

Supporting Statement for Form SSA-820-BK and SSA-820-APP
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. Section 223(d) of the *Act* defines the term “disability” as the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which one expects to result in death, or which lasted or is expected to last for a continuous period of not less than 12 months. Social Security Disability (SSDI) and Supplemental Security Income (SSI) applicants can become entitled to payments based on their inability to engage in SGA because of a physical or mental condition.

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.

Respondents learn of the possibility for benefits for SSDI and SSI disability via Agency mailers, multi-media commercials and advertising, SSA’s general website, a link from the *mySocial Security* landing page, as well as from other individuals. SSA is constantly reviewing our outreach tactics to assure maximum exposure and accessibility to necessary individuals. SSA’s website and mailers list the information respondents need to apply for this benefit.

To initiate the process, the field office or program service center completes 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 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, SSA uses 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. Sections 20 CFR 404.157(a) and 20 CFR 416.976(a) state that SSA subtract costs of impairment related work expenses (IRWE) when deciding if work is SGA. CFR 404.1576(g) CFR 416.976(g) require that SSA verify the need and amount of the item or service. If the individual alleges that they have an impairment related work expense, SSA may request proof of the expense. If the applicant (SSI and SSDI) or beneficiary (SSDI) is not performing SGA, SSA will not request proof of the expense. 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 an in-office or telephone interview, 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.

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

- **Psychological Cost #1:**
 - **Requirement for the Program:** The SSA-820-BK asks personal questions about the applicant or beneficiary's self-employment work to be eligible or remain eligible for benefits.
 - **Psychological Cost:** The respondent may perceive these questions as unduly invasive, and these factors can lead to individuals choosing to delay or abandon completing this form.
- **Psychological Cost #2:**
 - **Requirement for the Program:** The SSA-820-BK asks individuals to supply evidence of their earnings such as tax returns to support their eligibility for benefits.
 - **Psychological Cost:** The respondent might perceive that the agency distrusts them and their claim for benefits. Because of this, some may find the entire process stressful to the point that it may take them longer to complete the application, or they may postpone it, or stop answering the questions entirely.

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 (or continue to receive) benefits. Therefore, we have taken this potential psychological cost into account when calculating our burden in #12 below.

The respondents are applicants for SSI payments or applicants or recipients of Social Security disability benefits.

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

This collection has a public-facing fillable and submittable PDF version which utilizes Adobe Sign technology to accept and process an electronic signature (eSignature). The online submittable version mirrors the paper version and provides respondents with an online service option as an alternative to mailing, faxing, or bringing the form to an SSA field office. The respondents initiate the online version from our website and complete, electronically sign, and submit it online using the Adobe Sign web application. Use of the Adobe Sign web application does not present any added burden on respondents, nor does it require respondents to download and install the application locally on their device or pay any subscription or licensing fees. Respondents enter their responses into structured data fields on the screens within the Adobe platform by following a secure link that Adobe Sign sends to the email address the respondent provides.

The respondent receives an email from Adobe Sign with instructions for how to access, complete, eSign, and submit the form using this online service. Upon submission, the online submittable version of the form electronically transmits an image of the completed form to the Electronic Viewing System (eVIEW) for SSA technicians to process. In Fiscal Year 2022, SSA received 2,857, or roughly 3%, electronically submitted SSA-820-APP forms. Respondents can also complete the form via an in-office or phone interview, as SSA field office employees transcribe the information onto the form directly.

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 beneficiary 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 September 8, 2023, at 88 FR 62136, and we received 1 public comment. We addressed the public comment in the attached Addendum to the Supporting Statement. The 30-day FRN published on November 15, 2023, at 88 FR 78443. 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 of this form.

Correction Notice: We received public comments requesting SSA update the Average Burden per Response (minutes) on the SSA-820-APP from 30-minutes to 35-minutes to account for the amount of time respondent to provide their email and wait form an email from adobesign@adobesign.com. SSA agrees with the commenter and are updating the Average Burden per Response (minutes) to 35 minutes. We have corrected this in #12 below and on ROCIS.

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

As stated in #2 above, we need to ask some questions which some respondents may perceive as sensitive in nature to assess their eligibility for benefits under this program. These include questions regarding their work activity, earnings, impairment related work expenses, and unsuccessful work attempts. As such, this information collection may have psychological costs pertaining to collection of personal questions (which we also discussed in #2 above). However, we must ask these questions to evaluate the work activity to determine if it constitutes substantial gainful activity.

12. Estimates of Public Reporting Burden

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 or for Teleservice Centers (minutes) **	Total Annual Opportunity Cost (dollars)***
SSA-820-BK In Office	12,144	1	30	6,072	\$13.30*	24**	\$145,209***
SSA-820-BK Phone	36,428	1	30	18,214	\$13.30*	19**	\$395,662***
SSA-820-BK Returned Via Mail	48,571	1	40	32,381	\$13.30*	0	\$430,667***
SSA-820-APP Returned Via Online Submission	2,857	1	45	2,143	\$13.30*	0	\$28,502***
Totals	100,000			58,810			\$1,000,040

* We based this figure on the average DI payments based on SSA's current FY 2024 data (<https://mwww.ba.ssa.gov/legislation/2024FactSheet.pdf>).

** We based this figure on the average FY 2024 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)****
12,144	1	30	6,072	\$80,757****

****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.

We calculated the following Learning Cost time burden based on the estimated time and effort we expect respondents will take to learn about this program, its applicability to their circumstances, and to cover any additional research we believe respondents may need to take to understand how to comply with the program requirements (beyond reading the instructions on the collection instrument):

Total Number of	Frequency of	Estimate Learning	Estimated Total	Total Annual Learning Cost
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Respondents	Response	Cost (minutes)	Annual Burden (hours)	(dollars)****
100,000	1	15	25,000	\$332,500****

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

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

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 30 and 35 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 collection instrument is 50,239 burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of \$1,413.297. 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 \$3,149,721 . 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	\$3,069,000
Full-Time Equivalent	Out of pocket costs + Other	\$0

Costs	expenses for providing this service	
Systems Development, Updating, and Maintenance	GS-9 employee x man hours for development, updating, maintenance	\$78,443
Quantifiable IT Costs	Any additional IT costs	\$0
Total		\$3,149,721

* 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.

*Note: The total burden reflected in ROCIS is **100,941**, while the burden cited in #12 of the Supporting Statement is **58,810**. This discrepancy is because the ROCIS burden reflects the following components: field office waiting time + a rough estimate of a 30-minute, one-way, drive burden + teleservice wait time + learning costs. In contrast, the chart in #12 of the Supporting Statement reflects actual 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.