

SOUTHLAND PENSION SERVICES

ACTUARIES

ADMINISTRATORS

CONSULTANTS

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October 6, 2004

EFAST Program Office
Employee Benefits Security Administration
Room N5459
U. S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Attn: EFAST RFC

This is in response to your Request for Comment pertaining to EFAST2.

FIRST, THE TRUTH

Due to its own failings, the Department of Labor has failed to attract Form 5500 filers to the current EFAST electronic filing option.

Typical of all governmental authorities, instead of finding solutions to its failures, the Department of Labor desires to impose an even more complex web-based electronic filing system on employee benefit plan sponsors.

SECOND, THE COST SAVINGS

Again the entire focus of any cost savings are cost savings to the Department of Labor.

There is no concern as to the increased cost and lost time to the employee benefit plan sponsors.

THIRD, THE EFAST "ONE" DEBACLE

The Department of Labor needs to do a thorough review of all the problems that led to the delays and complications upon the introduction of the current EFAST system.

At that time, as one high-up consultant to the EFAST project told me, "the Department of Labor will accept any filing as long as it isn't filed on toilet paper."

WHO IS SOUTHLAND?

SOUTHLAND provides consulting services to more than 1000 employer sponsored retirement plans. As a part of our service, we prepare Forms 5500 and 5500EZ. We are one of the few firms - perhaps the only consulting firm - that has developed our own system of preparing such forms. Most other firms use Form 5500 systems developed by companies specializing in form preparation software. Thus, we believe we have a unique and valuable perspective on EFAST.

SOUTHLAND uses a single data base in the preparation of all annual plan accounting and valuation and related Forms 5500 filings; as well as plan documents and related Internal Revenue Service Forms 5307, 2848, and 8717 filings; participant distributions and related Forms 1099R and 945 filings; client correspondence and billings; and most other day-to-day activities involved in providing services to our clients. One of the main reasons we have not purchased a Forms 5500 system from a third party is the difficulty in interfacing the use of our database with their systems. Moreover, our Forms 5500 system is a part of an integrated system that generates client accounting summaries and worksheets, Summary Annual Reports, ERISA bond applications, Forms 5558, quality control checksheets and cover letters.

We believe the use of our data base and integrated computer systems has provided our clients rapid turn-around with reliable accuracy at a very reasonable cost. But we also believe that our approach has allowed us to submit thousands of Forms 5500 and 5500EZ to the Department of Labor on a nearly error-free basis - perhaps as few as five inquiries pertaining to Year 2002 filings. In addition, we consistently receive "no change" letters on the audits of our client submissions.

We have invested many hundreds of hours of time and many thousands of dollars of expense in the development of our systems. Any EFAST changes will be a burden to SOUTHLAND and result in increased costs to our clients.

ELECTRONIC FILINGS

The Request indicated that FEWER THAN 2% ($20,000 / 1,400,000 = 1.43\%$) of the returns are filed electronically. Before the Department of Labor discards this concept, perhaps it should review methods of correcting the incredible deficiencies of its own current system.

First, the method of obtaining electronic identification numbers is seriously flawed. The form used for applying for a signature is confusing and unnecessarily requires two pages. Several years ago we submitted an alternative form - a copy of which is attached. The Department of Labor has taken no steps to the implementation of such a shorter specialized form. Further, the Department of Labor required that the "numbers" be sent back to the plan sponsor instead of directly to the service provider. It is generally agreed and acknowledged that this would be very inefficient, as it would lead to additional confusion on the part of plan sponsors as well as unnecessary follow-up by service providers in seeking to obtain the electronic numbers from the plan sponsors.

Second, as recognized in the Request, there is no efficient way to attach attachments to an EFAST electronic filing. Every Schedule B requires at least one such attachment, which means that no defined benefit pension plan can file electronically.

Thus, many firms, including SOUTHLAND, have chosen the more direct route of paper submissions. I should point out that SOUTHLAND has done sufficient investigative development to be able to prepare electronic filings, but has received no help in solving the Schedule B attachment problem.

In fact, with the exceptions noted above, electronic filings appear relatively simple. But there is perhaps another reason firms such as ours have avoided electronic filings, and that is the "love of the paper trail" - just like in Presidential voting. Our clients feel comfortable knowing that the printed copy of the Form 5500 being filed with the government is IDENTICAL to the copy in their bound report.

But back to where I started. If electronic filing has been less than successful, why does the Department of Labor believe the service community is anxious to be immersed in web-filings? Which brings me to say, once again, when the Request talks about efficiencies, the sole true focus is on efficiencies for the governmental agencies with little regard for the efficiencies of firms providing services to the employer plans.

So, if EFAST2 could lead to a simplification of the electronic authentication procedures and provide mechanisms for attachments to filings, why does not the DOL do both of these things NOW? Do them now, and then wait to see if more firms do elect to file electronically.

ELIMINATION OF PAPER FILINGS

Why eliminate computer-generated handprint forms? The Request includes a most ridiculous reason: "This will reduce the burden on software developers, freeing them to concentrate on Internet filing solutions." No software developer needs to reduce their burden. That is their business. Each new form; Each system change; Each separate method of filing only provides software developers with additional opportunities to generate income.

There is only one reason to do away with computer-generated handprint forms, and that is to force service providers to use the proposed web-based system.

The inclusion of this totally bogus compassion for software developers as an argument only serves to highlight the contempt that the Department of Labor has for free enterprise, and the willingness of the decision makers in the Department of Labor to abuse their power in forcing their will on those they allegedly serve

MANDATORY ELECTRONIC FILING and CHARGING FILING FEES

As the reader can already understand, this writer is against anything that is mandatory. In most non-governmental areas of our lives, citizens are offered options. This is the concept that built our country into the world's greatest economic power. Government in all forms and at all levels seems to seek every way of "mandating" and, thereby, eroding this magnificent system.

On the other hand, it should be noted that those who benefit from a service should be the ones who pay for it. Not all U.S. citizens travel overseas, but those that do are appropriately charged a fee by the government to obtain a passport. Similarly, and closer to home, the Internal Revenue Service has made major steps toward eliminating the need for individual Determination Letters for qualified plan documents. But it should be noted that the Internal Revenue Service has not withdrawn the ability of an employer to request a separate Determination Letter. The Service instead has established a set of fees which give recognition to the approximate costs in rendering letters for various filings.

This writer sees no reason why an appropriate fee could not be charged for each of the various methods of filing Forms 5500. Such a fee would give recognition to the time and expense on the part of the Department of Labor in processing the report/returns. The employer (through its service provider) can then weigh the costs and advantages of using any particular method of filing.

But there is one more issue. The Request indicates that the Department of Labor would accept hand-printed or hand-typed government issued handprint forms. It is recognized by all that such hand-prepared handprint forms are both difficult for the computer to "read" and also loaded with errors. My question: Why should not the Department of Labor accept readable and accurate computed-prepared handprint forms that are processed by the same programs and equipment as the government printed forms?

PROBLEMS WITH ATTACHMENTS - SCHEDULE B

The writer is an Enrolled Actuary responsible for the accuracy of the Schedule B. In one location the Request offered two alternatives for the submission of Schedules B. As to the "two-copy" approach I have the following question: How does the Plan Administrator know that the electronic version matches the paper version signed by the actuary? This of course pertains to all aspects of reporting. On the other hand, the "re-typing" approach is 100% certain to lead to errors, which in turn will lead to the inquiries by the Joint Board for the Enrollment of Actuaries. I would not be comfortable knowing that a third party was "re-typing" "my" Schedule B! I do not want my continued enrollment dependent on some clerk's typing ability. A Schedule B is complicated and contains many codes requiring exact syntax.

But in another location the Request asks us to consider having actuaries and accountants submit "nondisclosable" information directly to EFAST. Why couldn't that idea apply as well to all Schedules B and accountants reports? Then the Department of Labor could post whatever was appropriate. AND such direct submissions could be instituted for the 2004 Forms, thus, eliminating the main reason for not filing electronically, and thus, eliminating the need for EFAST2!!!!

PAPER FILINGS - FOUR MONTHS

Again, I am suspicious as to the motive behind the concept of requiring handprint filers to file four and one-half months prior to electronic filers. Data would not suddenly become available to handprint filers earlier than to electronic filers. This writer would view this as the rawest form of government abuse of power to force filers to file electronically.

BUT THERE IS HYPOCRISY in even suggesting an urgency. Through the Department of Labor's own actions, the processing of Forms 5500 and 5500EZ was delayed for months and months just a few years ago. This writer will not soon forget the huge store-room in Lawrence, Kansas, stacked to the ceilings with submissions that had collected dust for more than a year.

A FINAL PLEA

This writer is well aware of the future. He has no difficulty envisioning the day when all reporting is done over the internet. But this writer does not see the need to rush or push. This writer pleads with the Department of Labor to remember the difficulties encountered by all parties concerned in the implementation of the current EFAST system. Each year has seen corrections and improvements.

In our own business we would "live" with a present system until it had outlived an acceptable level of efficiency. New systems "just because they are possible" lead to waste of time and expense. Our fax machine is ten-years old, but still sends and receives. Our photo-copy machine is not digital but our clients can still read the reports. Our local-area-network dates back about five years, but processes information as fast as we can key it in. And the 2004 Forms 5500 system will simply be an update with improvements, because the time and expense of developing any new system would not be justified by the small improvements in efficiency or accuracy. We would hope that the Department of Labor would have a better understanding of our cost-to-benefit ratios, not just their own.

The Request is written using terms and examples known and understood by only the few who specialize in the proposed areas. However, as we have all witnessed in the rapid pace of computer/internet advancements - that which is difficult today will soon be made easy. Why not let us all live with the internet a few more years? Why not wait until what is difficult today becomes easy tomorrow?

This writer must assume that the current EFAST system has cut governmental costs, shortened time-frames and led to greater accuracy. We believe the superlative "substantial" applies to all three. We might even guess that government costs have already been reduced by more than 75%. The outlined EFAST2 would likely save only another 10 to 15% of the costs from the 1990's. And this small savings would be reduced by the expenses of system development, employee retraining and sponsor retraining.

Yes, there is some optimum system out there at the present time. But it too will be out-dated by the time it became a reality. Please let us all utilize and improve the present system for several more years. Then, when an EFAST2 is implemented it will in fact be EFAST3 or EFAST4 or, more likely, the equivalent of EFAST99.

THIS WRITER IS AVAILABLE

This writer is available to answer questions and offer assistance.



Jeffrey S. Skinner
Consulting Actuary
jeff@southlps.com

cc. Congressman Brad Sherman
Congressman Ron Paul

NOTE TO THE CONGRESSMEN

The Department of Labor has made no serious attempt to solicit comments from the employers who sponsor employee benefit plans. This writer is aware of the Request for Comment only because he is a registered software developer. Thus, in reality, with few exceptions, the only entities submitting comments will be those firms which specialize in the development of software. In other words, the only ones responding are those who will be able to charge fees for the design and implementation of any changes.

Their responses will be technical, and fail to address the important questions as to why? And when? This writer feels certain that his views of restraint more closely represent the views of those who must incur the time and expense involved in implementing this latest Department of Labor scheme.

Thus, the writer encourages each of the Congressmen to make appropriate inquiries of both the Department of Labor and their respective constituencies.

Form **EFAST-1**

Application for EFAST Electronic Signature
(For Use Exclusively with Forms 5500 & 5500-EZ)

Official Use Only

OMB No. 1210-0117

Department of Labor
Pension and Welfare Benefits
Administration

Please read the instructions before completing this application

This Form is Open
to Public Inspection.

Part I Exclusive Use of Electronic Signature

This is an application for an EFAST electronic signature. This electronic signature is for the sole use in the electronic filing of a Form 5500 return/report or Form 5500-EZ return with the Department of Labor. Any other use of this electronic signature is neither intended nor authorized. This electronic signature will be recognized only by the Department of Labor, and only for the purpose of filing a Form 5500 return/report or Form 5500-EZ return.

Part II Applicant Agreement

If this application results in the issuance of an electronic signature, I understand and agree that the electronic signature is not transferable and that the inclusion of such electronic signature in a Form 5500 return/report or Form 5500-EZ return filed in electronic form shall have the same legal force and effect as my hand written signature. If I am not the Transmitter, I also agree that my electronic signature on a Form 5500 or Form 5500-EZ constitutes consent for EFAST personnel to send my Transmitter an acknowledgment of receipt of transmission and to communicate with my Transmitter about the success or failure of the transmission and the specific reason(s) for any failure(s).

Part III Applicant Information (Please use ALL CAPITAL LETTERS and omit punctuation marks.)

A Name of Individual Applying for an EFAST Electronic Signature

Caution: If a Prior Signature ID is entered, the EFAST electronic signature associated with that ID will be cancelled immediately.

Name - LAST, First and Initial (Please do NOT include any titles such as DR, MD, PHD, DDS.)

Prior Signature ID (If None, Leave Blank)

CLIENT FIRST N

B Mailing Address to which Electronic Signature PIN and ID are to be sent

Name of Company (Generally, this will be the Third Party Administrator that will be Preparing and Transmitting the Electronic Filings.)

SOUTHLAND PENSION SERVICES INC

Street or Post Office Box (Please use abbreviations such as PO BOX, AVE, BLVD, N, S, NE; add ST, ND, RD, TH to numbered streets; do NOT use "#".)

PO BOX 7007

City

NORTHRIDGE

State

CA

ZIP Code

91327 - 7007

C Name of Person to Contact Regarding this Application

Name of Contact Person - LAST, First

SKINNER JEFFREY

Telephone Number of Contact Person

818 407 4727

FAX Telephone Number of Contact Person

818 407 4729

D Cancel Signature Use

Do you want to cancel the use of your EFAST Electronic Signature?

Yes No

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this application, and to the best of my knowledge and belief the information provided is true, correct, and complete. I agree that this application can be made public information.

Signature of Applicant (Must be Signed AND Dated)

Signature of Applicant

Date



Dear Client:

It appears that the most cost effective way to file your Form 5500 may be to do so electronically. To file electronically we will need to obtain an "electronic" signature for you.

Thus, we ask that you sign our enclosed form and return it in the enclosed self-addressed post-paid envelope as soon as possible.

Rest assured that if in fact we do go electronic, we will be sending you a "hard" copy for your review and approval before we send any magnetic copies to the Fed Gov.

Thanks!

Call if you have questions: (818) 407 - 4727.

Michael T. Adams and Jeffrey S. Skinner

Cover note to our EFAST-1 modified application.

Carl Walston
Program Manager

Thanks for the profitable day.

While I still plan to submit my HP forms for approval, after listening at the meeting and re-reviewing the Electronic/Magnetic Media manual, it is likely we will want to send you a 1000 or so floppies!

My first step would be to gather some 750 electronic signatures. Thus, the application needs to be **SIMPLE, COMFORTING and INFORMATIVE**. To this end I am forwarding my first draft of a customized version.

Part I **EMPHASIZES** that the signature is **ONLY** for 5500's. That is, I will not be able to use it to submit 1120's or 1040's or any other government (or bank, credit card, etc) form.

The PIN and ID **ABSOLUTELY MUST** be sent to the pension plan consultant.

We are the ones who prepare the sig-app, the forms 5500s, etc, etc.

They will lose your response, and we will be tied-up chasing down the PIN and ID.

Thus, my version provides explicit directions for you to send the E-Sig to us.

A side note: I have always believed signatures should be **BELOW** what is being signed for. Check-out a 1040. The IRS puts the signature on the second page.

Now look at your EFAST-1, what would prevent me from sending out **ONLY** the first page to my clients, and attaching the second page when I forward the form to you.

You all stand to gain a **LOT** by Magnet Filings - therefore I encourage you to make this one hard copy form as "**FRONT**" **USER** friendly as possible: You do **NOT** need to be able to electronically read the little bit of data on this form! -- No Bar Codes are necessary.

I look forward to your earliest possible response . . . And **APPROVAL!**

Jeffrey S. Skinner
Consulting Actuary

P.S. If you see an old guy wandering around, tell I enjoyed the time with him and expect an invitation to his retirement party **NOT** some letter about my errors.

Sent on February 23, 2001

Carl Walston
Program Manager

Good Morning Flat-Lander.

**I took my daughter to Chuck E Cheese.
My mind got refreshed, and I came up with two modifications.**

First (a real bit of genius coming up) it dawned on me that if the person wants to CHANGE his or her E-Sig, then he or she must already have a E-Sig ID -- (here comes the brilliance) it would help you folks to verify that you are canceling the correct PRIOR signature IF you had the Prior Signature ID.

Further, if the E-Sig ID is blank, then the application may be for a second or third E-Sig. To repeat my comments of yesterday. The E-Sig PIN and ID need to go directly to the people who are going to use them. But one Administration firm may prepare 5500's for a pension plan; another Administration firm may prepare 5500's for a cafeteria plan; another for group medical; etc. While it is a bit more input for you, the individual is able to "manage" the use of his electronic signatures with greater convenience for all if he or she has separate E-Sigs for each Administration firm.

A Simple Example: A client gets upset with his Pension Plan Administrator, and wishes to terminate the relationship immediately. That would importantly include the immediate cancellation of his or her E-Sig PIN and ID. Meanwhile, over at the Cafeteria and Group Medical Administration firms they are just completing their magnetic filings which will hit your loading dock or modems only to be rejected for lack of signature (unless they have their own E-Sigs). Hassle for all, potential penalties for the clients. It gets Ugggggly.

THE REAL WORLD: A client leaves one firm, the new firm sends in a new E-Sig app that cancels the old E-Sig. Yes, a "well-run" operation like ours would include the E-Sig ID on the paper copies of the filings sent to the client. But, DOL could simply require this. Then, when the client goes to the new Administrator, the new Administrator has the existing E-Sig ID

Second, the person may just want to cancel an existing E-Sig in a bit more formal way than calling some unknown voice in Kansas (nothing really against Kansas).

I also followed the "Last, First" instructions.

A BOTTOM LINE OBSERVATION: The EFAST Electronic Signature Application and the EFAST Software Developer's Application are really TWO DIFFERENT things -- each worthy of its own separate Application FORM!

Hope to hear from you soon. I have started to fool with creating the magnetic filing.

Jeffrey S. Skinner
Consulting Actuary

Telephone: (818) 407 - 4727 Telecopy: (818) 407 - 4729

cc: Charles E. McLaughlin

Sent on February 24, 2001