

**Supporting Statement for Regulations Governing  
Testimony by Employees and the Production of  
Records and Information in Legal Proceedings  
20 CFR 403.100-.155  
OMB No. 0960-0619**

**A. Justification**

1. Authority for the Social Security Administration (SSA) to collect this information is contained in 5 *USC* 301 of the *United States Code (USC)*, Departmental Regulations; 31 *USC* 9701, Fees and Charges for Government Services and Things of Value; 42 *USC* 902, Commissioner; Deputy Commissioner; Other Officers; 42 *USC* 1306, Disclosure of Information in the Possession of the Social Security Administration; and 20 *CFR* 403.100-.155 of the *Code of Federal Regulations*, Testimony by Employees and the Production of Records and Information in Legal Proceedings.
2. Each year, SSA receives requests for testimony. SSA's regulations at 20 *CFR* 403.100-.155 establish SSA policies and procedures applicable to requests for official agency information, records, or testimony in legal proceedings. Among other things, the regulations expressly prohibit any testimony except as approved by the Commissioner of Social Security. The regulations establish a procedure whereby an individual, organization, or government entity may request official agency information, records, or testimony in legal proceedings. An essential element of these regulations is the requirement that the requestor actually make the request for testimony to the Commissioner (or designee) in writing. The request must set out the nature and relevance of the testimony sought, explain why the information is not available by other means, explain why it is in SSA's interest to provide the testimony, and provide the date, time, and place for the testimony. The request must be made in writing so that the Commissioner (or designee) can properly and consistently evaluate the basis for the request and the extent to which the objectives of the agency would be furthered if the information or testimony was provided as requested. Respondents are any individuals or entities who request testimony from SSA or its employees in connection with any legal proceeding.
3. The collection of information in this case does not involve use of automated, electronic, mechanical, or other forms of information technology due to the individualized nature of each request and the fact that each requestor will generally submit a written request on a one-time only basis. In addition, SSA is not scheduling this collection for electronic implementation due to the low volume of respondents.
4. The nature of the information we are collecting and the manner in which we are collecting it preclude duplication. We do not have any other collection instrument that collects data similar to that collected here.
5. This collection does not affect small businesses or other small entities.

6. If SSA did not have this information collection, the Commissioner of Social Security would be unable to render an informed decision regarding requests made to the agency for information or testimony by an employee. In addition, because we collect this information on an as needed basis only, we cannot collect it less frequently. There are no technical or legal obstacles that prevent burden reduction.
7. There are no special circumstances that would cause SSA to collect this information in a manner that is not consistent with 5 CFR 1320.5.
8. SSA published the 60-day advance Federal Register Notice on February 17, 2009 at 74 FR 7506, and we received no public comments. We published the 30-day Federal Register Notice on April 24, 2009 at 74 FR 18782. There have been no outside consultations with members of the public.
9. SSA provides no payment or gifts to the respondents.
10. SSA protects and holds confidential the information from this collection 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. The information collection does not contain any questions of a sensitive nature.
12. Approximately 100 respondents will make requests to the agency for testimony annually with an average reporting time of 60 minutes per request. This is a total of 100 burden hours annually. The total burden represents burden hours, and we did not calculate a separate cost burden.
13. There is no known cost burden to the respondents.
14. The estimated annual cost to the Federal government is \$33,799. We base this estimate on SSA's Office of the General Counsel's (OGC) experience with applications for employee testimony to date. Each application required an estimated 5 hours of SSA OGC employee time, as well as overhead.
15. There are no changes in the public reporting burden.
16. SSA will not publish the results of the information collection.

17. OMB exempted SSA from publishing the expiration date for OMB approval on its forms. SSA produces millions of public-use forms, many of which have a life cycle longer than that of an OMB clearance. SSA does not periodically revise and reprint its public-use forms, (e.g., on an annual basis). OMB granted this exemption so that SSA would not have to stop using otherwise useable editions of forms with outdated expiration dates. In addition, we avoid government waste because we do not have to destroy and reprint stocks of forms.
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. Collection of Information Employing Statistical Methods**

SSA does not use statistical methods for this information collection of information.