

## **SUPPORTING STATEMENT FOR REQUEST FOR EARNINGS INFORMATION**

### **OMB CONTROL NO. 1240-0025**

This is an extension without change of a currently approved information collection.

**Collection Instrument:** OWCP Form LS-426

#### **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 Division of Federal Employees', Longshore and Harbor Workers' Compensation administers the Longshore and Harbor Workers' Compensation Act. This Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend Longshore Act coverage to certain other employees.

Pursuant to Section 8 of the LHWCA (33 USC 908), injured employees shall receive compensation in an amount equal to 66-2/3 per centum of their average weekly wage. OWCP Form LS-426 is used to verify the average weekly wage of an injured employee to determine if the correct compensation rate is being paid. The website address for (33 USC 908) is <https://www.dol.gov/agencies/owcp/dlhwc/lhwca>.

Pursuant to Section 10 of the Act (33 USC 910), the average weekly wage of the injured employee may be determined by using those wages earned in the occupation, which the injury occurred, or wages earned in different occupations. Depending on whether similar or other employment is involved, the average weekly wage will be determined under Section 10(a), (b), or (c) of the Act. The website address for (33 USC 910) is <https://www.dol.gov/agencies/owcp/dlhwc/lhwca>.

Additionally, pursuant to Public Law 106-113, the Secretary of Labor may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 USC 901 et seq, provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

**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 OWCP Form LS-426, Request for Earnings Information, is used by district offices to collect wage information from injured workers to assure payment of compensation benefits to injured workers at the proper rate. Utilization of the form benefits the injured worker. It provides a simple method for the injured worker to provide the OWCP with prior earnings information. If the information were not collected, injured workers would not be paid the proper compensation rate in all cases.

**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.**

Respondents can submit the OWCP Form LS-426 electronically using our secure web portal (<https://seaportal.dol.gov>). The form itself is located on our website at <https://www.dol.gov/sites/dolgov/files/owcp/dlhwc/ls-426.pdf>.

**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.**

This information collection does not duplicate existing requirements. No similar information is available from any other source, which information is only available from the injured worker.

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

Because the injured worker provides this information, small businesses are not involved and thus, the information collection does not have a significant impact on small businesses.

**6. Describe the consequence 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.**

The information is only requested on occasion when the need arises - when adequate wage information is not otherwise available.

**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 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 special circumstances required in the collection of this information.

**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.**

No outside consultations have been conducted concerning the use of this form. The form is to be used by injured workers on a one-time basis.

We have received no complaints relative to its completion. The form assists the injured worker in obtaining all benefits to which he/she is entitled.

A Federal Register Notice inviting public comment was published on September 4, 2024 (89 FR 71935). A correction notice was published in the Federal Register on October 15, 2024 (89 FR 83054). No comments were received.

**9. Explain any decision to provide any payments or gifts to respondents, other than remuneration of contractors or grantees.**

No payments or gifts are provided to respondents.

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

While no assurance of confidentiality is provided to respondents, to the extent records pertaining to specific compensation cases are disclosed, they are protected under the Privacy Act. Otherwise, the information collected is not protected under the Privacy Act.

**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.

**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. Generally, 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.**

It is estimated that approximately 100 LS-426 forms will be filed in OWCP district offices each year. This estimate is based on actual forms received. Each form will be completed by an injured worker. The information requested is readily available from payroll records, income tax returns, or personal knowledge of the injured worker. The form is provided as a convenience to the injured worker for the purpose of qualifying for the highest possible compensation rate. The estimated time to complete the form is based on the time needed to merely transfer the needed information from records already in existence or from the personal knowledge of the claimant onto the form. Entries are only needed for a 12-month period. The estimated time to complete the form is 15 minutes. Total burden is therefore 25 hours (100 forms x .25 hours = 25 burden hours).

The annualized burden cost to the respondents has been estimated to be approximately \$624.75. This estimate is derived from use of the National Average Weekly Wage (NAWW) as computed by the Bureau of Labor Statistics and which is based on the national average earnings of production or nonsupervisory workers on private nonagricultural payrolls.

33 USC 908(b) of the Longshore and Harbor Workers' Compensation Act mandates the use of the NAWW in setting the maximum and minimum compensation rates under the Act and in determining the amount of annual adjustments due to permanent total disability and death beneficiaries. Since it is not possible to determine the specific occupation or wages for each person who will provide the information covered by this clearance, e.g., Longshore workers, shipbuilders, harbor workers, ship repair persons, and other maritime workers, and wages can vary considerably from person to person depending on duties and length of service, use of a national average weekly wage covering all occupations appears reasonable under the circumstances. The current applicable NAWW is \$999.55. The computations are therefore as follows:  $\$999.55 \div 40 \text{ hrs} = \$24.99/\text{hr} \times 25 \text{ hrs} = \$624.75$  annualized burden cost.

#### **Estimated Annualized Respondent Cost and Hour Burden**

<b>Activity</b>	<b>No. of Respondents</b>	<b>No. of</b>	<b>Total Responses</b>	<b>Average Burden</b>	<b>Total Burden</b>	<b>Hourly Wage</b>	<b>Total Burden</b>
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		Responses per Responden t		(Hours)	(Hours)	Rate	Cost
OWCP Form LS-426	100	1	100	.25	25	\$24.99	\$624.75

**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 startup 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.**

The only costs associated with the form are the costs for mailing. It is estimated that 97% of the forms will be submitted electronically using our Secure Electronic Access Portal (SEAPortal). The other 3% of the forms will be mailed.

100 forms x 3% (mailed) = 3 forms

OWCP estimates the combined postage and envelope cost to the respondent to be approximately \$1.00.

\$1.00 x 3 forms = **\$3.00 mailing costs**

**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 cost to the government has been estimated to be approximately \$377.76. This estimate was determined by taking into consideration the analysis costs associated with the issuance and review of OWCP Form LS-426. Analysis costs were determined by applying the hourly rate of a GS-12/5 claims examiner to the total annual hours required for review. The annual review hours were determined by applying an estimate of .08 hour or 5 minutes for the review and analysis of each form against the 100 forms which are received each year.

The calculations are therefore as follows:

$(.08 \text{ hr} \times 100 = 8 \times \$47.22) = \$377.76$  (\$378.00 rounded)

\*Hourly rate taken from Salary Table 2024 - RUS ([https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2024/RUS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2024/RUS_h.pdf))

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

There have been no changes in burden since the last collection.

**16. For collections of information whose results will be published, outline plans for tabulations, 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 information collected will not be published for statistical use.

**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.**

OWCP does not seek approval to not display the expiration date for OMB approval of the information collection.

**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.