

**Supporting Statement for SSA-437
Discrimination Complaint Form
OMB No. 0960-0585**

A. Justification

1. The information collection is authorized by 5 U.S.C. 301, 29 U.S.C. 794(a), 42 U.S.C. 902(a)(5) *Executive Order 13166* and *Executive Order 13160*. Section 504(a) of the Rehabilitation Act (29 U.S.C. 794(a)) provides that an Executive agency shall not discriminate on the basis of disability in programs and activities conducted by the agency. The Federal Housekeeping statute (5 U.S.C. 301), authorizes an agency head to prescribe regulations for the government of the agency and the performance of agency business, and section 702(a)(5) of the *Social Security Act* (42 U.S.C. 902(a)(5)) authorizes the Commissioner to prescribe such rules and regulations as the Commissioner determines necessary or appropriate to carry out the functions of the agency. *Executive Order 13166* provides that Federal agencies are to provide individuals with limited English proficiency with meaningful access to federally conducted programs and activities without unduly burdening the fundamental mission of the agency. *Executive Order 13160* prohibits discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation and status as a parent in Federally conducted education and training programs and activities.
2. SSA has established an administrative procedure by which individuals may notify SSA that they believe they have been discriminated against in connection with a program or activity conducted by SSA on the basis of disability, race, color, national origin (including limited English proficiency), sex, sexual orientation, age, religion, or retaliation for having participated in a proceeding under this administrative complaint process. Pursuant to this procedure, SSA will review, investigate and decide these complaints and, when necessary, take action to correct the problem that gave rise to the complaints. SSA will also review, investigate and decide complaints alleging discrimination on the basis of status as a parent in education or training programs or activities conducted by SSA.

SSA will use the information collected on the form to evaluate the complaint, identify person(s) to contact concerning the complaint, identify records that may be relevant to the issues raised in the complaint, and identify possible means of resolving the complaint. Information that SSA collects about a complaint of discrimination is analyzed by authorized personnel within SSA. SSA may need to disclose information collected in connection with a complaint to persons inside and outside SSA in order to uncover or verify facts to develop a basis for making a decision on whether a civil rights violation occurred. SSA may also be required to reveal certain information collected in connection with a complaint to any individual who requests it under the provisions of the Freedom of Information Act (“FOIA”). Personal information provided by an individual will be used only for the specific purpose for which it was submitted, that is for authorized civil rights investigation and compliance activities. Except when required by law and for certain routine uses authorized under the Privacy Act, SSA will not release information collected in connection with a complaint of discrimination to any person or entity outside SSA unless the individual who supplied the information submits a written consent to its release. One

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of these exceptions is when release is required under the FOIA. Respondents are persons who believe they have been discriminated against by SSA or by SSA employees, contractors or agents in programs or activities conducted by SSA.

3. The SSA-437 is available on SSA's internet website in a fillable PDF format. Individuals can fill out the form online and then print the completed form, although they cannot save the information entered on the form. SSA does not currently have plans to make this form available electronically due to the low number of respondents and the priority of higher volume forms over this one.
4. The nature of the information being collected and the manner in which it is collected preclude duplication. There is no other collection instrument used by SSA that collects data similar to that collected here.
5. This collection does not have a significant impact on a substantial number of small businesses or other small entities.
6. Federal law prohibits SSA from discriminating on the basis of disability in the programs and activities it conducts, and SSA policy prohibits discrimination in its programs or activities on the basis of race, color, national origin (including limited English proficiency), sex, sexual orientation, age, religion and/or retaliation for having participated in a proceeding under the agency's administrative complaint process. Executive Order 13160 prohibits discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation and status as a parent in Federally conducted education and training programs and activities. SSA has established an administrative procedure for investigating, deciding and resolving allegations of discrimination in its programs and activities. If the information requested on the form is not collected, SSA's investigations into incidents of alleged discrimination would be impeded. Investigations would take more time because individuals would frequently need to make more than one contact with SSA before SSA had the information needed to investigate the complaint, and corrective action (if needed) would be delayed or not implemented at all. Because this information is only collected on an as-needed basis, it cannot be collected less frequently. There are no technical or legal obstacles that prevent burden reduction.
7. There are no special circumstances that would cause this information collection to be conducted in a manner that is not consistent with 5 CFR 1320.5.
8. The 60-day advance Federal Register Notice was published on January 17, 2007 at 72 FR 2081, and SSA has received no public comments. The second Notice was published on March 23, 2007, at 72 FR 13851. There have been no outside consultations with members of the public.
9. SSA provides no payments or gifts to the respondents.
10. The information requested is protected and held confidential 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.

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11. The nature of the discrimination alleged by the individual may require OGC to ask questions of a sensitive nature. For example, an individual who alleged discrimination on the basis of religion would be asked to identify his/her religion; an individual who alleged discrimination on the basis of disability would be asked to identify his/her disability; etc. However, the information requested is directly related to the allegations the individual raises and necessary if SSA is to investigate the complaint. Individuals are not required to file complaints of discrimination, but if they choose to do so, and if they want a decision on or resolution of a complaint they have filed, they may on occasion have to provide information that would otherwise be considered to be sensitive.
12. We project that we will receive approximately 140 complaints of discrimination per year. This is consistent with the number of complaints we have received in the last three years. The estimated time to complete the SSA-437 is one hour, for a total of 140 burden hours. The total burden is reflected as burden hours, and no separate cost burden has been calculated.
13. There is no known cost burden to the respondents.
14. The annual cost to the Federal Government is approximately \$7,500. This estimate is a projection of the costs for printing and distributing the collection instrument and for collecting the information.
15. The increase in the burden hours from 98 to 140 is based on the number of complaints we have received per year over the past three years.
16. The results of the information collection will not be published.
17. OMB has granted SSA an exemption from the requirement that the expiration date for OMB approval be printed on its program forms. SSA produces millions of public-use forms, many of which have a life cycle longer than that of an OMB approval. SSA does not periodically revise and reprint its public-use forms (e.g., on an annual basis). This exemption was granted so that otherwise useable editions of forms would not be taken out of circulation because the expiration date had been reached. In addition, Government waste has been avoided because stocks of forms will not have to be destroyed and reprinted.
18. 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

Statistical methods are not used for this information collection.