JUSTICE IN AGING
FIGHTING SENIOR POVERTY THROUGH LAW

May 1, 2023

Reports Clearance Director
Social Security Administration, OCLA
3100 West High Rise Building
6401 Security Boulevard
Baltimore, MD 21235

Submitted via regulations.gov

> **Re: Agency Information Collection Activities: Proposed Request, 88 Fed. Reg. 13004, Docket SSA-2023-0009**

To Whom It May Concern:

Justice in Aging appreciates the opportunity to comment on the Social Security Administration's ("SSA") proposed request to initiate a new information collection tool, namely the introduction of the eSubmit system (hereinafter "eSubmit Notification"), 88 Fed. Reg. 13004.[1] We applaud the agency for taking this step to improve the experience of people providing information to SSA. Finalizing this proposal furthers the Administration's goals of enhancing the federal customer experience and reducing the time tax on people seeking federal benefits.[2] We write in support of the proposal and to encourage SSA to ensure that the new eSubmit system does not enhance the digital divide, a significant problem for older Americans.

Justice in Aging is an advocacy organization with the mission of improving the lives of low-income older adults. We use the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources. We have decades of experience with Social Security and Supplemental Security Income ("SSI") benefits, with a focus on the needs of low-income beneficiaries and populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency ("LEP"). Justice in Aging conducts training and advocacy regarding Social Security and SSI benefits, provides technical assistance to attorneys and others from across the country on how to address problems that arise under these programs, and advocates for strong protections to ensure that beneficiaries receive the benefits to which they are entitled promptly and without arbitrary denial or disruption.

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[1] We appreciate the assistance of Brooke Menschel and Robin Thurston, Democracy Forward Foundation in preparing this comment.
[2] *Executive Order on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government*, WH.gov (Dec. 13, 2021), https://www.whitehouse.gov/briefing-room/presidential-actions/2021/12/13/executive-order-on-transforming-federal-customer-experience-and-service-delivery-to-rebuild-trust-in-government/.

The programs that SSA administers are incredibly important to the low-income older adults and people with disabilities on whose behalf Justice in Aging advocates. Without those benefits we would see millions of seniors living in poverty.[3] For older adults with the lowest income and resources, SSI serves as a key lifeline to keep them from falling into deep poverty, homelessness, and hunger.[4]

In the eSubmit Notification, SSA proposes for approval under the Paperwork Reduction Act ("PRA") a new way individuals can submit evidence and forms to SSA online, thereby establishing eligibility for these vital programs. We have no doubt that eSubmit will have significant practical utility—a key metric under the PRA—for the reasons SSA sets forth. We write to discuss the ways in which SSA can reduce any burden for users of eSubmit and ensure the broadest possible accessibility. We urge SSA to prioritize incorporating user experience research, language accessibility, and access by an authorized representative throughout the eSubmit introduction and implementation process, and to ensure that existing "low-tech" means of access remain available to those who cannot or prefer not to engage with SSA electronically.

I.   Technological Access and Usability for SSA's Stakeholders

The COVID-19 public health emergency accelerated the changing role of technology in our lives and in government agencies. SSA is hardly the only institution, in the United States or abroad, that finds itself moving to automate its services and provide more online options for its stakeholders. SSA's existing process of seeking additional information from SSI applicants is cumbersome and can be inefficient: sending a hard-copy letter via the postal service, which applicants must answer by return mail or an in-person office visit, is time consuming, burdensome, and expensive. Technology generally, and eSubmit specifically, offer an opportunity to streamline the process for those individuals with internet access and facility.

The positive impacts of this move towards modernization are plain. As SSA has acknowledged, reducing burdensome administrative procedures is essential to advancing equity in access to its programs.[5] This is especially true given that Social Security and SSI benefits are necessary to address and counteract some of the effects of systemic discrimination that can often lead to certain groups of older adults aging into poverty through no fault of their own.[6] Online services

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[3] Liana Fox & Kalee Burns, *The Supplemental Poverty Measure: 2020*, U.S. Census Bureau (Sept. 14, 2021), https://www.census.gov/content/dam/Census/library/publications/2021/demo/p60-275.pdf.
[4] SSA, *Annual Statistical Supplement to the Social Security Bulletin, 2021*, (Dec. 2021), 1, 399 tbl. 7E, https://www.ssa.gov/policy/docs/statcomps/supplement/2021/index.html.
[5] SSA, *Equity Action Plan Summary: Social Security Administration*, https://www.whitehouse.gov/wp-content/uploads/2022/04/SSA-EO13985-equity-summary.pdf.
[6] Black, Latino, and Native American older adults, for example, are twice as likely to live in poverty as white older adults. Juliette Cubanski et al., *How Many Seniors Live in Poverty*, Kaiser Family Foundation (Nov. 2018), https://files.kff.org/attachment/Issue-Brief-How-Many-Seniors-Live-in-Poverty. And women are the majority of Social Security and SSI beneficiaries. Amber

also render geography less important and often provide critical opportunities for people located in more rural areas to engage with the government, given that those people often face long journeys to reach SSA offices.[7]

Unfortunately, the COVID-19 public health emergency also highlighted a stark generational divide in technology access, as older adults struggled to navigate the very technology that was suddenly critical to survival. Electronic devices and services that were once luxuries became necessary tools for people to connect with loved ones and medical providers, order groceries and medication, and participate in civic and religious life. This population, already more isolated than the average American, struggled to adapt and identify necessary support systems. In the early days of the global pandemic, news media highlighted these efforts, and Seema Verma, then-administrator of the Centers for Medicare and Medicaid Services Administrator, recognized the challenge facing older adults and urged people to provide on-site technical assistance whenever possible.[8]

SSA remains at the nexus of these competing interests and needs. As an agency that regularly seeks and receives information from people requiring the agency's services, SSA stands to benefit immensely from a robust, user-friendly, navigable document-collection program. Yet simultaneously, SSA's stakeholders are the very same people who are most at risk of being left behind as technology becomes more central to all aspects of life. Abundant evidence demonstrates that older adults lag far behind younger people in terms of technological access and know-how. A 2021 Pew Research Center study[9] suggested that while the gap in technology use between older and younger Americans has decreased over the past decade, it is still substantial:

Christ & Tracey Gronniger, *Older Women and Poverty*, Justice in Aging (Dec. 2018), *available at* https://justiceinaging.org/wp-content/uploads/2020/08/Older-Women-and-Poverty.pdf.

[7] SSA, *Social Security in Rural Communities*, https://www.ssa.gov/people/rural/ (last visited May 1, 2023.

[8] *See, e.g.*, Kate Conger & Erin Griffith, *As Life Moves Online, an Older Generation Faces a Digital Divide*, N.Y. Times (Mar. 27, 2020), https://www.nytimes.com/2020/03/27/technology/virus-older-generation-digital-divide.html; *see also, e.g.*, Judith Graham, *Seniors who struggle with technology face telehealth challenges and social isolation*, CNN Health (July 23, 2020), https://www.cnn.com/2020/07/23/health/seniors-technology-telehealth-wellness-partner/index.html; Linda Poon & Sarah Holder, *The 'New Normal' for Many Older Adults Is on the Internet*, Bloomberg (May 6, 2020) https://www.bloomberg.com/news/features/2020-05-06/in-lockdown-seniors-are-becoming-more-tech-savvy.

[9] Michelle Faverio, *Share of those 65 and older who are tech users has grown in the past decade*, Pew Research Center (Jan. 13, 2022), https://www.pewresearch.org/fact-tank/2022/01/13/share-of-those-65-and-older-who-are-tech-users-has-grown-in-the-past-decade/. Other Pew Research Center studies demonstrate that this gap is even more severe among the oldest generation. According to a 2018 study, those 80 and up are nearly 50% less likely to use the internet than those 65-69, approximately two-thirds less likely to subscribe to home broadband or own a smartphone than those 65-69. Monica Anderson & Andrew Perrin, *Tech Adoption Climbs Among Older Adults*, Pew Research Center (May 17, 2017), https://www.pewresearch.org/internet/2017/05/17/tech-adoption-climbs-among-older-adults/.

Age	Smartphone Owner	Social Media User	Tablet User	Online constantly
65+	61%	45%	44%	8%
50-64	83%	73%	53%	22%
30-49	95%	81%	61%	42%
18-29	96%	84%	46%	48%

Similarly, a recent study from Older Adults Technology Services found that 42% of older adults lack internet at home.[10] Unsurprisingly, some of the predictors of lack of internet access were level of education and income level, race, living in rural areas, and poor health status.[11]

The most technologically underserved populations directly correlate with SSA's stakeholders and those people most likely to need to use the eSubmit system. More than 30% of recipients of Supplemental Security Income are 65 or over, and that percentage is considerably higher in the most populous states.[12] In order to succeed with eSubmit, SSA must take the ability of its unique population of stakeholders to access the internet into account when developing and implementing this new system.

II.   Ensuring a Usable, Accessible System

The introduction of eSubmit provides SSA with a critical opportunity to ensure its stakeholders are not further isolated as a result of technological advances. SSA should take the following steps to help eSubmit succeed broadly and avoid deepening the digital divide: (1) develop an accessible interface, including through the incorporation of user experience research; (2) provide multilingual options for eSubmit, including, but not limited to, a Spanish language version; (3) allow for access by authorized representatives of beneficiaries and applicants.

First, thoughtful development of the interface is essential to ensuring that eSubmit is usable by stakeholders providing information to SSA, enhancing the benefit to and minimizing the burden on users. In our experience, older individuals using eSubmit on their own would almost certainly benefit from eSubmit being developed with best practices for making websites broadly accessible, including customizable text, use of colors with good contrast, large links, buttons, and controls, understandable content, and clear notifications and feedback. The Web Accessibility

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[10] Older Adults Technology Services, *Aging Connected – Exposing the Hidden Connectivity Crisis for Older Adults*, March 11, 2022, https://oats.org/aging-connected-exposing-the-hidden-connectivity-crisis-for-olderadults/.
[11] *Id.*
[12] Older Adults Technology Services, *Aging Connected – Exposing the Hidden Connectivity Crisis for Older Adults* (Mar. 11, 2022), https://oats.org/wp-content/uploads/2021/01/Aging-Connected-Exposing-the-Hidden-Connectivity-Crisis-for-Older-Adults.pdf.

Initiative has guidance on best practices such as these for older users and web accessibility that we encourage SSA to incorporate into the development of eSubmit.[13]

We also encourage SSA, to the extent that it has not already done so, to incorporate user experience research into the development of eSubmit. User experience research is the way in which technologists identify how actual users accomplish the underlying task behind a technology, including assumptions users make, how they interact with others in the process, what outcomes they expect, and what challenges they encounter. This research then becomes the basis of the subsequent technology solution. This process is widely used throughout the private sector, and many government technology programs have implemented such practices based on well-established playbooks.

For example, the U.S. Digital Service has created a Digital Services Playbook recommending that government services "begin digital projects by exploring and pinpointing the needs of the people who will use the service, and the ways the service will fit into their lives" and that "policy makers must include real people in their design process from the beginning."[14] It recommends that, early on in the project, agencies "spend time with current and prospective users of the service," and that it "[t]est prototypes of solutions with real people" and continue to test with potential users throughout the process. GSA's Usability.gov recommends similar best practices, including using card sorting to understand how users understand the website's information to be structured, contextual interviews to observe user patterns, and/or focus groups and individual interviews to understand user needs.[15] We strongly encourage SSA to incorporate these best practices into the development and rollout of eSubmit in order to reduce burden to users and thereby enhance take-up and practical utility to the agency.

Next, although the eSubmit Notice does not discuss SSA's intentions as to language accessibility of the platform, SSA serves an increasingly diverse customer base, which calls for policies and practices tailored to address diverse language needs. Indeed, approximately one third of older adults receiving SSI have limited English proficiency. For these individuals, getting the language assistance they need can mean the difference between retaining benefits and losing them. And SSA, like other federal agencies, is required by Executive Order 13166 to provide meaningful access to government information to people with limited English proficiency.[16] Compliance requires assessing services provided by the agency and the needs of recipients of those services. SSA could do more to meet the needs of LEP recipients it serves with its existing online portals (including the Electronic Protective Filing Tool, ePFT, internet Social Security Benefits Application, iClaim, and iAppeals), all of which are available only in English. Rather than perpetuating this limited access model, to maximize eSubmit's benefits and comply with Executive Order 13166, SSA should create multilingual content for the portal, consistent with

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[13] *Design and Develop Overview*, W3C Web Accessibility Initiative, https://www.w3.org/WAI/design-develop/.
[14] *Digital Services Playbook*, U.S. Digit. Serv., https://playbook.cio.gov/#play1.
[15] *See* GSA, *User Research Basics*, https://www.usability.gov/what-and-why/user-research.html.
[16] Department of Justice, *Overview of Executive Order 13166*, (Nov 21, 2022), https://www.justice.gov/crt/executive-order-13166.

the guidelines and resources provided at LEP.gov.[17] This includes, but is not limited to, a Spanish language version of eSubmit.

SSA should also take steps to ensure that authorized representatives will be able to use eSubmit on behalf of the beneficiaries they represent. The eSubmit Notification anticipates that users will use current authentication methods, including Login.gov and ID.me, for example. We understand the agency's concerns about identity theft and fraud, but we encourage SSA to continue to take steps to reduce the burden of these authentication processes. In particular, SSA should incorporate the ability for authorized representatives to log directly into eSubmit on behalf of the beneficiary or applicant on whose behalf they are working, just as the federal government currently allows for filing tax returns.

Finally, while technology is critically important, it is hardly a one-size-fits-all panacea to replace traditional tools. It has taken years if not decades for many of SSA's stakeholders to learn to navigate its systems using available paper-based forms, telephone calls, and in-person options, and many continue to face difficulty when trying to obtain their benefits. Adjusting to a new web-based system will provide a new challenge, and one that will cause anxiety and concern for countless older Americans and their loved ones. For some stakeholders, it may prove impossible: for instance, it is simply unrealistic to expect a person experiencing homelessness to use a computer at the public library to undertake the often-Herculean and hours-long effort of applying for benefits. Maintaining the existing systems for people to submit the required information, in addition to introducing eSubmit, will minimize disruptions in benefits, alleviate stress, promote trust in the agency, and ultimately mitigate harm to SSA beneficiaries. We urge you to ensure that in person appointments, "snail mail," and other existing methods of engaging with SSA remain robust options for those who prefer to use them.

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We hope and expect that the tool SSA is in the process of developing already contains the protections described above. To the extent they are not already incorporated, we urge you to prioritize these measures as you finalize the tool.

Thank you for the opportunity to provide our thoughts on this important matter.

Sincerely,

/s/ Kate Lang
Kate Lang
Director, Federal Income Security
Justice in Aging

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[17] LEP.gov, *Digital Services and Websites*, https://www.lep.gov/digital-services-and-websites.