

**Addendum to the Supporting Statement for:
Social Security Administration (SSA) Eligible Non-Attorney Representative Application
20 CFR 404.1745-404.1799 and 20 CFR 416-1545-416.1599
OMB No. 0960-0699**

Explanation of Changes to the Revision to the Collection Instrument

The *Social Security Disability Applicants Access to Professional Representation (PRA) Act of 2010, Public Law 111-142, section 3* permanently extends direct payment to non-attorney representatives. The *Revisions to Direct Fee Payment Rules (RIN 0960-AH21)* allow SSA to implement and administer the direct payment provision of *PRA*.

- The *PRA* and the *Revisions to Direct Fee Payment Rules* state that a non-attorney must meet the following prerequisites in order to be eligible for direct payment.
 - Have been awarded a bachelor's degree from an accredited institution of higher education, or have equivalent qualifications derived from training and work experience if the individual does not have a bachelor's degree;
 - Pass a criminal background check;
 - Pass an examination that tests knowledge of the relevant provisions of the *Social Security Act (Act)* and court decisions affecting the benefit programs under *titles II and XVI of the Act*;
 - Secure professional liability insurance or equivalent insurance to protect claimants in the event of malpractice by the non-attorney representative; and
 - Demonstrate completion of continuing education courses, including courses in ethics and professional conduct, to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under *titles II and XVI of the Act*.
- Respondents, who submit a completed application package, pay the application fee, and pass the criminal background check, will be eligible to take the written examination to meet the examination requirement if they pass it. The examination consists of 40 to 50 multiple-choice questions about ethics, professionalism, the appeal process, medical and vocational issues, disability benefits, and non-disability issues. Because of the sensitive nature of this process and the risk of inadvertently releasing the test questions to potential respondents, we cannot provide a list of the test questions with this information collection request.
- The previous criteria for equivalent qualifications were cumbersome and difficult to administer. Therefore, we revised the criteria for equivalent qualifications. Non-attorneys will be able to meet the equivalent qualifications requirement by possessing a high school diploma or GED and 4 years of relevant training or work experience.

- The regulation will allow us to accept respondents' allegations, on the collection instrument, that they possess a bachelor's degree or equivalent qualifications; and will allow for more flexibility on when respondents must submit proof of their bachelor's degree or equivalent qualifications and professional or business liability insurance. We will notify respondents who pass the examination that they need to submit proof of their bachelor's degree or equivalent qualification and professional or business liability insurance policy in order to be eligible for direct payment.
 - Respondents must continuously maintain professional or business liability insurance in order to remain eligible for direct payment. We will periodically notify respondents that they need to submit proof of their professional or business liability insurance policy.
- The previous rules and *Revisions to Direct Fee Payment Rules* state that respondents must demonstrate ongoing completion of qualified courses of continuing education, including ethics and professional conduct, to receive direct payment of fees. The previous rules required respondents to complete 12 hours of continuing education within 18 months beginning 6 months prior to notification that he or she passed the examination. After the initial 18 months, respondents were to complete 24 hours of instruction every two years. We found that some of the courses taken by respondents lacked sufficient substance and found the process hard for respondents to follow and hard for us to administer.

Under the *Revisions to Direct Fee Payment Rules*, we will prescribe the course, period for course completion, and course certification method. We will prescribe courses about ethics and professional conduct, and entitlement to or eligibility for benefits based on disability under *titles II and XVI* of the *Act* accessible through various guides and materials including but not limited to PowerPoint(s) and Webinars that will be available on the Social Security Online Website. We will notify respondents of the aforementioned information and respondents must certify via mail, email, or fax that they have completed the continuing education credit in order to retain their eligibility status.

- The previous rules allowed and the *Revisions to Direct Fee Payment Rules* will allow respondents to protest an adverse action against them. An adverse action is ineligibility to sit for the exam or ineligibility for direct payment of fees, which SSA can levee against respondents who, for example, fail the criminal background check, fail to maintain continuing education credits, or business or professional liability insurance. Before enforcing an adverse action, we will notify respondents of it. With the exception of respondents who fail to pay their application fee, fail to cure their application, or fail the examination, all other respondents have the right to protest, in writing, the adverse action. Respondents must submit their protests within 15 calendar days from the date on the notice. We will apprise respondents of their right to protest and provide instructions for this purpose in the regulation.
- In addition, to the aforementioned changes, the agency's contract with CPS Human Resource Services ended and we do not have a contractor to assist with the management

of respondents' prerequisites. As part of our new procedures, we will no longer use the electronic application and will only use the paper application. Below we state the revisions to the paper application.

Revision to the Collection Instrument

We made the following changes to the collection instrument to accommodate the aforementioned changes.

- This table compares the current and revised versions of the collection instrument.

Current Collection Instrument	Revised Collection Instrument
Social Security Administration Non-Attorney Representative Demonstration Project	Social Security Administration Eligible Non-Attorney Representative
Page 5 Application Fee Statement, Paperwork Reduction Act Statement	Page 10
Page 5 Preliminary Questions	Page 4 and 5 – Section A Background Information Additional Information
Page 5 Privacy Act Statement	Page 9
Page 6 <ul style="list-style-type: none"> ◦ Section A Background Information – Applicant’s Identifying Information ◦ Section A Background Information – Applicant’s Contact Information 	Page 4
Page 8 Section A Background Information – Additional Information	Pages 4 and 5
Page 11 <ul style="list-style-type: none"> ◦ Section C Education/Equivalent Qualifications-Colleges/Universities Attended ◦ Section C Education/Equivalent Qualifications – High School Diploma or GED 	Page 6 <ul style="list-style-type: none"> ◦ Section B Education/Equivalent Qualifications – College/University Attended ◦ Section B Education/Equivalent Qualifications – High School Diploma or GED
Page 12 Section C Education/Equivalent Qualifications – Professional Experience	Page 6 Section B Education/Equivalent Qualifications – Relevant Professional Experience
Page 13 <ul style="list-style-type: none"> ◦ Section D Examination Information and Section D Examination Information – Location Request ◦ Section D Examination Information – Special Accommodation Request 	Page 7 <ul style="list-style-type: none"> ◦ Section C Examination Information ◦ Section C Examination Information – Special Accommodation Request
Page 14 Section E Additional Information	Page 8 Section D Additional Information
Page 15 Substantial Misrepresentation or Material Discrepancy, and Statement of Understanding, Penalty of Perjury Statement	Page 10

Page 16 Supporting Documentation	Removed collection instrument – see explanation below
Page 17 Accusource, Inc – Criminal Background Check Information	Page 11 – Social Security Administration Criminal Background Check Information

- We revised the title of the collection instrument to read as Social Security Eligible Non-Attorney Representative.
- Overall, we simplified the language and instructions within the collection instrument to make it easier to read, understand, and complete.
- We removed references to the *Social Security Protection Act (SSPA) of 2004, P.L. 108-203* from the collection instrument.
- We removed references to CPS Human Resource Services from the document.
- We removed references to the representational experience prerequisite from the collection instrument that included the removal of the Representational Experience information, Section A- Background Information – Work History, and Section B - Representation of Claimant Information. We removed this information because the representational experience prerequisite was not included as a prerequisite for direct payment in the *Revisions to Direct Fee Payment Rules*.
- We modified the instructions to refer respondents to the Attorneys and Appointed Representatives Website for contractor, application, and prerequisite information that are subject to unplanned or frequent changes. The mailing address and application fee for the application, examination locations, and insurance coverage amounts are examples of information that is subject to unplanned or frequent changes. This modification eliminates the need to revise the form when the contractor or prerequisite information changes and affects the following subjects and sections of the collection instrument:
 - Application Fee
 - Types of Insurance
 - Section C Examination Information
 - Section C Examination Information – Special Accommodation Request, and Statement of Understanding
- We revised the definition of equivalent qualifications under The Education and Equivalent Qualifications information to reflect the regulatory changes mentioned above.
- We revised Education and Equivalent Qualifications, Section B Education/Equivalent Qualifications – College /University Attended, and Section B Education/Equivalent Qualifications – High School Diploma or GED instructions for submitting proof of a bachelor’s degree or equivalent qualifications to instruct respondents to submit this proof once they pass the examination rather than before they take it.
- We revised the Types of Insurance instructions for submitting proof of professional or

business liability insurance to instruct respondents to submit this proof once they pass the examination rather than before they take it.

- o We removed the Supporting Documents page because we will not require respondents to provide proof of their professional or business liability insurance prior to taking the examination.
- We removed the Preliminary Questions section and incorporated its questions into Section A, Background Information-Additional Information. We incorporated preliminary questions 1, 2a, 2b, 4, 5, and 6 into Section A as questions 1, 2a, 2b, 8, 4, and 7 respectively. If a preliminary question and a Section A were the same, we only kept one of the questions as indicated in the following table.

Preliminary Questions	Section A Question	Revised Collection Instrument Section A Questions
1	1	1
5	3	4

Question 3 from the Preliminary Questions section and question 7 in Section A were the same question and asked respondents if they could pass an SSA records check. We did not incorporate this question into this section because we will conduct a records check on all respondents who submit a completed application regardless of whether they check yes or no. In addition, we will not take adverse action, such as suspension or disqualification, against respondents if their answer does not agree with the results of the records check.

- The Paperwork Reduction Act Statement, Substantial Misrepresentation or Material Discrepancy Statement, Application Fee Statement, Statement of Understanding, and Penalty of Perjury Statement were stand-alone statements that are now on one page.
- SSA’s Office of General Counsel (OGC) revised the Privacy Act Statement for this collection instrument. We included the revised Privacy Act Statement in the collection instrument.
- We removed the U.S. Residency Status from Section A Background Information – Applicant’s Identifying Information because it was redundant of the Citizenship status question in that section.
- Accusource, INC – Criminal Background Check –We removed references to Accusource, INC and replaced it with SSA because we will conduct a background check on each respondent.

We do not keep this form in stock. Respondents will print and use the paper version of the collection instrument available on the contractor’s website. We will begin using the new version of the collection instrument once OMB approves it.

Burden Hours Explanation

We are adding the following tasks to this ICR so that we may account for all tasks associated with the collection instrument and not included in the previous ICR.

- Examination
- View and email confirmation for viewing the continuing education guides and training materials including but not limited to PowerPoint(s) and/or Webinar(s)
- Submitting proof (e.g., college or high school transcript) of a bachelor's degree or equivalent qualifications
- Submitting proof of continual professional or business liability insurance coverage
- Writing and submitting written protest about proposed ineligibility to take the examination or ineligibility for direct payment

Justification for Resubmitting the ICR Within One Year of Approval

SSA is resubmitting this ICR with the above revisions because *section 3* of the *PRA* permanently extended direct payment to non-attorneys. Prior to the enactment of the *PRA*, direct payment to non-attorneys had been temporarily extended through a five-year demonstration project under the *SSPA*, and implemented and administered through a series of *Federal Register* notices dated August 14, 2004, January 13, 2005, March 22, 2005, July 18, 2005, and August 16, 2007. We rewrite the *Revisions to Direct Fee Payment Rules* to implement and administer the direct payment provision under the *PRA*. The Explanation of Changes to the Revision to the Collection Instrument section explains that we modified some rules to simplify the prerequisite process for respondents, which resulted in us revising the collection instrument.