SF-95 (OMB Control No. 1105-0008), Claim for Damage, Injury, or Death, or submit a written explanation of their FTCA claim, and submit it to the Social Security Administration. The FTCA authorizes the collection of this information. One can also find authorization in the Code of Federal Regulations, *20 CFR 429.101-110*.

1. **Description of Collection**

The Social Security Administration (SSA) accepts monetary claims filed under the FTCA for damages against the United States; loss of property; personal injury; or death resulting from an SSA employee's wrongful act or omission. The regulation sections cleared under this information collection request that claimants provide information SSA can use to investigate and determine whether to make an award, compromise, or settle under the FTCA.

In accordance with the law, SSA accepts claims for money damages filed under the FTCA against the United States under the following regulations:

* ***20 CFR 429.102-103***: Filing a Claim. To file a claim, an individual or entity must complete the Department of Justice’s SF-95 or submit written notification of the incident accompanied by a claim for money damages in a certain sum for damage to or loss of property caused by the incident.
* ***20 CFR 429.104(a)***: Damage to or loss of property. To claim property damage, the individual or entity may submit the following types of evidence: proof of ownership; itemized statements of the amount claimed; itemized receipt of payment for necessary repairs; statements listing purchase, purchase price, market value, and salvage value; or any other evidence bearing on the responsibility of the United States for the injury to, or loss of, property.
* ***20 CFR 429.104(b)***: Personal injury. To claim personal injury, the individual or entity may submit a written report from a physician explaining the nature and extent of injury; nature and extent of treatment; any degree of temporary or permanent disability; the prognosis; period of hospitalization; any diminished earning capacity; itemized bills for treatment expenses; and a statement of expected duration of, and expenses for, treatment. We may also require the individual to submit a written statement from the individual’s employer showing actual time lost from employment, or, if self-employed, documentary evidence showing the amount of earnings actually lost. The individual may also submit any other evidence bearing on the responsibility of the United States for the personal injury or damages claimed.

* ***20 CFR 429.104(c)***: Death that a negligent or wrongful act or omission an SSA employee caused. To assert that an SSA employee caused a death, the claimant must submit evidence and information such as the following: an authenticated death certificate showing cause of death, date of death, and age at time of death; the employment or occupation at time of death, including the deceased’s monthly or yearly salary or earnings (if any), and the duration of last employment or occupation. We may also require information regarding the deceased’s survivors; the deceased’s general health before death; itemized bills for medical and burial expenses; a physician’s detailed statement specifying the injuries suffered; and the deceased’s physical condition. In addition, the individual may submit any other evidence or information bearing on the responsibility of the United States for the death or damages claimed.

All of the above regulatory requirements pertain to the claims individuals or entities submit to SSA along with the appropriate evidence or information pertaining to their claims. For the United States to be liable under the FTCA, the federal employee must cause the loss, damage, injury, or death in the performance of official duties, under circumstances in which the United States, if a private person, would be liable in accordance with the law of the place where the act or omission occurred.

If SSA denies the claim, before filing suit and before the expiration of the 6‑month period after the date of mailing the denial notice, the claimant may take the following action:

* ***20 CFR 429.106(b)***: File a written request with SSA for reconsideration. The individual must send this written request via certified or registered mail.

SSA employees collect the information voluntarily submitted by FTCA claimants.

Respondents learn about SSA’s administrative process for filing FTCA claims through SSA’s field office personnel who explain the process and direct them to our regulations at *20 CFR Part 429*. The SSA employees also explain the process to respondents through SSA’s Administrative Instructions Manual System (AIMS) guide at AIMS Financial Management Manual Chapters 6.01. This information enables respondents to learn about the information they need to file an FTCA claim with SSA, as well as where to send these claims for SSA’s review.

Once SSA receives an FTCA claim, we assign the claim to an attorney for review. The attorney reviews the claim and contacts the claimant or their representative if information is needed to make a decision on the claim that was not included with the form. A respondent’s experience during this information collection varies greatly depending on the nature of the claim and whether the respondent has a representative. For example, a respondent submitting a claim for an alleged injury at an agency facility may need to submit a number of documents concerning the circumstances leading to the injury and the medical effects. The number and type of documents would depend on the individual facts alleged in the claim. This may be facilitated by a representative. On the other hand, a respondent alleging a tort based simply on poor customer service may have relatively few documents and information to submit.

We identified the following psychological costs based on the requirements for this information collection:

* **Psychological Cost #1:**
	+ **Requirement for the Program:** The SF-95 and any supporting documentation may concern matters where a person has suffered a physical, emotional, or material loss.
	+ **Psychological Cost:** There may be a psychological cost to assembling and submitting the form and documentation because it may serve as a reminder to the person of the loss they suffered. The degree of psychological cost could vary greatly from a low level for a material loss to a very high level for the loss of a loved one. Further, there may be a psychological cost associated with providing personal information, which could include sensitive documents such as medical records.

We understand these psychological costs may cause respondents to delay their completion of the information collection or cause them to abandon the information collection entirely. However, we require full completion of this collection to receive benefits. Therefore, we have taken this potential psychological cost into account when calculating our burden in #12 below.

The respondents are individuals or entities making a claim under the FTCA.

1. **Use of Information Technology to Collect the Information**

SSA collects the information through various means, including written submissions via USPS mail without the use of any form, or submissions using OMB-approved SF-95 (OMB Control No. 1105-0008). SSA did not create an electronic version of the form under the agency’s Government Paperwork Elimination Act (GPEA) plan because on average fewer than 200 respondents complete the form annually, and because respondents often use the Department of Justice’s standard form to submit the information. We do not count the burden for the use of the SF-95, as the Department of Justice owns the OMB approval for that standard form. Rather, we only count the burden for those respondents who submit written requests without the use of the standard form under this OMB approval. We noted the use of the SF-95 on the burden chart in #12 below with a one‑hour placeholder burden, as the majority of respondents filing FTCA claims do so using the SF-95.

1. **Why We Cannot Use Duplicate Information**

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

1. **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** If we did not collect this information, SSA would be unable to investigate and determine whether to make an award, compromise, or settlement under the FTCA. Because we only collect the 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 collect this information in a manner inconsistent with *5 CFR 1320.5*.

1. **Solicitation of Public Comment and Other Consultations with the Public**

The 60-day advance Federal Register Notice published on April 9, 2024, at

89 FR 24886, and we received no public comments. The 30-day FRN published on July 5, 2024, at 89 FR 55666. If we receive any comments in response to this Notice, we will forward them to OMB. We did not consult with the public in the revision/maintenance of this form.

1. **Payment or Gifts to Respondents**

Other than settlement payments where SSA determines that it is liable for the damages alleged under the FTCA, and where the amount is under $2,500, SSA makes no payments to respondents. SSA does not accept gifts from respondents, nor does SSA give gifts to respondents.

1. **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.

1. **Justification for Sensitive Questions**

The information collection sometimes contains questions or information of a sensitive nature, including the potential need for medical records, in reference to an FTCA claim. If information of a sensitive nature is necessary, SSA explains to the respondent the clear correlation for the purpose of the information and voluntary submission. Those agency employees who need the information in the scope of their official duties are the only ones who use the information to make decisions in accordance with the law.

1. **Estimates of Public Reporting Burden**

We calculated the current burden based only on our management information data regarding how long it takes someone to either fill out the SF-95 or submit the information about their claim in writing, as it is difficult to assess how long it takes claimants to gather the evidence for these claims, since those times can vary so widely (dependent on the claim). Based on our current management information data, the time burden per claim for these regulatory sections can vary significantly, and claimants do not normally indicate how long it takes to gather the information. However, based on the data we have, we believe the average claimant may take approximately one hour to gather supporting documentation for an FTCA claim, complete their claim, and submit it to SSA. This figure considers claimants who submit no supporting documentation at all, and claimants who submit significant paperwork with their claims. It also includes consideration of the psychological costs mentioned in #2 above:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Modality of Completion** | **Number of Responses** | **Frequency of Response** | **Average Burden Per Response (minutes)\*** | **Estimated Annual Burden** **(hours)** | **Average Theoretical Hourly Cost Amount (dollars)\*\*** | **Total Annual Opportunity Costs (dollars)\*\*\*** |
| 429.102; 429.103 (SF-95)\* | 1 | 1 | 1 | 1 | $31.48\*\* | $32\*\*\* |
| 429.104(a) | 8 | 1 | 60 | 8 | $31.48\*\* | $252\*\*\* |
| 429.104(b) | 30 | 1 | 60 | 30 | $31.48\*\* | $944\*\*\* |
| 429.104(c) | 1 | 1 | 60 | 1 | $31.48\*\* | $32\*\*\* |
| 429.106(b) | 1 | 1 | 60 |  1 | $31.48\*\* | $32\*\*\* |
| **Totals** | **41** |  |  | **41** |  | **$1,292\*\*\*** |

\*We are including a one-hour placeholder burden for 20 CFR 429.102 and 429.103, as respondents complete OMB-approved Form SF-95 (OMB No. 1105‑0008). Since the burden for these citations is covered under a separate OMB number, we are not double-counting the burden here.

\*\* We based this figure on the average U.S. citizen’s hourly salary, as reported by the U.S. Bureau of Labor Statistics (<https://www.bls.gov/oes/current/oes_nat.htm>).

\*\*\*This figure does not represent actual costs that SSA is imposing on respondents 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.**

We did not calculate a separate Learning Cost time burden for this program, as we incorporated the Learning Cost into the total estimate above. We do not have management information which separates the learning cost for this program from the cost of completing the form.

We base our burden estimates on current management information data, which includes data from actual interviews, as well as from years of conducting this information collection. Per our management information data, we believe that **60** minutes accurately shows the average burden per response for learning about the program; receiving notices as needed; reading and understanding instructions; gathering the data and documents needed; answering the questions and completing the information collection instrument; scheduling any necessary appointment or required phone call; consulting with any third parties (as needed); and waiting to speak with SSA employees (as needed). Based on our current management information data, the current burden information we provided is accurate. The total burden for this ICR is **41** burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **$1,292**. SSA does not charge respondents to complete our applications.

1. **Annual** **Cost to the Respondents (Other)**

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

1. **Annual Cost To Federal Government**

The annual cost to the Federal Government is approximately $550. 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 | $0\* |
| 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 | $550\*\* |
| Full-Time Equivalent Costs | Out of pocket costs + Other expenses for providing this service | $0\* |
| Systems Development, Updating, and Maintenance | GS-9 employee 0 man hours for development, updating, maintenance | $0\* |
| Quantifiable IT Costs | Any additional IT costs | $0\* |
| **Total** |  | **$550** |

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

\*\* The collective cost for employee time is $550. We do not have a breakdown between those categories.

SSA is unable to break down the costs to the Federal government further than we already have, as field office 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**

When we last cleared this IC in 2021, the burden was 64 hours. However, we are currently reporting a burden of 41 hours. This stems from a minor decrease in respondents choosing to respond via written statement instead of using the SF-95 (OMB No. 1105‑0008). There is no change to the burden time per response. Although the number of responses changed, SSA did not take any actions to cause this change. These figures represent current Management Information data.

**16.** **Plans for Publication Information Collection Results**

SSA will not publish the results of the information collection.

**17.** **Displaying the OMB Approval Expiration Date**

SSA is not requesting an exemption from the requirement to display an expiration date.

1. **Exceptions to Certification Statement**

SSA is 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**

SSA does not use statistical methods for this information collection.