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January 17, 2025

The Honorable Mike Crapo
Chairman
The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

The Honorable Jason Smith
Chairman
The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Social Security Administration: Use of Electronic Payroll Data to Improve Program Administration*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Social Security Administration (SSA) entitled "Use of Electronic Payroll Data to Improve Program Administration" (RIN: 0960-AH88). We received the rule on December 31, 2024. It was published in the *Federal Register* on December 31, 2024. 89 Fed. Reg. 107236. The effective date of the rule is March 3, 2025.

SSA states that this rule will support the proper use of information exchanges with payroll data providers, helping SSA administer its programs more efficiently, improving customer experiences, and preventing improper payments under the Social Security Act.

Enclosed is our assessment of SSA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Jennifer Dulski
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REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
SOCIAL SECURITY ADMINISTRATION
ENTITLED
“USE OF ELECTRONIC PAYROLL DATA TO IMPROVE PROGRAM ADMINISTRATION”
(RIN: 0960-AH88)

(i) Cost-benefit analysis

The Social Security Administration (SSA) discussed the costs and benefits of this rule. See 89 Fed. Reg. 107236, 107256 (Dec. 31, 2024). SSA estimated that, among other things, this proposal will result in a net administrative cost of \$846 million for the 10-year period from fiscal years 2025 to 2034. *Id.* at 107256. SSA further stated that the benefits of an information exchange include reducing wage reporting responsibilities for some individuals. *Id.*

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

SSA certified that this rule will not have a significant economic impact on a substantial number of small entities because it primarily affects individuals. 89 Fed. Reg. at 107256.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

SSA did not address the Act in this rule. In its submission to us, SSA indicated that it did not prepare a written statement under section 202 of the Act.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

In its submission to us, SSA indicated it did not prepare a statement regarding its compliance with the Act but noted it complied with the Act's requirements.

(v) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On February 15, 2024, SSA published a proposed rule. 89 Fed. Reg. 11773. SSA stated it received 132 public comments on the notice of proposed rulemaking from February 15, 2024, through April 15, 2024. 89 Fed. Reg. at 107237. Of these, 52 were relevant and are available for public viewing at <https://www.regulations.gov/document/SSA-2016-0039-0007/comment>. *Id.* According to SSA, these comments were from individuals, Members of Congress, and advocacy groups. *Id.* SSA responded to comments in this rule. *See id.* at 107237–107255.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

SSA determined that this rule contains a collection of information requiring OMB approval under the Act. SSA stated it already has existing information collection tools relating to the rule: the Letter to Employer Requesting Information About Wages Earned by Beneficiary (SSA-L725, OMB Control Number 0960-0034); Letter to Employer Requesting Wage Information (SSA-L4201, OMB Control Number 0960-0138); Monthly SSI Wage Reporting (SSA's Mobile Wage Reporting, Telephone Wage Reporting, and internet myWage Report application, OMB Control Number 0960-0715); the Authorization for the Social Security Administration to Obtain Wage and Employment Information from Payroll Data Providers (Form SSA-8240, OMB Control Number 0960-0807); and the Notice to Electronic Information Exchange Partners to Provide Contractor List (SSA-731, OMB Control Number 0960-0820). 89 Fed. Reg. at 107256–107257.

SSA also projected the rule's total estimated burden savings to be 75,154 hours and its total anticipated annual opportunity cost to be \$15,295,730, though SSA noted there is no actual charge to respondents to complete the application. *Id.* Additionally, SSA stated it submitted a single new information collection request encompassing revisions to information collections currently under OMB Control Numbers 0960-0034, 0960-0138, 0960-0715, and 0960-0807 to OMB for approval of the changes due to the rule. *Id.* at 107258.

Statutory authorization for the rule

SSA promulgated this rule pursuant to various sections of title 42, United States Code, and section 211(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, title II, subtitle B, 110 Stat. 2105, 2189 (Aug. 22, 1996). *See* 89 Fed. Reg. at 107258–107261.

Executive Order No. 12866 (Regulatory Planning and Review)

SSA stated that it consulted with OMB and OMB determined this rule meets the criteria for a significant regulatory action under the Order and is subject to OMB review. 89 Fed. Reg. at 107255.

Executive Order No. 13132 (Federalism)

SSA determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. 89 Fed. Reg. at 107256. SSA also determined that

the rule will not preempt any state law or state regulation or affect the states' abilities to discharge traditional state governmental functions. *Id.*