

**SUPPORTING STATEMENT FOR FORM SSA-9000
REQUEST FOR ACCOMMODATION IN COMMUNICATION METHOD
45 CFR 85.51**

OMB No. 0960-NEW

REQUEST FOR EMERGENCY CLEARANCE

A. Justification

1. Need for the Information Collection and Legal/Administrative Justification

In *American Council of the Blind, et al v. Michael Astrue and Social Security Administration*, class plaintiffs representing Social Security applicants, beneficiaries, recipients, and representative payees who are blind or visually impaired challenged the adequacy of the communication methods used by the Social Security Administration (SSA) in its notices and other communications. Prior to the Court's Order of October 20, 2009 (*Order*) in *American Council of the Blind*, SSA had offered three modes of communications for blind and visually impaired Social Security recipients: (1) a standard print notice by first-class mail; (2) a standard print notice by first-class mail with a follow-up telephone call; and (3) certified mail. In *American Council of the Blind*, the Court required SSA to begin offering two new additional modes of communication to blind or visually impaired applicants, beneficiaries, recipients, and representative payees: (4) Braille and (5) Microsoft Word files (on data compact discs).

In addition, the Court ordered SSA to follow Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. Section 504 of 29 U.S.C. § 794 states "no otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity conducted by any Executive agency or by the United States Postal Service." In *Alexander v. Choate*, the Supreme Court determined that Section 504 entitles individuals with disabilities to reasonable accommodations to ensure meaningful access to agency programs (469 U.S. 287 (1985)).

In *American Council of the Blind*, the Court ordered SSA to implement Section 504 through 45 CFR 85.51¹ of the *Code of Federal Regulations* (CFR). Under 45 CFR 85.51, SSA must "take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public." Further, the regulation states that SSA must "furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, program or activity conducted by the agency" (45 CFR 85.51 (a)(1)). Under the Court's Order, SSA must begin processing 45 CFR 85.51 accommodation requests on April 15, 2010².

¹ SSA has not enacted regulations implementing the Rehabilitation Act at this time. However, SSA was previously a part of the U.S. Department of Health and Human Services (HHS), and when SSA became an independent agency on March 31, 1995, it was directed to follow HHS' rules and regulations until these rules and regulations are modified, terminated, suspended, set aside, or repealed. 42 U.S.C. § 901(b); P.L. No. 103-296 § 106(b).

² SSA is in the process of developing a 45 CFR 85.51 process for individuals with disabilities other than blindness or visual

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To meet the Court's mandates, SSA has developed form SSA-9000, the Request for Accommodation in Communication Method, to gather information from blind or visually impaired individuals about why their particular accommodation, other than the five accommodations already offered by the agency, will allow SSA to effectively communicate with them. Because of the impending deadline imposed by the Court, we are requesting emergency clearance for this form.

2. How, By Whom, and For What Purpose the Information Will Be Used

As of January 1, 2010, affected parties could call a designated SSA telephone number and tell the agency which of the following five methods of communication they wanted the agency to use for their notices and other communications: 1) standard print notice by first-class mail, 2) standard print mail with a follow-up telephone call, 3) certified mail, 4) Braille, or 5) Microsoft Word. This call did not require OMB clearance.

However, there may be respondents who want SSA to use another communication method other than the five methods listed above. SSA will use form SSA-9000 in such cases. This form will ask respondents to describe the type of accommodation they want, to disclose the condition they have that necessitates the need for a different type of accommodation, and to explain why none of the five methods described above are sufficient for their needs.

SSA will use the information collected by form SSA-9000 to determine whether to grant an individual's request for an accommodation based on their blindness or other visual impairment. SSA plans to collect information in one of two ways: 1) via a paper form, if respondents call and ask us to mail them the form; or 2) by having an SSA employee key in the information on Intranet screens during a field office interview (either in person or on the phone). SSA will review the information provided on the form and determine, based on Section 504 and 45 CFR 85.51, whether to grant an individual's request for an accommodation.

3. Use of Other Forms of Information Technology for this Information Collection

Respondents can complete form SSA-9000 during a field office interview, which will allow them to avoid completing a paper form. Because of the time limits imposed by the Court, we have not developed an Internet-based version of the form under SSA's Government Paperwork Elimination Act plan. However, we will re-examine this option in the future if respondents express a desire for an online form.

SSA estimates approximately 20% of requesters will choose to complete the paper form, while 80 % will have an SSA field office employee enter the information during a field office interview.

4. Describe Efforts to Identify and Eliminate Duplication

The nature of the information SSA is collecting and the manner in which we are collecting it preclude duplication. SSA does not use another collection instrument to obtain similar data.

impairment. However, because SSA is under a Court order to have a 45 CFR 85.51 process in place for blind or visually impaired individuals by April 15, 2010, SSA seeks OMB approval of the attached form before it is able to finalize its 45 CFR 85.51 process for all disabled individuals.

5. Impact on Small Business/Small Entities

This collection does not affect small businesses or other small entities.

6. Consequences of Not Conducting the Information Collection/Obstacles to Burden Reduction

If SSA did not conduct this information collection, we would have no uniform means of determining whether to grant an individual's request for an additional accommodation. Since we will collect the information only when an individual wishes to request an alternative accommodation, we cannot collect it less frequently.

There are no technical or legal obstacles to burden reduction.

7. Explain Any Special Circumstances Relating to This Information Collection

There are no special circumstances that would cause SSA to collect this information in a manner inconsistent with 5 CFR 1320.5.

8. Publication of Federal Register Notices and Solicitation of Public Comment

SSA published an emergency Federal Register Notice on February 22, 2010, at 75 FR 7648. If we receive any comments in response to the emergency Notice, we will forward them to OMB.

We shared this draft form with the plaintiffs in the *American Council of the Blind* case, and they concurred with the appropriateness and clarity of its contents.

9. Payment or Gifts to the Respondents

SSA provides no payment or gifts to the respondents.

10. Describe Assurances of Confidentiality to the Respondents

SSA protects and holds confidential the information we collect 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 Questions of a Sensitive Nature

The information collection does not contain any questions of a sensitive nature.

12. Burden Estimates for the Information Collection

Approximately 2,500 respondents will use the SSA-9000 each year. Of this total, we estimate that 20 percent of the respondents will complete the paper form, and 80 percent will respond via personal or telephone interview. Shown below is the breakdown of burden. The total burden reflects burden hours, and we have not calculated a separate cost burden.

Method of Collection	Number of Respondents	Response Time (minutes)	Burden (hours)
Personal interview (over the phone or in-person)	2,000	10	333
Form (printed from the Internet, taken from field office, or received in Braille or Microsoft Word Data CD)	500	15	125
	2,500	-	458

13. Cost to the Respondents

There is no known cost burden to the respondents.

14. Cost to the Federal Government

The annual cost to the Federal Government for this collection is approximately **\$187,533**. This estimate is a projection of the costs for printing and distributing the collection instrument and for processing the information. Below is a breakdown:

Printing and distributing: \$2,500

Processing:

Field Office or Teleservice Center employees: 2,000 (number of respondents who would ask field office employees to fill out the form for them) x 10 minutes (estimated time for each form) X \$20.50/hour (estimated hourly wage per employee based on GS 8, Step 5 salary) = \$6,833.

Office of the General Counsel attorneys:
2,500 (number of forms OGC attorneys will analyze) x 120 minutes (estimated time for each form) x \$35.64 (estimated hourly wage per employee based on GS 12, Step 1 salary) = \$178,200.

Total Cost - \$187,533.

15. Changes to the Public Reporting Burden

This new information collection will increase the public reporting burden by 458 hours.

16. Publication of the Results of the Information Collection.

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SSA will not publish the results of the information collection.

17. Displaying the OMB Expiration Date

OMB exempted SSA from publishing the expiration date for OMB approval on its program forms. SSA produces millions of public-use forms, many of which have a with life cycle 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. OMB Certification Requirements

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 will not use statistical methods for this information collection.