

**Supporting Statement for Forms
SSA-L-93-SM, SSA-L-94-SM, SSA-95-SM, and SSA-97-SM
Missing and Discrepant Wage Reports Letters, Questionnaires, and Online Reconciliation
Application
26 CFR 31.6051-2
OMB No. 0960-0432**

A. Justification

1. Introduction/Authoring Law and Regulations

Section 205(c)(2)(A) of the *Social Security Act (Act)* requires the Commissioner of the Social Security Administration (SSA) to establish and maintain records of the amounts of wages paid to each individual. The Internal Revenue Code requires filing a tax return, or statement, in accordance with prescribed regulations. SSA requires every employer required to file with the Internal Revenue Service (IRS) to supply SSA with a copy of Form W-2 (Wage and Tax Statement), information supplied to their employees, as stated in 26 CFR 31.6051-2 of the *Code of Federal Regulations*. This regulation is pursuant to Section 232 of the *Act*. Under an agreement with IRS (Joint Stipulation and Agreement, National Committee to Preserve Social Security and Medicare v. Louis W. Sullivan, M.D., et al., C.A. No. 88-0974 AER.), SSA attempts to contact employers two times to obtain the missing or discrepant information. When employers do not respond to SSA's inquiry, SSA refers their cases to the IRS for penalty assessment purposes.

SSA finds that approximately 500,000 employers a year have reports that are discrepant with IRS records, or the employer did not file with SSA. By way of our internal discovery and external usability testing, we discover these reporting errors by matching SSA's W-2 processed records with IRS' Form 941 (Employer's QUARTERLY Tax Return), Form 943 (Employer's Annual Federal Tax Return for Agricultural Employees), Form 944 (Employer's ANNUAL Federal Tax Return), or Schedule H (Household Employment Taxes) FICA tax receipt records. This information collection request proposes a plan to automate the current manual, paper-based IRS/SSA Reconciliation process and includes transformed SSA L-93-SM, SSA-L-94-SM, SSA 95-SM, and SSA-97-SM forms. We are including a streamlined instructions and a new public facing system for employers to reconcile discrepancies between IRS and SSA in an automated process.

2. Description of Collection

Each year employers report the wage amounts they paid their employees to the Internal Revenue Service (IRS) for tax purposes, and separately to SSA for retirement and disability coverage purposes. Employers should report the same figures to SSA and the IRS; however, each year some of the employer wage reports SSA receives show wage amounts lower than those employers report to the IRS. SSA uses Forms SSA-L93-SM, SSA-L94-SM, SSA-95-SM, and SSA-97-SM to ensure employees receive full credit for their wages. SSA is also

creating the online IRS/SSA Reconciliation which is a streamlined version of the SSA-95-SM and the SSA-97-SM. The IRS/SSA Reconciliation will guide employers to the appropriate solutions and will link the users to on-line tools to correct issues.

- Forms SSA-L-93-SM and SSA-L-94-SM are cover letters requesting the employer complete the enclosed questionnaire (SSA-95-SM and SSA-97-SM);
- Form SSA-95-SM (first and second request) is the questionnaire we use when there is no record of an employer wage report;
- Form SSA-97-SM (first and second request) is the questionnaire we use when there are discrepancies between IRS and SSA employer-reported wages;
- The IRS/SSA Reconciliation is an online, streamlined version of SSA-95-SM and SSA-97-SM which guides the employer to the appropriate solution and links the user to on-line tools to correct the issue.

An employer can submit the paper version of these forms, use the IRS/SSA Reconciliation application, or the electronic wage reports, to SSA themselves, or a third party may submit for them.

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

- **Psychological Cost #1:**

- o **Requirement for the Program:** The automated IRS/SSA Reconciliation process asks individuals to provide earnings evidence to the agency through an automated response to forms SSA L-93-SM, SSA-L-94-SM, SSA 95-SM, and SSA-97-SM so that SSA can determine whether we can justify the earnings correction action.
- o **Psychological Cost:** The respondent may perceive the request to provide an automated response to the current manual paper-based IRS/SSA Reconciliation process as intimidating, since it requires them to utilize computer technology. Some members of the public may suffer from computer anxiety or technophobia. This factor may lead to individuals choosing to delay or abandon responding to these forms. In addition, smaller businesses without access to technology or computers may feel this process inconveniences or prevents them entirely from conducting business with the agency.

- **Psychological Cost #2:**

- o **Requirement for the Program:** The automated IRS/SSA Reconciliation process introduces transformed SSA L-93-SM, SSA-L-94-SM, SSA 95 SM, and SSA-97-SM forms.

- o **Psychological Cost:** Transformed forms may cause a bit of confusion. Members of the public may perceive the subtle form changes as unnecessary or unclear. While others may find adapting to the transformed automated forms stressful. This change may result in some reverting back to the familiar manual paper response process. These factors may also lead individuals to delay or abandon responding to these forms.
- **Psychological Cost #3:**
 - o **Requirement for the Program:** The automated IRS/SSA Reconciliation process introduces transformed SSA L-93-SM, SSA-L-94-SM, SSA 95-SM, and SSA-97-SM forms.
 - o **Psychological Cost:** Transformed forms may cause a bit of confusion, because members of the public may perceive the subtle form changes as unnecessary or unclear, and others may find adapting to the transformed automated forms stressful. The changes in forms may result in some respondents reverting back to the familiar manual paper response process. These factors may also lead individuals to delay or abandon responding to these forms.

While these psychological costs may delay some responses, or may cause some respondents to choose to use the current paper version; we believe that the automated version will ultimately make it easier and more convenient for most respondents to submit this information.

The respondents are employers who reported lower wage amounts to SSA than they reported to the IRS.

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

SSA offers an alternative method for wage reporting through our Business Services Online (BSO) website (OMB No. 0960-0626). Through this website, employers may fill in the necessary information and submit their wage reports to SSA in a fully electronic format. Currently, BSO electronically processes W2 and W3 information, whereas the current IRS/SSA Reconciliation process does not process W2 and W3 information electronically. In accordance with the agency's Government Paperwork Elimination Act plan, SSA created an Internet version of Forms SSA-95-SM and SSA-97-SM. SSA will offer an online self-help and guided questionnaire modeled (yet modernized) after SSA-95-SM and SSA-97-SM, to guide the employer to the proper resolution to their reconciliation issue and link them to online tools to take action to make corrections. SSA offers an alternative method for wage reporting through our Business Services Online (BSO) website (OMB No. 0960-0626). Through this website, employers may register, log in, fill in the necessary information and submit their wage reports to SSA in a fully electronic format. This electronic format consists of accessing several electronic applications including Social Security Number Verification

Services (OMB No. 0960-0660); the IRS W-2 and W-2c online forms (OMB No. 1545-0008); and SSA's instructions as to how to submit wage reports online. SSA estimates the majority of the respondents use BSO; however, we still have some who submit paper wage reports. Based on our data, we estimate approximately 90% of respondents under this OMB number use the current electronic version and will use the new Internet version.

4. 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.

5. Minimizing Burden on Small Respondents

This collection does not significantly affect small businesses or other small entities. However, if we did not impose this burden, we would be unable to obtain the wage information necessary to properly post employee wages and maintain accurate earnings records. We minimized the burden by carefully reviewing the form and ensuring we only ask small businesses and entities to complete relevant and necessary questions.

6. Consequence of Not Collecting Information or Collecting it Less Frequently

If SSA did not use Forms SSA-L-93-SM, SSA-L-94-SM, SSA-95-SM, and SSA-97-SM, or the IRS/SSA Reconciliation application, we would be unable to obtain missing and discrepant earnings information, which could result in incorrect payments to beneficiaries. 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

SSA published the 60-day advance Federal Register Notice on June 1, 2023, at 88 FR 35990, and we received no public comments. We published the 30-day Notice on August 17, 2023 at 88 FR 56065. If we receive any public comments in response to the 30-day Notice, we will forward them to OMB. We did not consult with the public in the revision of this form.

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 26 U.S.C. 6103, 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 Current Public Reporting Burden for Paper Forms

Modality of Completion for forms	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-95-SM and SSA-97-SM (and accompanying cover letters SSA-L93, L94) (paper version)	356,800	1	30	178,400	\$29.76*	\$5,309,184**
IRS/SSA Reconciliation (online version)	89,200	1	30	44,600	\$29.76*	\$1,327,296**
Totals	446,000			223,000		\$36,636,480**

* We based this figure on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics 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.**

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 Respondents	Frequency of Response	Estimate Learning Cost (minutes)	Estimated Total Annual Burden (hours)	Total Annual Learning Cost (dollars)***
446,000	1	30	223,000	\$6,636,480***

*** 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** 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 **446,000** burden hours (reflecting SSA management information data), which results in an associated theoretical (not actual) opportunity cost financial burden of **\$13,272,960**. 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 **\$6,384,706**.

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	\$31,220
Distributing, Shipping, and Material Costs for the Form	Distribution + Shipping + Material Cost	\$268,780
SSA Employee (e.g., field office, 800 number, DDS staff) Information Collection and Processing Time	GS-9 employee x # of responses x processing time	\$6,069,706
Full-Time Equivalent Costs	Out of pocket costs + Other expenses for providing this service	\$0*
Systems Development, Updating, and	GS-9 employee x man hours for development, updating,	\$15,000

Maintenance	maintenance	
Quantifiable IT Costs	Any additional IT costs	\$0*
Total		\$6,384,706

* 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. First, since we work with almost every US citizen, we often do bulk mailings, and cannot track the cost for a single mailing. In addition, 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

When we last cleared this IC in 2021, the burden was 180,000 hours. However, we are currently reporting a burden of 223,000 hours. This change stems a increase in the number of responses from 360,000 to 446,000, due to SSA adding the IRS/SSA Reconciliation online. There is no change to the burden time per response. These figures represent current Management Information data.

***Note:** The total burden reflected in ROCIS is **802,800**, while the burden cited in #12 of the Supporting Statement is **446,000**. This discrepancy is because the ROCIS burden reflects the 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. Our new online screens will include a link to a pop-up which will include an expiration date statement related to the public use program forms.

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. Collections of Information Employing Statistical Methods

SSA does not use statistical methods for this information collection.