DEPARTMENT OF LABOR, Employee Benefits Security Administration, INTERNAL REVENUE SERVICE, PENSION BENEFITS GUARANTY CORPORATION, SOCIAL SECURITY ADMINISTRATION

ERISA Filing Acceptance System

ACTION: Request for Comment

SUMMARY: The Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (Code) require pension and welfare benefit plans and certain other entities to file annual returns/reports concerning, among other things, their financial condition and operations. This annual reporting requirement is generally satisfied by filing the Form 5500 Annual Return/Report of Employee Benefit Plan or the Form 5500-EZ Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan (Form 5500 series). In 1999, as part of a comprehensive effort to streamline the forms and expedite filing and processing, the Department of Labor (Department), the Internal Revenue Service (IRS), the Pension Benefits Guaranty Corporation (PGBC) and the Social Security Administration (SSA) (Agencies) implemented an automated document processing system called the ERISA Filing Acceptance System (EFAST), which uses computer-scannable forms and electronic filing technologies. The government has been using EFAST to process the Form 5500 series for plan year 1999 and subsequent plan years, and in doing so has made the filing and processing of the Form 5500 series much more efficient. The Agencies are considering a number of possible design improvements to EFAST. These alternatives are being considered in the context of the Government Paperwork Elimination Act (GPEA), the E-Government Act of 2002, the administration's E-government initiatives, and the recommendations in the November 8, 2002 report of the Working Group on Electronic

Reporting of the Advisory Council on Employee Welfare and Pension Benefit Plans (ERISA Advisory Council Working Group Report). The purpose of this Notice is to request comments from employers, plan administrators, service providers involved in preparing and submitting the Form 5500 series, accountants, financial institutions, and participants and beneficiaries regarding electronic filing issues and alternatives.

DATES: Written comments should be submitted to the office listed in the addresses section below on or before [*insert date that is 30 calendar days following publication of this notice*].

ADDRESSES: Written comments should be addressed to EFAST Program Office, Employee Benefits Security Administration, Room N-5459, U.S. Department of Labor, 200 Constitution Avenue NW, Washington DC, 20210, Attn: EFAST RFC. Responses may also be submitted electronically to EFAST2@DOL.GOV. All responses to this Notice will be available for public inspection at the Employee Benefits Security Administration's Public Disclosure Room, N-1513, 200 Constitution Avenue NW, Washington DC and a consolidation of responses will be posted on the Employee Benefits Security Administration Internet site.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, EFAST Program Office, Employee Benefits Security Administration, Room N-5459, U.S. Department of Labor, 200 Constitution Avenue NW, Washington DC, 20210. This Notice is intended for public comment and is not meant to serve as a sources sought notice. There is no solicitation available from the Government regarding topics presented in this Notice.

SUPPLEMENTARY INFORMATION:

A. Background Description of Current System

Using the EFAST system, the government processes approximately 1.4 million filings annually, representing the equivalent of approximately 25 million paper pages. The government currently accepts filings submitted in any one of six forms: (1) on government printed "hand-print" forms contained in the forms booklets, (2) on government printed single-sheet forms known as "cut sheets" (not from the forms booklets), (3) on computer-generated paper forms (known as the "machine-print" version of the forms) in which 2D barcode technology is used to encode filer data, (4) on computer-generated paper forms identical in format to government-printed hand-print forms, (5) electronically via modem or file transfer protocol (FTP), or (6) electronically on magnetic media.

There are advantages and disadvantages to supporting this wide variety of filing formats for the Form 5500 series filings. Compared with other paper filings, computer-generated and machine-print forms streamline the filing process and allow the government to more accurately capture a plan's data. On the other hand, compared with electronic filings, they are less accurate in terms of data capture and less efficient in terms of processing because they are paper based. For example, paper filings take more than three times as long as electronic filings to process and have nearly twice as many errors, which trigger often unnecessary letters from the Agencies seeking clarification from plan sponsors on the contents of their filings.

The full benefits of electronic processing have not, however, been realized through the current EFAST system because its electronic filing option has been underutilized. The majority of returns (72%) are submitted on machine-print forms, and 26% are submitted on hand-print

forms, either government printed or computer produced. Approximately 2% of the returns, or roughly 20,000 filings, are filed electronically.

The source of this underutilization lies both in the filing and processing ends of the system. For instance, electronic filing can be more expensive for filers (at least during the initial transition from paper to electronic forms). There are also inefficiencies on the processing end. For instance, the process for resolving errors or problems in the current electronic filing system is paper based, thereby eliminating some of the benefits of electronic filing.

Nevertheless, the vast majority of Form 5500 series returns are being prepared on computers, regardless of whether they are actually being filed electronically (see the percent breakdown just above). This trend, coupled with new business practices and capabilities of the Internet and Web-based technology, presents the Agencies with the opportunity to leverage E-government to enhance the operation of the EFAST program.

B. Rationale for Change

The approaching end of the current EFAST's scheduled life cycle creates an opportunity to reconceptualize and reengineer the system with an eye toward using Web-based technology to improve the process of collecting and disseminating information about employee benefit plans and their operations. This opportunity was not available when the existing system was built. The Agencies believe that the next generation of EFAST (designated EFAST2 for discussion purposes) should be designed and implemented in a manner that enables EBSA to take its place among other strong E-government efforts underway in the Agencies and elsewhere in the government. In particular, EFAST2 should be more accessible to its user base through Internet

and Web-based technology, devoid of paper to the greatest extent possible, faster, less expensive, and more accurate.

Toward this end, and in order to realize the benefits of E-government, as recognized by GPEA[1] and the E-Government Act of 2002,[2] the Agencies are considering a greater emphasis on electronic over paper filing in terms of how Form 5500 series information is collected and disseminated. Benefits from electronic filing should include improved transaction accuracy, reduced cycle times, improved cost efficiencies, enhanced information accessibility, and more timely availability of the information contained in the Form 5500 series reports. To bring these benefits to EFAST2 users and the government, the Agencies intend to make the most of Web technology and address the fact that the user base has a diverse array of needs and capabilities.

This vision is consistent with the ERISA Advisory Council Working Group Report.[3] As detailed below, the Working Group on Electronic Reporting of the ERISA Advisory Council (ERISA Advisory Council Working Group) recommended that the Agencies use the Web to encourage electronic filing of the Form 5500 series:

> Use the Web: This will expand the reach to any preparer who has access to the Internet either in their office or at their local library. It will also decrease the cost and complexity since filers will not be required to use approved software or rely on third party transmitters. This will also provide flexibility for system changes and preclude being restrained to specific software formats. In addition, the system recommendations listed below can be easily achieved through a web-based system. The system could be either web enabled or web based, although it appears that web based is more efficient and more widely accepted. [Web enabled] would entail downloading free or low cost software from

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[1] Title XVII, Pub. L. 105-277, 112 Stat. 2681.

[2] Pub. L. 107-347, 116 Stat. 2899.

[3] ERISA section 512 provides for the establishment of an Advisory Council on Employee Welfare and Pension Benefit Plans (ERISA Advisory Council). See 29 U.S.C. 1142. The ERISA Advisory Council consists of 15 members appointed by the Secretary of Labor. Id.

the Internet that would reside on the filer's server and be used to transmit filings over the net. Web-based would allow the direct input of a filing via the Internet.[4]

The ERISA Advisory Council Working Group based this recommendation and others on research it conducted to better understand Form 5500 series stakeholder needs and the use of value-added services.

EBSA's EFAST Program Office has also conducted research on EFAST2 user and stakeholder needs. Based on these informal discussions and findings of the ERISA Advisory Council Working Group, the office identified the following actions the Agencies might take to facilitate electronic filing:

- Allow Web-based filing
- Simplify the electronic authentication procedure
- Provide a mechanism by which attachments to filings, such as the Accountant's Report, can be more easily submitted electronically.

C. Changes Under Consideration

1. Method of Filing. The Agencies have two primary goals for the next generation of EFAST. The first is to realize the full benefits of E-government, as recognized by GPEA, the E-Government Act of 2002, the President's Management Agenda,[5] and the Department of Labor's E-Government Strategic Plan.[6] The second goal is to improve the quality of Form 5500 series information reported to the government and then shared with the public while minimizing the

[4] The complete report of the ERISA Advisory Council can be accessed at http://www.dol.gov/ebsa/publications/AC_1108a02_report.html.

[5] See http://www.whitehouse.gov/omb/budget/fy2002/mgmt.pdf .

[6] See http://63.241.135.3/mediapod/dol/egovstrategy/egovernmentbook.pdf .

burden and filing preparation time required for such reporting. Toward these ends, the Agencies are considering changing the method of filing such that electronic filing becomes more convenient and beneficial for all users and stakeholders, which, in turn, is expected to reduce the number of methods available for submitting paper-based filings.

The Agencies envision three distinct ways in which plan administrators can file their Form 5500 series filings, ideally with the vast majority being electronic:

- Direct electronically on the Web. The most profound departure from past EFAST practice would be to provide plan administrators with the capability to fill out and file their Form 5500 series electronically on a Department of Labor Web site. Major features of such a process may include the ability to:
  - Enter return data on the Form 5500 series forms and schedules, possibly over multiple sessions with input from multiple parties (plan administrator, service providers, accountant, actuary, etc.)
  - Upload attachments
  - Save return data to a repository
  - Electronically sign and submit the filing to the Department of Labor
  - Retrieve stored filing data from the data repository
  - Edit and update filing data
  - Submit amended filing data to the Department of Labor

- On the Web using software developed by third parties. In the current EFAST system, software vendors develop programs each year through which plans can file the Form

5500 series. While some of the software includes the ability to file the form electronically, other software only allows filers to print a paper copy of the form, which is then mailed to the EFAST facility for processing. Under its vision for EFAST2, the government would provide support to software vendors in developing their products, and EBSA would require these products to have *only* the capability for electronic filing using the Internet as the transmission vehicle.

The Agencies anticipate that there will be a segment of the filer market that will rely on a variety of products and services to facilitate the administration of ERISA plans, including reporting and compliance. Return preparers and software developers provide value-added services for plan sponsors by guiding plan administrators through the filing process and ultimately providing a complete and accurate filing acceptable to the government. The Agencies do not propose to interfere with the delivery of such services and strongly believes that they play an important role in ensuring that Form 5500 series returns meet requirements. Indeed, the Agencies anticipate that return preparers and software developers will continue to provide such services in support of electronic filing by, for example, streamlining the electronic filing process. For example, return preparers and software developers may create a Web-based electronic folder feature that assembles a complete electronic filing from filing components received asynchronously from multiple contributing authors. Or, they may create electronic filing modules by which different parties can download return-preparation software specific to their portion of a filing (e.g., an actuary could download a tool to electronically complete a Schedule B).

- Direct on paper using government printed forms. In the current EFAST system, software developers working with the Agencies and the current EFAST operator developed specifications for computer-generated print versions of the Form 5500 series forms for scanning (e.g., machine print and computer generated handprint forms). The Agencies are considering eliminating this method of paper filing and only accepting paper filings on government printed forms. This will reduce the burden on software developers, freeing them to concentrate on Internet filing solutions. It also preserves a direct filing option for those plan administrators who do not need value-added services and who do not want to file electronically. The Agencies seek comments from software developers, preparers and plan sponsors on the merits of limiting paper filings to cut sheets printed through the Government Printing Office and distributed by IRS paper forms distribution centers.

2. Simplification of the Electronic Signature and Authentication Procedure. The procedure for signing and authenticating an electronic filing would be revised to conform with the Government Paperwork Elimination Act. An effective approach would be more user-friendly than the current procedure but secure enough to match the risk associated with the transactions. The current electronic authentication approach may be unnecessarily burdensome. The ERISA Advisory Council Working Group came to the following conclusions with respect to the existing electronic signatures procedure: (1) the cycle time for issuing PINs is too long; (2) having to send the PINs and signer IDs to transmitters potentially compromises the integrity of those data; (3) electronic authentication is much more burdensome than authentication for paper but with no apparent corresponding benefit; and 4) the current solution mixes signatures and

authentication in a way that may be contributing to this burden. See ERISA Advisory Council Working Group Report.

Revisions to the signature and authentication procedure would be intended to (1) shorten the cycle time for issuing PINs, possibly by taking applications and issuing them electronically; (2) ensure that there is no potential for the integrity of PINs and signer IDs to be compromised; (3) make electronic signature authentication carry the same benefit and costs as paper signature authentication by not requiring filers to pay for electronic credentials or validation of such credentials; (4) ensure that the electronic signature and authentication approach applies to third-party documents such as Schedule B and accountants' opinions; and (5) ensure that the signature and authentication approach is appropriate to the risk of repudiation for filings. The Agencies solicit public comment on proposed changes to the electronic filing signature requirements, including the possibility that filers could self-select PINs to meet current signature requirements.

3. Mandatory Electronic Filing. The ERISA Advisory Council Working Group recommended that the Agencies make electronic filing of the Form 5500 series mandatory because a mandate would be the most direct way to have paper filers make the transition to electronic reporting. The Agencies solicit public comment on the appropriateness of making electronic filing mandatory for the entire population of filers or only for certain groups, such as plans of publicly traded companies.

4. Charging of Filing Fees. The ERISA Advisory Council Working Group reported that the Agencies should consider seeking authority for charging filing fees that can support the

maintenance and continuing improvement of the system. The Agencies solicit public comment on the issue of applying filing fees to support the cost of processing filings received on paper.

5. Use of Internet Filing Data Standards Such As XML. The Agencies are considering creating a new, detailed specification for EFAST2 that describes how the government should accept filings submitted over the Internet. The Agencies are considering replacing the current E-filing proprietary data exchange technology with technology based on Extensible Mark-up Language (XML) and XML Schema standards.

XML is a universal, text-based syntax that is readable by both computer and humans and that describes and structures data independent of the application logic. XML can be used to define unlimited languages for specific industries and applications. It is also supposed to simplify and lower the cost of data interchange and publishing in a Web environment. XML offers data portability and reusability across different platforms and devices. It is also flexible and extensible, allowing new tags to be added without breaking an existing document structure. XML Schema is an XML-based language for defining the data elements and validation rules used in XML documents.

Recent IRS activities provide an example of government use of XML and XML Schema. The IRS is working with software developers to implement the use of XML for electronic filing for business filers. For the Form 1120 filings (corporate tax returns), for instance, the IRS has focused on using XML to make it easier to file multiple returns and their often many attachments. The tax-specific XML Schemas will also help to automatically validate much of the information, saving time for IRS employees. The IRS's first XML product is the 94x XML, which refers to Form 940 (federal unemployment taxes), Form 941 (employers' quarterly federal

taxes), and other forms in that series. The IRS released its final XML schema for those forms in January 2003. Switching to XML allows the IRS to standardize the data formats associated with many different types of business tax forms and schedules. (For more information about how XML is being applied to tax forms, see the IRS site at http://www.irs.gov/taxpros/providers/article/0,,id=97766,00.html). The Agencies seek public comment regarding the use of XML standards and technology to accept and process Form 5500 Series filings submitted over the Internet.

6. Improved Handling of Third-Party Attachments and Attestations. EBSA research and the ERISA Advisory Council Working Group found that another barrier to electronic filing is the need for the plan administrator to include information from certain third parties such as actuaries and accountants in Form 5500 series filings. Perhaps more important, these third parties must sign certain portions of the filing. The participation of these third parties complicates the electronic filing process. From the standpoint of these third parties, however, they want to ensure that any information developed by them and attributed to them is not changed or altered after it leaves their control and is included in the Form 5500 series.

One possible approach to handling the potential complexity introduced by third parties is to follow the existing ERISA regulatory framework, which provides that the plan administrator is responsible for the completeness and accuracy of all information in the filing. The government makes the plan administrator responsible for ensuring that signed copies of third-party attestations and information are maintained in the books and records of the plan. The Agencies would continue to hold the plan administrator responsible for the accuracy and completeness of the information taken from third-party documents and included in an electronic filing. There are

at least three ways to accomplish this, as shown by the following examples based on the required independent qualified public accountant (IQPA) report:

- The IQPA would issue two copies of the audit report with opinion to the plan administrator: an electronic version of the report and the same report, printed on paper and signed. The plan administrator would keep the paper document in the plan's records as provided for in the existing ERISA requirements. The plan administrator would attach the electronic report to the electronic filing and "sign" the electronic filing, declaring that the report is true, correct, and complete. The advantage of this method is that it provides an efficient and pure electronic transfer of information from the IQPA to the plan administrator and ultimately to the government.

- The IQPA would issue a signed paper audit report with opinion to the plan administrator. The plan administrator would keep this document in the plan's records as provided for in the existing ERISA requirements. The plan administrator or preparer would transcribe the document and insert the transcribed (i.e., retyped) information into the electronic filing. The plan administrator would "sign" the electronic filing and, under penalty of perjury and other applicable penalties, declare that the report is true, correct, and complete. The advantage of this method is that it would allow the Agencies to specify a tagging scheme, such as XML coding, which would facilitate an electronic searching for data in the document once it is filed and included in the government's databases.

- The IQPA would issue a signed paper audit report with opinion to the plan administrator. The report would remain in the plan's books and records for the required period of time. The plan administrator or preparer would scan the report as an image into a portable electronic document format such as a .pdf file. The plan

administrator would attach this file to the Form 5500 series being filed electronically in much the same manner as a file is attached to an e-mail message. The advantage of this method is to ensure that the actual electronic filing is identical to the actual manually signed document in the plan records, leaving little or no chance that the audit report will be altered after it leaves the hands of the IQPA. The disadvantage is that filing in this manner precludes any later searching for individual pieces of data in the document.

Consider these two alternatives for complying with the requirement for an enrolled actuary to sign Schedule B:

- The enrolled actuary would issue two copies of the Schedule B to the plan administrator: an electronic version of the Schedule B and the same Schedule B, printed on paper and signed. The plan administrator would keep the paper Schedule B in the plan's records as provided for in the existing ERISA requirements. The plan administrator would include the Schedule B in the electronic filing and "sign" the electronic filing, declaring that the report is true, correct, and complete. The advantage of this method is that it provides an efficient and pure electronic transfer of information from the actuary to the plan administrator and ultimately to the government.

- The actuary would issue a manually signed paper Schedule B to the plan administrator. The plan administrator would keep this document in the plan's records as provided in existing requirements. The plan administrator or preparer would transcribe the contents of the document and insert the transcribed (re-typed) information into the electronic filing. The plan administrator would "sign" the electronic filing and under penalty of perjury and other applicable penalties declare that the report is true, correct, and complete. In effect, the plan administrator is declaring that he or she has accurately included the content of the actuary's statement in the electronic filing and the content is true, correct, and complete. The advantage of this method is that it would allow the Schedule B to be submitted in a standard, acceptable electronic format.

The Agencies solicit public comment on its proposed alternative approaches to handling third-party attachments and attestations.

7. Improved Consistency of Treatment for Paper and Electronic Filings. The Agencies are committed to minimizing and, where possible, eliminating differences both in acceptance criteria for electronic and paper filings and in the overall treatment of paper and electronic filers. In particular, the Agencies intend to reexamine the role of "edit tests"[7] to make sure the electronic filings are subjected to the same level of testing and validity checking applied to paper filings.

The Agencies hope to have all of the edit tests and data validity tests programmed into the Web-based filing system so that electronic filings are checked for errors before they are accepted

[7] Edit tests are manual and automated inspections, or "tests," that are conducted by EFAST to ensure that filings meet the specifications contained in the filing instructions.

for electronic transfer to the government. Under this proposal, any filing that does not pass all edit and validity tests will not be accepted until the filer has corrected all of the errors. The rationale for catching errors before filings are transferred is to minimize or eliminate EFAST2 correspondence related to failed edit and validity tests.

Although the acceptance criteria for paper filings is the same as that for electronic filings, the edit and validity test results for the former do not manifest themselves until well into processing.[8] Because of this, the treatment of paper filings is somewhat different from the treatment of electronic filings. If a filing fails the edit and validity tests, the Agencies notify the filer after the filing is submitted, describing the test failures and requesting that the errors be corrected. However, in the interest of treating paper and electronic filers as equally as possible, the Agencies are considering requiring paper filings to be submitted no later than four months after the close of the plan year (a calendar year paper filing would have to be filed by April 30 of the following year to be considered on schedule).[9] This schedule will offset the additional time needed both to process paper filings and to send up to two letters to paper filers notifying them to correct errors. The idea behind receiving paper filings earlier than electronic filings is to build in enough processing time for the former so that the Agencies can accept finalized paper filings at about the same time as electronic filings are finalized. The Agencies solicit public comment on its proposed approach to the equitable treatment of paper and electronic filings.

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[8] The EFAST2 edit test process for paper filings will be very similar to the current process.

[9] The Agencies understand that additional statutory authority may be required and that a deadline of April 30 may be a problematic date to reference because (1) it is 15 days after the Form 1040 deadline for accountants and other form filers that do more than just Form 5500 series work, and (2) one consideration in setting the Form 5500 series deadline was to allow the plan and company returns to be done at the same time.

8. Centralized Web-Based Dissemination and Public Disclosure of Form 5500 Series Data. A goal of EFAST2 would be to centralize and consolidate the dissemination and public disclosure of data through a single, centralized data mart housed on a secure Web server. The EFAST end-users agencies (EBSA, PBGC, IRS, SSA) as well as the Department of Commerce, the Federal Reserve, and other agencies currently receive data distributed by EFAST in customized formats and media. Although this decentralized, agency-specific data distribution approach serves the needs of the end-user legacy IT systems, it runs counter to the administration's and the Agencies' E-government goals. EFAST2 represents an important opportunity for intergovernmental collaboration and integrated information management with regard to Form 5500 series data.

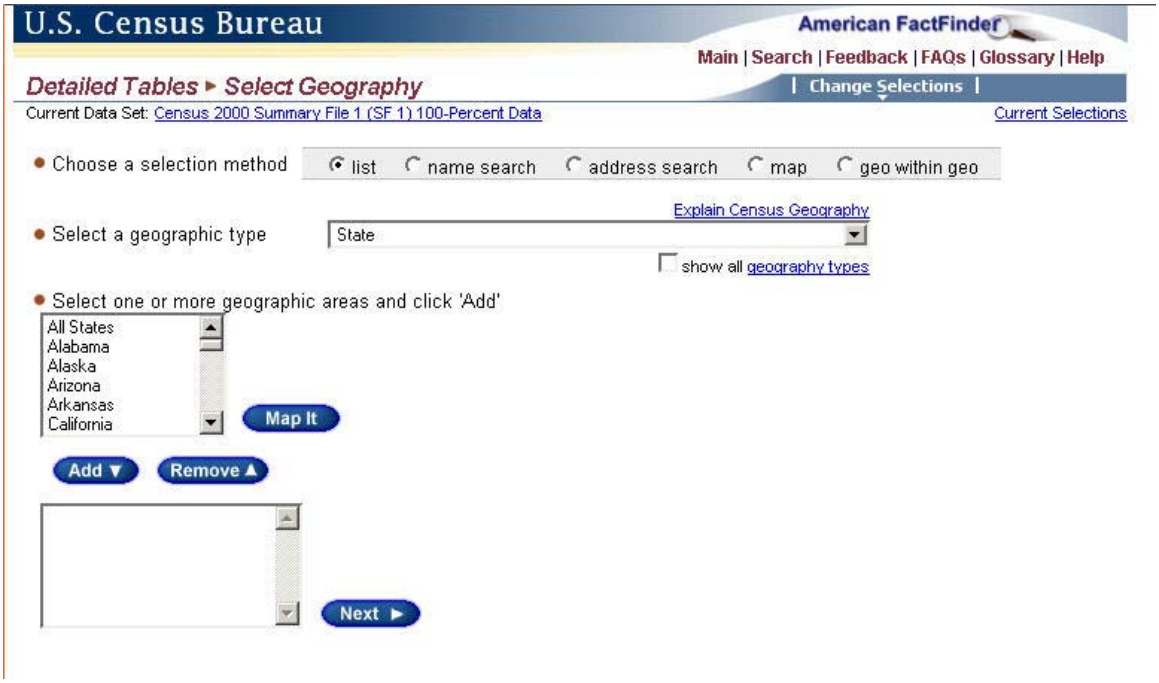
Under the EFAST2 goals, all end-user data would be consolidated in a single "data mart" that would be accessible on the Web with access controls appropriate to the intended use of the data. For example, public users would access the publicly disclosable portion of filings on the Web by entering search criteria into a user interface that accesses the data mart. Alternatively, end-user agencies would also use the Web but could query the database directly, analyze and tabulate the data, and download data extracts to conduct targeting or other sensitive applications. The transmission of sensitive data would be secured through standard telecommunications security technologies such as encryption.

The Agencies are considering multifunctional public disclosure over the Internet. This addresses the ERISA Advisory Council Working Group's recommendation to maximize the usability and transparency of data. Specifically, the ERISA Advisory Council Working Group stated, "If data is transparent participants can more easily police their own plans and ERISA organizations can recognize trends and comment in a more timely fashion, which will assist the

DOL in its oversight efforts and ultimately reduce costs." See ERISA Advisory Council Working Group Report.

Plan participants and other interested members of the public would be able to access copies of plan filings by using the plan's EIN and PN. For an example of how this process might work, see the Department of Labor's public disclosure of the Form M-1 filings of Multiple Employer Welfare Arrangements (MEWAs) at http://askebsa.dol.gov/epds/.

The Agencies are considering an additional method of public disclosure that would allow users to construct groups of filings for which data are desired and then print or download the data for the entire group. The users would select the filings from Web pages on the Department of Labor's Web site. The following example, consisting of screen shots of a request submitted to the U.S. Census Bureau's Internet site, illustrates the concept we are considering. In the first screen below, the public user is presented with a menu choice to begin the process of identifying the population of records desired.



This screen shows the selection of a choice to narrow the population of records.

This screen shows a further narrowing of the focus of records.

This screen displays the results of the user's definition of the population.

U.S. Census Bureau

American FactFinder

Main | Search | Feedback | FAQs | Glossary | Help

Detailed Tables

| Options | Change Selections | Print / Download | Related Items

Load Query | Save Query

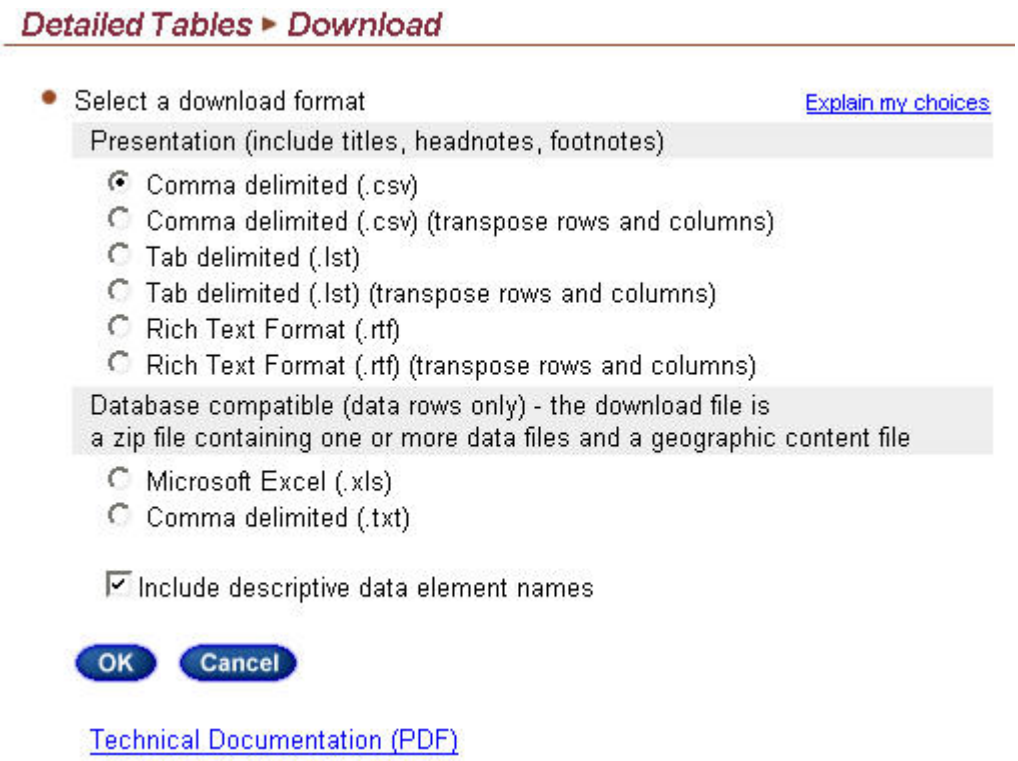
P12. SEX BY AGE [49] - Universe: Total population

Data Set: Census 2000 Summary File 1 (SF 1) 100-Percent Data

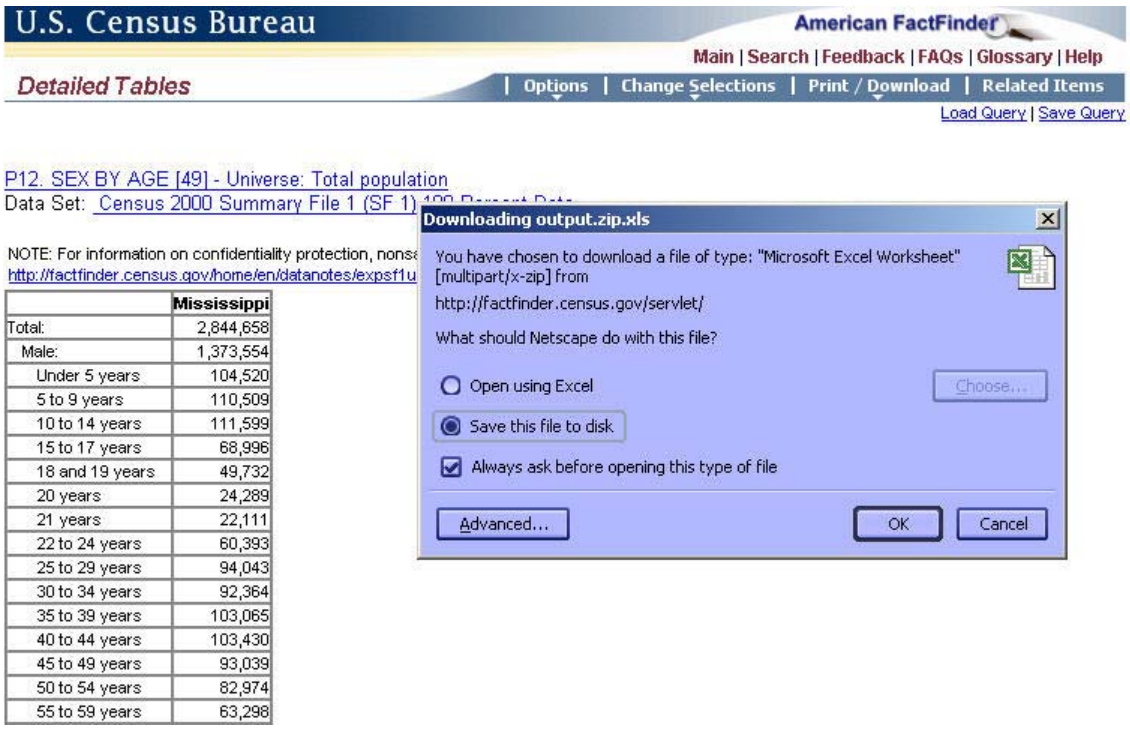
NOTE: For information on confidentiality protection, nonsampling error, and definitions, see http://factfinder.census.gov/home/en/datanotes/expsf1u.htm.

	Mississippi
Total:	2,844,658
Male:	1,373,554
Under 5 years	104,520
5 to 9 years	110,509
10 to 14 years	111,599
15 to 17 years	68,996
18 and 19 years	49,732
20 years	24,289
21 years	22,111
22 to 24 years	60,393
25 to 29 years	94,043
30 to 34 years	92,364
35 to 39 years	103,065
40 to 44 years	103,430
45 to 49 years	93,039
50 to 54 years	82,974
55 to 59 years	63,298
60 and 61 years	22,457
62 to 64 years	30,845
65 and 66 years	18,383
67 to 69 years	25,791
70 to 74 years	37,356
75 to 79 years	26,611
80 to 84 years	15,970

The user has a choice of either printing the information appearing on the screen or downloading the information to the user's computer in a number of different formats.



Finally, this screen shows the completion of the selection, and downloading of the data.



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22 to 24 years	60,393
25 to 29 years	94,043
30 to 34 years	92,364
35 to 39 years	103,065
40 to 44 years	103,430
45 to 49 years	93,039
50 to 54 years	82,974
55 to 59 years	63,298

The Agencies solicit public comment on its approach to public disclosure and data dissemination over the Web.

9. Require Each Plan Filing Form 5500 Series to Obtain a Unique EIN. The Agencies have struggled to uniquely identify plans from year to year because many employers have numerous plans, each of which files Form 5500 series annual reports using the same EIN. As a result, only the three-digit PN assigned by the plan administrator uniquely identifies filings for plans that have identical EIN numbers. When administrators of plans with the same sponsor do not file with the same PN each year, it is difficult to track the same plan from year to year. The situation is further complicated by plan sponsors that are bought, sold, or merged each year. In these cases, there is considerable potential for mismatching of EINs, plans, and their identifying information.

The Agencies are aware of the additional burden on plan administrators that would come about as a result of asking them to obtain a new and unique EIN for each pension and health plan required to file a Form 5500 series report. This burden may be minimized to some extent under EFAST2 because the IRS has implemented a new Web-based tool for requesting and receiving an EIN, known as an "I-EIN."

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Small Bus/Self-Employed

Online EIN: About the Online Application

This Internet EIN application opens another avenue for customers to apply for and obtain an employer identification number. Once you have completed all necessary fields on the online form, preliminary validation is performed and will alert you to information IRS needs that you may not have included. An EIN will be issued after the successful submission of the completed Form SS-4 online.

- Internet EIN is available 24X7
- No registration is required to use this system
- No paper needs to be sent to the IRS

Limited Liability Company (LLC)
If you are an LLC, in order to apply you must provide the following information.

- Include LLC in legal name on Line 1, and
- Check the type of entity in line 8a (partnership, sole proprietorship, or corporation), and
- Indicate on the line by Other (do not check other) single or multi member

About the EIN Issued
While the IRS calls this a provisional EIN, the I-EIN is the permanent Federal Employer Identification number for your business. This I-EIN may be voided if:

- The name and SSN of the principle officer do not match SSA records
- The business has already been assigned an EIN

Third Parties
Third parties may request EINs via the internet on behalf of their clients. A copy of the Form SS-4, signed by the customer, must be maintained in the 3rd party business files.

For additional information, see http://www.irs.gov/businesses/small/article/0,,id=102766,00.html.

The Agencies solicit public comment on the approach of establishing a unique EIN for each plan.

10. Separation of Certain Information from the Form 5500 Series Package. The Department of Labor is considering asking the IRS to remove from the Form 5500 series the Schedule E, Schedule SSA, and, when attached to the Form 5500-EZ, the Schedule B. ERISA

Section 106(a) provides that the contents of the annual reports, statements, and other documents filed with the Secretary of Labor "shall be public information" and the Secretary "shall make any such information and data available for inspection . . .. " 29 U.S.C. 1026(a).

The Agencies have chosen to share a set of forms in order to reduce the burden on the filer caused by having to report, in most cases, identical data to different agencies of the government. However, the Schedules E, SSA, and B, when attached to the Form 5500-EZ, are not "filed with the Secretary of Labor," but only with the IRS, and contain nondisclosable tax information. For calendar year 2000 filings, about 266,000 Schedules SSA and about 27,000 Schedules E filed with Form 5500 series packages were received by the government.

Numerous important requirements apply to the handling of nondisclosable tax information. IRS Publication 1075 provides an example of the security requirements that come into play with the processing and handling of nondisclosable tax information. See the full document at www.irs.gov/pub/irs-pdf/p1075.pdf.

The amount of nondisclosable tax information handled in the EFAST system is relatively small compared with the amount of disclosable information that the Department of Labor is required by law to publicly disclose. However, the safeguards added to EFAST for the small amount of nondisclosable material are significant. For this reason, the Department of Labor is considering asking the IRS not to use publicly disclosable Form 5500 series filings as a vehicle to collect nondisclosable tax information. The Department of Labor realizes that this action might inconvenience filers. Although no information over and above what is already collected would be required, filers would have to mail an additional envelope to the IRS. Moreover, filers could, if both the EFAST filing and the package sent to the IRS were to be found defective, have

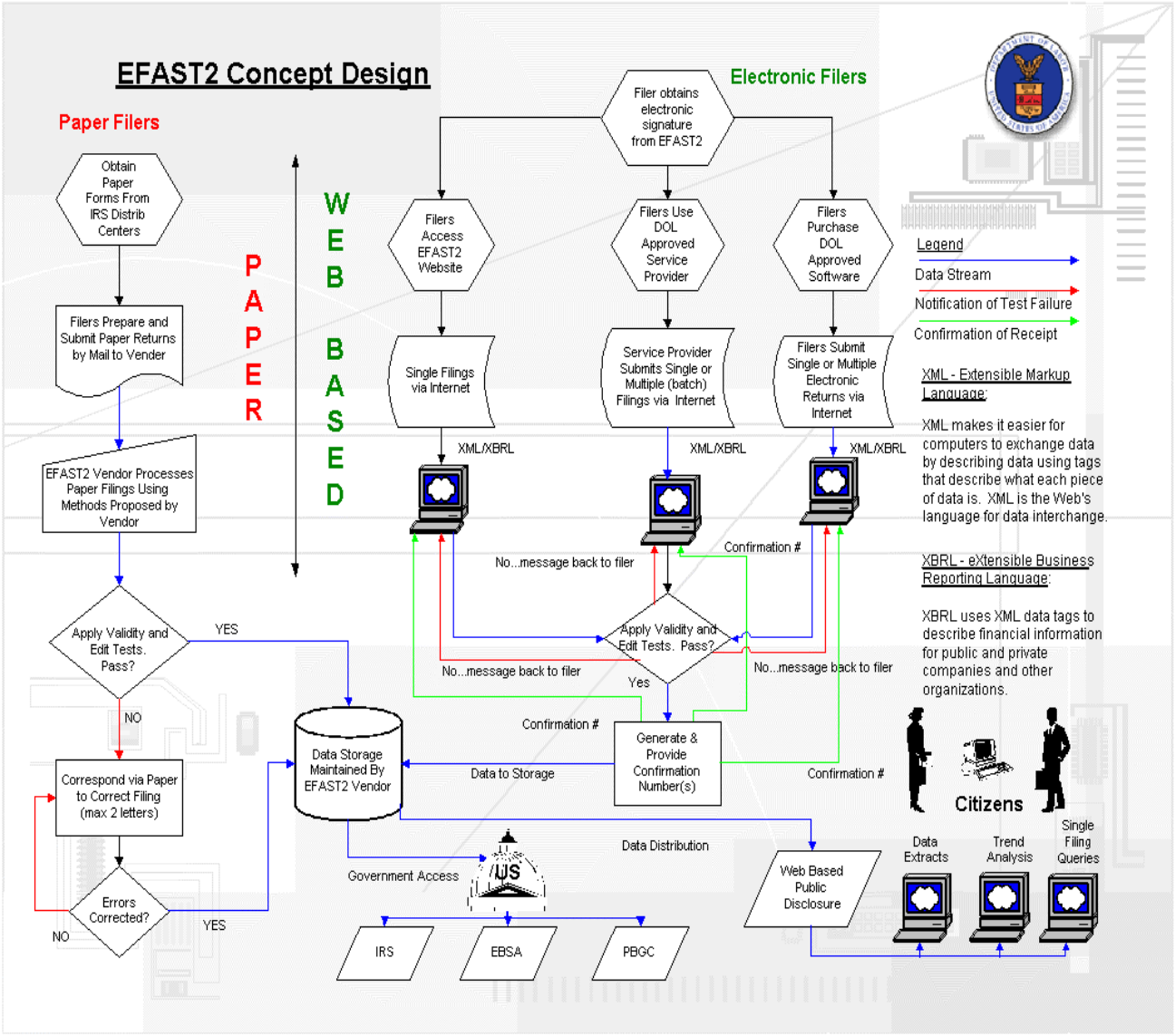
to respond to two letters from the government. Given this additional burden, the Agencies would like filer comments on this proposal.

D. Conclusion

The Agencies are very interested in comments from the filing population, developers of proprietary software sold to aid in filing the Form 5500 series reports, employee benefit plan participants and beneficiaries, service providers to employee benefit plans, and members of the general public. Comments related to a particular Change Under Consideration (Section C of this paper) should indicate the paragraph number to which the comments apply. Responses to this request for comments should not be limited to those topics described in this paper, as the Agencies are interested in any comments whatsoever that relate to more efficient and effective processing of the form 5500 series reports.

E. References

Attached is a conceptualized chart of the new system under consideration.


EFAST2 Concept Design
Paper Filers
Electronic Filers
Obtain Paper Forms From IRS Distrib Centers
Filers Prepare and Submit Paper Returns by Mail to Vender
EFAST2 Vendor Processes Paper Filings Using Methods Proposed by Vendor
Apply Validity and Edit Tests. Pass?
YES
NO
Correspond via Paper to Correct Filing (max 2 letters)
Errors Corrected?
YES
NO
PAPER
WEB BASED
Filer obtains electronic signature from EFAST2
Filers Access EFAST2 Website
Filers Use DOL Approved Service Provider
Filers Purchase DOL Approved Software
Single Filings via Internet
Service Provider Submits Single or Multiple (batch) Filings via Internet
Filers Submit Single or Multiple Electronic Returns via Internet
XML/XBRL
XML/XBRL
XML/XBRL
No...message back to filer
Confirmation #
Apply Validity and Edit Tests. Pass?
No...message back to filer
No...message back to filer
Yes
Confirmation #
Generate & Provide Confirmation Number(s)
Confirmation #
Data Storage Maintained By EFAST2 Vendor
Data to Storage
Data Distribution
Government Access
US
IRS
EBSA
PBGC
Web Based Public Disclosure
Citizens
Data Extracts
Trend Analysis
Single Filing Queries
Legend
Data Stream
Notification of Test Failure
Confirmation of Receipt
XML - Extensible Markup Language:
XML makes it easier for computers to exchange data by describing data using tags that describe what each piece of data is. XML is the Web's language for data interchange.
XBRL - eXtensible Business Reporting Language:
XBRL uses XML data tags to describe financial information for public and private companies and other organizations.