Supporting Statement for SSA-7163A-F4
Supplemental Statement Regarding Farm Activities of
Persons Living Outside the United States
20 CFR 404.401(b)(l), 404.415 and 404.417
OMB No. 0960-0103

A. Justification

1. Introduction/Authoring Laws and Regulations

For individuals who retire and choose to begin receiving retirement or survivors benefits from the Social Security Administration (SSA) before full retirement age, the *Social Security Act* (*Act*) requires SSA to withhold some or all retirement or survivors' benefits if the individual continues to earn income. Under Sections *203(b)* and *(c)* of the *Act*, as amended by the *Senior Citizens' Freedom to Work Act of 2000*, SSA may make deductions from monthly Social Security payments of employed and self-employed beneficiaries (other than disability beneficiaries) who are under full retirement age and whose income exceeds the annual minimum earnings threshold. The provisions of law governing deductions based on work activity also apply to beneficiaries outside the United States. SSA's Commissioner authorized the use of Form SSA-7163A-F4 to meet the requirements of Sections *203(b)* and *(c)* of the *Act*. *20 CFR 404.401(b)(l)*, *404.415*, and *404.417* of the *Code of Federal Regulations* implement these two sections of the *Act*. Section *203(c)* of the *Act* requires the Commissioner to make deductions from benefits of entitled individuals who engage in remunerative activity outside the United States for more than 45 hours per month. To determine if someone is subject to this work test, SSA needs the dates of work, information to distinguish between employer and employee, and information to distinguish a farm operation from a rental or farm property. We design all questions to elicit a full description of the enterprise.

2. Description of Collection

For individuals who retire but earn income in the United States above the annual minimum earnings threshold, SSA notifies the beneficiary and begins withholding some or all benefits based on the outcome of its annual earnings test (AET). For individuals with foreign sources of income, administrative complexities related to foreign currency value exchange rates renders it impracticable to perform the same test. Accordingly, the foreign work test (FWT) provides for deductions from the benefits of employees under full retirement age who engage in paid work activity not covered by the U.S. Social Security system (i.e., no collection of Federal Insurance Contributions Act (FICA) taxes on the income) for more than 45 hours in a calendar month. We impose deductions for each month in which a beneficiary under full retirement age works over 45 hours.

SSA does not receive notice from the Internal Revenue Service (IRS) W-2 reporting about beneficiaries' work if it is not under the U.S. Social Security system (non-covered work), and therefore we rely on beneficiaries to self-report.

They may voluntarily report work by phone or by writing to a U.S. Social Security office or Federal Benefits Unit (FBU) outside the United States. When SSA receives notice that a beneficiary of retirement or survivors benefits under full-retirement age is working outside the United States, we request they fill out Form SSA-7163A-F4. Specifically, SSA uses the form to determine if we should apply foreign work deductions to the beneficiary's Title II benefits. We collect the information either annually or every other year, depending on the respondent's country of residence.

In addition to relying on the beneficiaries to inform us when they begin foreign work, we rely on our foreign enforcement program to provide them an opportunity to report work activity. The foreign enforcement program sends Form SSA-7161, Report to the United States Social Security Administration By Person Receiving Benefits for a Child or For an Adult Unable to Handle Funds or SSA-7162, Report to the United States Social Security Administration to beneficiaries outside the United States (OMB Control No. 0960-0049). These forms collect information about work activity and other events that might require suspension, termination, or adjustment of benefits.

SSA uses the information we collect on Form SSA-7163A-F4 to determine:

- whether the work beneficiaries perform outside the United States is cause for deductions from their monthly benefits;
- which of two work tests (foreign work test or annual earning test) is applicable; and,
- the number of months, if any, for SSA imposed deductions.

We ask about the type of business for the person's employment or self-employment outside the United States because the type of work can determine which work test applies.

Earnings from the following work activities outside the United States are subject to the FWT:

- Service in the exercise of the ministry outside the United States by a nonresident alien ministry;
- active duty in the U.S. Armed Forces, and Peace Corps, etc.;
- employment (other than active service in the U.S. Armed Forces) outside the United States which is not covered under Title II of the Act;
- self-employment of a nonresident alien (i.e., not a U.S. resident of the 50 States, District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands) in a trade or business other than the exempted activities; and,
- self-employment of a U.S. citizen or resident alien exempt from coverage by a totalization agreement.

Earnings from the following work activities outside the United States are subject to the AET:

- Self-employment of U.S. citizens or resident aliens outside the United States, in a trade or business other than the exempted activities, even though there is a loss or all of the income, we exclude as foreign earned income, or as income from sources within U.S. possessions;
- self-employment activity which we may otherwise cover under the U.S. Social Security system (and therefore subject to the AET) we may exclude if the respondents perform work in a country with which the United States has a totalization agreement;
- services in the exercise of the ministry outside the United States by a U.S citizen or a resident alien even though an exemption from coverage has been applied for and granted; and,
- services in the exercise of the ministry outside the United States by a U.S. citizen or a resident alien even though an exemption from coverage has been applied for and granted.

Neither the FWT nor the AET applies to activity which would, if carried on in the United States, result only in income which is specifically exempt from coverage: rentals from real estate, capital gains, dividends or interest, retirement pay to partners who rendered no services, and limited partnership income.

Respondents are Social Security beneficiaries engaged in farming activities outside the United States.

3. Use of Information Technology to Collect the Information

Form SSA-7163A-F4 is available on SSA's website as a fillable printable PDF. Respondents can download or print the form from our website, complete it, and mail it back to us. In addition, we can send the fillable version to the respondents upon request. Respondents can only submit the information collection via mail or hand delivery at certain embassies and consulates. This collection does not currently have a fully public-facing Internet version, as we prioritized other information collections for full electronic conversions. Given that IT Mod programming is an ongoing, dynamic project, we cannot provide specific timelines for when we will be able to make any particular ICR available via Internet web-based application. We will ultimately convert most existing ICRs to full electronic versions depending on how they fall within our overall IT Mod schema, but this may be unconnected to the PRA approval lifecycle.

In the interim, we evaluated this collection for conversion to a submittable PDF. Given the high volume of conversions we are coordinating and the more urgent nature of some of the other conversions, we ultimately decided not to prioritize this ICR for conversion to fully submittable PDF at this time. When we are able to schedule this form for conversion to a submittable PDF, we will submit a Change Request to OMB to request prior approval.

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

If SSA did not use Form SSA-7163A-F4, we would be unable to collect necessary information regarding employment or self-employment farm activities from beneficiaries under full retirement age who live outside the United States that may require work suspensions and deductions from their Social Security benefits according to the law. Because we only 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 June 24, 2022, at 87 FR 37899, and we received no public comments. The 30-day FRN published on August 26, 2022, at 87 FR 52605. 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 payments 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)***	**Total Annual Opportunity Cost (dollars)****
SSA-7163A-F4	19	1	60	19	$16.70*	$317**

* We based this figure on the average farming occupations hourly wages, as reported by Bureau of Labor Statistics data (https://www.bls.gov/oes/current/oes450000.htm).

** 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**.

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 the **60** minutes shown in our chart above accurately shows the average burden per response for reading the instructions, gathering the facts, and answering the questions. Based on our current management information data, the current burden information we provided is accurate. The total burden for this ICR is **19** burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **$317**. 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 **$5,930**. 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	$10
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	$2,500
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	$3,420
Quantifiable IT Costs	Any additional IT costs	$0*
Total		**$5,930**

* 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 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 2019, the burden was 1,000 hours. However, we are currently reporting a burden of 19 hours. This change stems from a large decrease in the number of responses from 1,000 to 19 from 2019 to 2022. 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

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

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. <u>Collections of Information Employing Statistical Methods</u>

SSA does not use statistical methods for this information collection.