Supporting Statement A
Applications for Deemed Public Health Service (PHS) Employment with Liability Protections Under the Federal Tort Claims Act (FTCA) for Health Centers, Deemed Health Center Volunteers, and Free Clinic Sponsored Individuals
OMB Control No. 0906-xxxx- New

A. JUSTIFICATION

1. Circumstances Making the Collection of Information Necessary

The Health Resources and Services Administration (HRSA) is requesting Office of Management and Budget (OMB) approval for Applications for Deemed Public Health Service (PHS) Employment with Liability Protections Under the Federal Tort Claims Act (FTCA) for Health Centers, Deemed Health Center Volunteers, and Free Clinic Sponsored Individuals.

Congress enacted FTCA medical malpractice protection for Federally-supported health centers through the Federally Supported Health Centers Assistance Act (FSHCAA) of 1992 (P.L. 102-501) and FHSCAA of 1995 (P.L. 104-73), later codified as 42 U.S.C. Section 233 (a) – (n). Under the Act, health centers are considered Federal employees and are immune from lawsuits, with the Federal Government acting as their primary insurer.

Deeming applications must address certain specified criteria required by law to be approved, and FTCA application forms are critical to HRSA's deeming determination process. The application submissions provide HRSA with the information essential to evaluate the application and make a deeming determination. Moreover, the application information is also used to determine whether a site visit is appropriate to assess issues relating to quality of care and to determine technical assistance needs.

HRSA is proposing to combine the three existing Information Collection Requests (ICRs) for these programs into a single ICR consisting of the three application forms for ease of administrability. The three existing ICRs are: (1) Application for Health Center Program Award Recipients for Deemed Public Health Service (PHS) Employment with Liability Protections Under the Federal Tort Claims Act (FTCA) (OMB No. 0906-0035); (2) Application for Deemed Health Center Program Award Recipients to Sponsor Volunteer Health Professionals (VHPs) for Deemed PHS Employment (OMB No. 0906-0032); and (3) Federal Tort Claims Act (FTCA) Program Deeming Sponsorship Applications for Free Clinics (OMB No. 0915-0293).

Health Centers

The Health Center Program and Health Center FTCA Program are administered by HRSA's Bureau of Primary Health Care (BPHC). Health centers submit deeming applications annually to HRSA in the prescribed form and manner to obtain deemed PHS employee status, with the associated eligibility for FTCA coverage. Such applications must be approved by HRSA in a Notice of Deeming Action. Deemed health centers must resubmit applications annually meeting all deeming requirements to maintain deemed status.

Volunteer Health Professionals ("VHPs")

Section 224(q) of the PHS Act (42 U.S.C. § 233(q)), extends eligibility for deemed PHS employee status

to volunteer health professionals (VHPs) sponsored by deemed health centers upon approval of an individual deeming sponsorship application for deemed PHS employment. The Health Center VHP FTCA Program is administered by HRSA's BPHC. To maintain deemed status for VHPs, deemed health centers must submit to HRSA an annual deeming sponsorship application on behalf of individually named VHPs. For liability protections to apply, such applications must be approved by HRSA in a Notice of Deeming Action applicable to the individual VHP, which, absent other intervening facts, generally is applicable to covered activities within the scope of such deemed PHS employment for a calendar year.

Since the publication of the 60-day notice, HRSA has decided to no longer add a new question to the VHP application tool related to performing activities during declared emergencies. Instead, HRSA is adopting a new streamlined *Volunteer Health Professionals (VHP) Emergency Deeming Sponsorship Application*, that may be used by certain health centers (as identified by HRSA) that are affected by a declared emergency or other emergency situation, to seek expedited deemed status for sponsored VHPs for a limited time period to support short-term staffing needs based on the impact of the identified emergencies. The purpose of this streamlined deeming sponsorship application is to facilitate rapid onboarding of VHPs for health centers affected by an emergency. This application will be an abbreviated version of the normal VHP application and will require less attachments and uses primarily attestation statements. Since this tool will only be available in the Electronic Handbooks (EHBs) when HRSA determines it appropriate, the potential for confusion will be significantly reduced. This approach will also reduce overall burden for health centers by an estimated 50%.

2. Purpose and Use of Information Collection

Pursuant to Section 224(g)-(o), and (q) of the PHS Act (42 U.S.C. 233(g)-(o) and (q)), as amended, all three collections are done for the purpose of collecting information from certain health centers that receive grant funding under Section 330 of the PHS Act and free clinics to determine eligibility for liability protections, including FTCA coverage.

3. Use of Improved Information Technology

Applications for these programs must be submitted through HRSA's web-based application system, the Electronic Handbooks (EHBs). These electronic application forms decrease the time and effort required to complete the older, paper-based OMB approved FTCA application forms.

4. Efforts to Avoid Duplication

The application form is unique to this requirement. The information requested is specific to this activity and is needed to make FTCA deeming decisions for health centers.

5. Involvement of Small Entities

This activity does not have a substantial impact on small entities or small businesses.

6. Consequences of Collecting the Information Less Frequently

If the eligible entities do not submit an annual application meeting all statutory requirements, they will lose FTCA medical malpractice protection through the Federally Supported Health Centers Assistance Act (FSHCAA) of 1992 (P.L. 102-501) and FHSCAA of 1995 (P.L. 104-73), later codified as 42 U.S.C.

Section 233 (a) – (o) and (q).

7. Consistency with the Guidelines in 5 CFR 1320.5

The data is collected in a manner consistent with guidelines contained in 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

A 60-day notice published in the Federal Register on December 13, 2023, Vol. 88, No. 238; pp. 86346. There were no public comments. A 30-day notice was published in the Federal Register on March 29, 2024; Vol. 89, No. 62, pp. 22163. There were no public comments.

9. Remuneration of Respondents

Respondents will not receive any payments or gifts.

10. Assurance of Confidentiality

No assurance of confidentiality is made to the applicants. These applications provide descriptive information about each entity and its operations and procedures. Grantee level data are covered under the Freedom of Information Act.

11. Questions of a Sensitive Nature

There are no questions of a sensitive nature.

12. Estimates of Annualized Hour and Cost Burden

HRSA/BPHC has designed the FTCA Program deeming applications as a user-friendly mechanism for health centers and free clinics to submit deeming applications.

Estimated Annualized Burden Hours:

Form Name	Number of Respondents	Number of Responses per Respondent	Total Responses	Average Burden per Response (in hours)	Total Burden Hours
Application for Health Center Program Recipients for Deemed PHS Employment with Liability Protections Under the FTCA	1,160	1	1,160	2.5	2,900

Application for Deemed Health Center Program Recipients to Sponsor Volunteer Health Professionals (VHPs) for Deemed PHS Employment with Liability Protections Under the FTCA	1,156	3	3,468	2	6,936
Volunteer Health Professionals (VHP) Emergency Deeming Sponsorship Application	60	1	60	1	60
Application for Free Clinics to Sponsor Individuals for Deemed PHS Employment with Liability Protections Under the FTCA	374	3	1,122	2	2,244
Total	2750	7	5810	2.09	12140

The burden estimates for completing the FTCA deeming applications have been determined based on the experience of the program. Individual health center burden is estimated to be 24 hours per respondent for completing the deeming applications.

Estimated Annualized Burden Costs:

Type of Respondent	**Total Burden Hours**	**Hourly Wage Rate[1]**	**Total Respondent Costs[2]**
Health Center Deeming Application	2.5	$64.64	$323.20
Health Center VHP application	6	$64.64	$775.68
Health Center VHP Emergency application	1	$64.64	$129.28

[1] Wages for Medical and Health Services Managers are based on Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Employment Statistics*, Medical and Health Services Managers, at https://www.bls.gov/oes/current/oes119111.htm.

[2] Wages doubled for purposes of this calculation order to account for overhead costs.

Free Clinic Deeming Application	6	$64.64	$775.68

13. Estimates of Other Total Annual Cost Burden to Respondents or Recordkeepers/Capital Costs

The costs to respondents are comprised of their time, recordkeeping, reporting, data management, and auditing, as well as employer overhead and fringe benefits.

14. Annualized Cost to the Federal Government

Health Centers: The estimated annual cost to the government is approximately $198,595 (Contractor, 1 GS-12, 1 GS-14, 1 GS-15, 1 SES FTEs – 11% time of work) for reviewing the forms, and for processing and providing notification to applicants.

Health Center VHP: The estimated annual cost to the government is approximately $78,507 (Contractor, 1 GS-12, 1 GS-14, 1 GS-15, 1 SES FTEs – 11% time of work) for reviewing the forms, and for processing and providing notification to applicants.

Free Clinics: The estimated annual cost to the government for data processing and review of the applications is approximately $247,163 (Contractor, 1 GS-13, FTEs – 33% time of work).

Total estimated annual cost:[3] $786,398

15. Change in Burden

There is no change in burden, as this is a new package. As described in 1 above, this ICR combines three existing Information Collection Requests (ICRs) for these programs into a single ICR consisting of the three application forms for ease of administrability. There is no change in the total estimated burden when previously published as three ICRs. The new streamlined application for the Volunteer Health Professionals Emergency Application described in 1 above is estimated to be a burden reduction of up to 50% compared to the regular VHP application.

16. Plans for Analysis and Timetable of Key Activities

At this time, no statistical analysis will be conducted with the information collected. At this time, no information collected will be published. The possible use of the information collection materials includes Mass Email Communications, Webinar Announcements, BPHC, Staff Newsletter (internal), BPHC Digest Newsletter (internal), and the FTCA Website. Possible publication plans of the tools and the dates are to be determined, but anticipated to occur prior to the end of 2024.

17. Exemption for Display of Expiration Date

The expiration date will be displayed.

18. Certifications

[3] Wages multiplied by 1.5 in calculation of total cost to account for benefits and overhead.

This project fully complies with CFR 1320.9. The certifications are included in this package.