
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**ADMINISTRATIVE FINALITY
IN THE OLD-AGE, SURVIVORS
AND DISABILITY INSURANCE
PROGRAM**

September 2007 A-01-07-27029

AUDIT REPORT



Mission

By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.

Authority

The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:

- **Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.**
- **Promote economy, effectiveness, and efficiency within the agency.**
- **Prevent and detect fraud, waste, and abuse in agency programs and operations.**
- **Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.**
- **Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.**

To ensure objectivity, the IG Act empowers the IG with:

- **Independence to determine what reviews to perform.**
- **Access to all information necessary for the reviews.**
- **Authority to publish findings and recommendations based on the reviews.**

Vision

We strive for continual improvement in SSA's programs, operations and management by proactively seeking new ways to prevent and deter fraud, waste and abuse. We commit to integrity and excellence by supporting an environment that provides a valuable public service while encouraging employee development and retention and fostering diversity and innovation.



SOCIAL SECURITY

MEMORANDUM

Date: September 24, 2007 **Refer To:**

To: The Commissioner

From: Inspector General

Subject: Administrative Finality in the Old-Age, Survivors and Disability Insurance Program
(A-01-07-27029)

OBJECTIVE

Our objective was to assess the impact of the Social Security Administration's (SSA) administrative finality rules on the Old-Age, Survivors and Disability Insurance (OASDI) program.

BACKGROUND

The OASDI program provides benefits to replace some of the earnings lost due to the retirement, disability or death of a worker.¹ These benefits are based on the worker's earnings, averaged over his or her working lifetime. Generally, the higher the earnings, the higher the Social Security benefit. The table below provides the number of OASDI beneficiaries and the total amount of benefits paid in Calendar Year (CY) 2006, as well as estimates for CY 2015:

Calendar Year	Number of Beneficiaries	Annual Benefit Payments
2006 ²	49.1 million	\$546.2 billion
2015 (estimated) ³	59.9 million	\$949.6 billion
Growth	22%	74%

¹ The Social Security Act § 201 *et seq.*, 42 U.S.C. § 401 *et seq.*

² SSA, Actuarial Publications: *Social Security Beneficiary Statistics*, December 20, 2006; *Trust Fund Data*, February 8, 2007.

³ SSA, *The 2006 OASDI Trustees Report*, Tables IV.A3 and IV.B2 (Intermediate Assumptions), May 2006.

Once SSA determines the payment amount due a beneficiary, that determination may be reopened and revised later under certain conditions. The discretionary rules that SSA uses to reopen and revise determinations are known as the rules of administrative finality.⁴

Under administrative finality, SSA will generally revise an incorrect OASDI payment amount if the error is discovered within 4 years. However, if the error is discovered after 4 years, the Agency will generally only revise the payment determination if it was obtained by fraud or similar fault or it was wholly or partially unfavorable to the beneficiary as a result of a clerical error or error on the face of the evidence.⁵

If administrative finality is applied, a revision will only be made when SSA makes a new payment determination—such as when benefits are converted from disability to retirement upon a beneficiary's attainment of full retirement age. If a new determination is not made, the payment amounts will not be revised and will continue until death. According to SSA, these rules were created to: (1) protect beneficiaries from the inconvenience or hardship that could result from the correction of an Agency error, and (2) ease the administration of the program.⁶

In a prior Office of the Inspector General (OIG) review, we estimated SSA incorrectly calculated the benefits to about 281 beneficiaries (out of a population of 1,560), but would not revise them because of the administrative finality rules.⁷ As a result, about \$8 million more in OASDI benefits was paid to these beneficiaries that will not be recovered. Also, we estimated an additional \$10 million will be paid to these beneficiaries in the future. (See Appendix B for prior OIG reports related to administrative finality.)

We initiated this current review to assess the full impact of administrative finality on the OASDI program. To accomplish our objective, we identified a population of 77,969 OASDI beneficiaries who were receiving benefits as of June 2005 and whose benefit records indicated that administrative finality was involved. From this population, we selected a random sample of 275 cases for detailed analysis. (See Appendix C for more information on our scope, methodology and sample results.)

⁴ SSA established these rules under the Commissioner's authority, which was granted by the Social Security Act (The Social Security Act § 702(a)(5), 42 U.S.C. § 902(a)(5)). For the Agency's administrative finality regulations, see 20 C.F.R. §§ 404.987-996. See also SSA, Program Operations Manual System (POMS), GN 04000.

⁵ 20 C.F.R. §§ 404.988(c); see also SSA, POMS, GN 04060.005C. Our review of other agencies' regulations showed that the Railroad Retirement Board (20 C.F.R. § 261.2(c)(10)) and the Department of Veterans Affairs (38 U.S.C. 5112(b)(10)) have similar administrative finality rules. However—unlike SSA's rules—these Agencies permit revisions to the ongoing payments in certain situations even though administrative finality prevents revisions to the payments that were issued previously.

⁶ SSA, Benefit Authorizer Basic Training Program, Administrative Finality (BA-08, 2003-1), p. 387. See also SSA, Administrative Message AM-04020, February 3, 2004.

⁷ SSA OIG, *Benefits Paid to Dually Entitled Title II Beneficiaries* (A-01-06-26004), issued August 2006.

RESULTS OF REVIEW

We estimate SSA identified about 44,230 beneficiaries whose benefits had been incorrectly calculated, but the Agency did not revise the amounts because of its administrative finality rules. As a result, we estimate these individuals were paid about \$140.5 million more in OASDI benefits than they otherwise would have been paid had the errors not occurred. We also estimate about 25,801 of these beneficiaries will be paid an additional \$49.8 million in the future because their ongoing benefits were not corrected when the Agency identified the calculation errors.⁸

Of the 275 beneficiaries in our sample:

- 156 (57 percent) were paid more in OASDI benefits than they otherwise would have been paid because of administrative finality;
- 99 (36 percent) may have received more OASDI benefits because of administrative finality, but we were unable to quantify the amount because there was insufficient information available; and
- 20 (7 percent) were unaffected by administrative finality.⁹

BENEFITS NOT REVISED BECAUSE OF ADMINISTRATIVE FINALITY

When SSA determined the payment amounts for 156 beneficiaries in our sample, the benefits were incorrectly calculated.¹⁰ In most cases, these calculations were incorrect because the beneficiaries' earnings records contained earnings which were too high. However, when SSA staff discovered these calculation errors, they invoked administrative finality and did not revise the benefits. These 156 beneficiaries were paid about \$495,666 more in OASDI benefits than they otherwise would have been

⁸ For the purposes of our audit, we used the Primary Insurance Amounts or the Original Benefit Amounts in our calculations. These amounts may have been more than what was actually paid in benefits to the individuals (for example, benefits are reduced when a beneficiary elects to receive retirement benefits prior to full retirement age). For more information about our calculations, see Appendix C.

⁹ These 20 beneficiaries were entitled to two benefits. In each case, if one of the benefits was revised downward, the other would have increased by the same amount. Therefore, the total amount of benefits paid was unaffected by administrative finality.

¹⁰ We did not determine whether SSA staff applied administrative finality in accordance with the Agency's policies.

paid if the errors had not occurred.¹¹ Further, because the ongoing benefits were not revised for 91 of these beneficiaries, we estimate they will be paid an additional \$175,533 in the future.¹²

For example, in January 1982, SSA staff calculated the retirement benefits due a 62 year old beneficiary. In 1988, the Agency removed earnings that were incorrectly posted to his earnings record for 1981. The amount of benefits he was paid would have been less had his actual earnings been used when the benefits were calculated. However, the Agency invoked administrative finality and the benefits were not revised. As a result, we estimate SSA paid this beneficiary about \$6,874 more in benefits over 25 years (through September 2006), and those benefits will not be recovered. In addition, we estimate he will be paid about \$1,212 more in the future because of this calculation error.

OPPORTUNITIES TO REVISE BENEFITS

SSA had the opportunity to reopen and revise the benefit determinations for 40 of the 156 beneficiaries within the 4-year time period allowed under administrative finality. In each case, we found the Agency corrected the beneficiaries' earnings records (i.e., removed the erroneous earnings) within 4 years of the dates that SSA calculated the benefit amounts. Had the Agency reopened the benefit determinations when the earnings records were corrected, the benefits could have been revised. As a result, the Agency could have assessed about \$85,186 in recoverable overpayments to these 40 beneficiaries.¹³ In addition, we estimate the Agency could have avoided paying these beneficiaries about \$40,659 in ongoing payments.

For example, in April 1991, SSA staff calculated the retirement benefits for a beneficiary. In 1994, the Agency corrected the beneficiary's earnings record by removing earnings that were incorrectly posted for 1990. Although the earnings record was corrected within the 4-year administrative finality period, the benefits (which were based upon the incorrect earnings) were not recalculated until 1 year later. As a result, staff invoked administrative finality and the benefits were not revised. Had SSA revised the benefits, the Agency would have been able to pursue recovery of \$1,368, and would have avoided paying about \$846 in ongoing payments.

¹¹ Of these 156 beneficiaries, 27 were also eligible for Supplemental Security Income (SSI). SSI payments are administered by SSA to eligible individuals based on need (The Social Security Act § 1602, 42 U.S.C. § 1381a). It is possible that, had SSA revised their OASDI benefits, the additional \$93,593 we estimate they received because of administrative finality would have been paid under the SSI program instead.

¹² For the remaining 65 beneficiaries, SSA stopped paying the higher benefit amounts for reasons such as death or the conversion of benefits from disability to retirement at full retirement age.

¹³ Projecting these results to the population, we estimate the Agency could have assessed about \$24 million in recoverable overpayments to about 11,341 beneficiaries had SSA revised the payment determinations when the earnings records were corrected. For the remaining 116 cases, SSA did not reopen and revise the payment determinations because the administrative finality time period had expired by the time the errors were discovered.

In April 2007, the OIG initiated an audit to assess whether SSA reopens and revises benefit determinations when erroneous earnings are removed from the beneficiaries' earnings records.

IMPACT OF ADMINISTRATIVE FINALITY MAY HAVE BEEN UNDERSTATED

Our estimates on the impact of administrative finality on the OASDI program may be understated because of (1) the limited documentation available to us, and (2) the methodology we used to identify our population. For 99 of the 275 beneficiaries in our sample (36 percent), we were unable to quantify the additional amounts paid because of administrative finality. Specifically, there was no documentation available regarding why the Agency applied administrative finality.¹⁴ However, it is possible that SSA correctly calculated the benefits for some of these beneficiaries, and the benefit records were incorrectly coded with the administrative finality indicator.

Our audit population included 77,969 OASDI beneficiaries who were receiving benefits as of June 2005 and whose benefit records contained the administrative finality indicator. We only included beneficiaries who were receiving benefits at that time. For example, our population did not include any beneficiaries who were deceased as of June 2005 and whose benefits prior to their deaths had been subject to administrative finality. Further, it is possible that SSA invoked administrative finality for other beneficiaries, but did not place the indicator on their benefit records.¹⁵

CONCLUSION AND RECOMMENDATION

Based on our analysis, we estimate that SSA's administrative finality rules cost the OASDI program about \$190 million. We recognize that SSA established the rules, in part, to help protect beneficiaries from hardships that could result from the correction of Agency errors. However, OASDI beneficiaries should be paid the benefits they were intended to receive based on the formulas provided in the Social Security Act. We believe that, when SSA discovers errors in the payments to beneficiaries, the Agency should correct them rather than continuing the errors in future benefit payments. By invoking administrative finality and not correcting the errors, the beneficiaries receive extra monies that cost the OASDI trust funds millions of dollars.

¹⁴ According to SSA's policy, staff are required to document their rationale for invoking administrative finality. SSA, POMS, GN 04001.080.

¹⁵ In our 2006 audit, *Benefits Paid to Dually Entitled Title II Beneficiaries* (A-01-06-26004), we found 59 cases where SSA invoked administrative finality, but did not place the indicator on the benefit records.

One of SSA's strategic goals is to "protect the integrity of Social Security programs through superior stewardship," which includes preserving and carefully managing the resources, assets and programs entrusted to the Agency. In addition, SSA strives to "achieve sustainable solvency and ensure Social Security programs meet the needs of current and future generations." The Agency is responsible for evaluating legislative and policy alternatives that have the potential to impact Social Security programs.

Given the anticipated growth of the OASDI program (from about \$546 billion in 2006 to about \$950 billion by 2015) SSA should evaluate its discretionary regulations—including administrative finality—to determine whether changes should be made that will help ensure the long-term solvency of the Social Security programs.

Therefore, we recommend that SSA consider revisions to its rules/regulations that will permit changes to the ongoing OASDI benefit payments whenever errors are discovered.

AGENCY COMMENTS

SSA disagreed with our recommendation. In response to our draft report, the Agency acknowledged that administrative finality has an impact on the OASDI trust funds, but expressed concern that SSA "...would incur significant operational costs by not having administrative finality." The Agency also stated that "[t]he rules of administrative finality are designed to foster public confidence in the Agency's decisions...," and that "[c]orrecting a record more than four years in the past could cause undue hardship for [SSA's] beneficiaries, as well as create extensive public relations issues for the Agency." (For SSA's comments, see Appendix D.)

OIG RESPONSE

We agree with SSA's statement that "[a]ny changes in the existing rules would need to be carefully weighed to determine the potential impact...on both the beneficiaries and the Agency." We are disappointed that SSA disagreed with our recommendation and, instead, decided that the Agency's administrative finality rules should remain unchanged without first conducting additional analysis. Not only is the decision to continue with the status quo inconsistent with the Agency's mantra of continuous improvement, it impedes the Agency's ability to optimize its efficiency.

According to SSA, the Agency established its 4-year administrative finality regulations in 1949 in part "due to the need to limit reopenings because of their serious impact on SSA's workloads." SSA speculated that it would "incur significant operational costs by not having administrative finality," stating that our recommendation would require the Agency to make "many additional benefit amount recalculations and readjudications." However, we note that SSA has automated much of the work that was—at the time the regulations were initially adopted—performed manually by employees. The Agency has an automated system in place which examines the earnings of every retired, disabled and deceased worker each year to determine whether the worker's primary

insurance amount may be recomputed.¹⁶ In these situations, the actual cost to the Agency to effectuate the change in the benefit amounts after the recalculations are performed may, in fact, be insignificant.

The Agency stated that “correcting a record more than four years in the past could cause undue hardship for our beneficiaries.” However, our recommendation focuses on the ongoing monthly payments and not the benefits that were paid in the past, before the payment errors were discovered. We realize that the administrative finality rules limit the circumstances under which the Agency will revise prior determinations. We believe SSA should explore the possibility of making new payment determinations—and correcting the monthly benefit amounts going forward—whenever new information comes to surface that questions the accuracy of the amount of benefits being paid, and revisions to the previously-issued payments are not possible because of administrative finality.

SSA expressed concern that changing the administrative finality rules and correcting and reducing benefit payments “may erode public trust for our Social Security programs.” However, the Agency’s decision to not take action to correct administrative errors when they are discovered may also have a negative impact. Because of the Agency’s discretionary administrative finality rules, some beneficiaries are knowingly paid more in benefits than they were intended to receive based on the formulas provided in the Social Security Act. Public confidence in the programs may be diminished when some individuals are paid additional benefits, while others are not.

As SSA stated, our report “does not contain any analysis or information related to the costs to the Agency” that would result from a change in policy. We recognize that additional factors need to be considered before SSA can determine whether revisions are appropriate. In light of the millions of trust fund dollars that could be saved, we

¹⁶ 20 CFR § 404.285. SSA uses its Automatic Earnings Reappraisal Operation to reexamine records of every entitled person to determine if a benefit increase is due. According to SSA, “the principal objective of [this system] is to ensure that all creditable earnings are considered in development of the [primary insurance amounts].” (SSA, POMS, OS 01201.490.) The system “...automatically screens [earnings records] that have changes in earnings information and computes the necessary changes.” (SSA, POMS, RS 00605.560.).

encourage the Agency to reconsider our recommendation. We believe SSA should conduct a thorough analysis to enumerate and quantify the costs that may result before concluding whether or not changes should be made to the administrative finality rules.

A handwritten signature in black ink, appearing to read "Patrick P. O'Carroll, Jr."

Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Related Office of the Inspector General Reports

APPENDIX C – Scope, Methodology and Sample Results

APPENDIX D – Agency Comments

APPENDIX E – OIG Contacts and Staff Acknowledgments

Appendix A

Acronyms

C.F.R.	Code of Federal Regulations
CY	Calendar Year
OASDI	Old-Age, Survivors and Disability Insurance
OIG	Office of the Inspector General
POMS	Program Operations Manual System
SSA	Social Security Administration
SSI	Supplemental Security Income
SSN	Social Security Number
U.S.C.	United States Code

Related Office of the Inspector General Reports

We have issued several reports that discussed the Social Security Administration's (SSA) rules of administrative finality in the Supplemental Security Income (SSI) program. In total, we estimated that about \$263 million in SSI payments will not be recovered because of the Agency's administrative finality rules.

Missing SSNs

In September 2002, we issued a report, *Impact on the Social Security Administration's Programs When Auxiliary Beneficiaries Do Not Have Their Own Social Security Numbers* (A-01-02-22006). In this audit, we found 53 cases in which SSA did not consider the individuals' Old-Age, Survivors and Disability Insurance (OASDI) benefits when calculating their SSI eligibility because their Social Security numbers (SSN) were missing from their OASDI benefit records. In total, these individuals received \$1.17 million that would not have been paid if SSA had considered their OASDI benefits when the Agency calculated their SSI payments. However, because of SSA's rules of administrative finality, \$723,396 of the \$1.17 million was not recorded as overpayments and recovery was not pursued.

SSI Fugitive Felon Project

In September 2003, we issued a report, *Assessment of the Supplemental Security Income Fugitive Felon Project* (A-01-03-23070). In this audit, we found that SSA did not recover about \$137.8 million in SSI payments issued to fugitives who had outstanding warrants because the Agency invoked its administrative finality rules.

To address discrepancies in the application of administrative finality with regard to fugitive ineligibility, we recommended that SSA provide guidance, training and oversight of administrative finality decisions to ensure the rules are invoked uniformly to all fugitives. The Agency agreed and issued new procedural instructions which included information about administrative finality rules as they relate to fugitive determinations. In addition, SSA provided refresher training via a nationwide video broadcast in September 2003, which included reminders about the application of administrative finality when revising payments to fugitives.

Incorrect SSNs

In November 2003, we issued a report, *Impact on the Social Security Administration's Programs When Auxiliary Beneficiaries Have Incorrect Social Security Numbers* (A-01-03-33020). In this audit, we found 13 cases in which SSA did not consider the auxiliary beneficiaries' OASDI benefits when calculating their SSI eligibility because their SSNs were incorrectly recorded on their OASDI benefit records. In total, these individuals received \$448,275 that would not have been paid if SSA had considered

their OASDI benefits when the Agency calculated their SSI payments. However, as a result of SSA's administrative finality rules, \$219,111 of the \$448,275 was not recorded as overpayments and recovery was not pursued.

***Disabled SSI
Recipients with
Earnings***

In April 2005, we issued a report, *Disabled Supplemental Security Income Recipients with Earnings* (A-01-04-14085). Although we estimated that \$12.4 million was overpaid to about

11,880 recipients because SSA did not previously consider all of the recipients' earnings when calculating their SSI payment amounts, we also found that additional SSI payments were not recorded as overpayments because of the Agency's administrative finality rules. Specifically, we estimated that the earnings discrepancies for about 61,380 recipients would have resulted in an additional \$74.7 million in overpayments were it not for the Agency's administrative finality rules. We also estimated that about \$8.1 million to about 11,880 SSI recipients were not paid because administrative finality was invoked and their SSI records were not revised.

***SSA's
Administrative Finality
Rules***

In July 2005, we issued a report, *Social Security Administration's Administrative Finality Rules* (A-01-04-24024). In this audit, we estimated that \$48.7 million in SSI payments to about 7,757 individuals were not assessed as overpayments because of administrative finality.

***Direct Deposits for
Multiple Title XVI
Recipients***

In February 2007, we issued a draft report, *Direct Deposits for Multiple Title XVI Recipients into the Same Bank Account* (A-02-06-25141). We found that SSA was unaware of the changes in living arrangements for about 148 recipients. We estimated these changes would have resulted in about \$819,812 in overpayments if the previously issued SSI payments had been reopened and revised. However, because of administrative finality, the funds will not be recovered.

Scope, Methodology and Sample Results

To accomplish our objective, we:

- Reviewed applicable sections of the Social Security Act and the Social Security Administration's (SSA) regulations, rules, policies and procedures.
- Reviewed prior Office of the Inspector General reports.
- Obtained a file from SSA of 77,969 Old-Age, Survivors and Disability Insurance (OASDI) beneficiaries who had administrative finality annotated on their records and were receiving benefits as of June 2005. From this file, we selected a random sample of 275 beneficiaries. For each sample case, we:
 1. reviewed available information, including electronic data on the Master Beneficiary Record and Master Earnings File, and paper documentation in the claims folders;
 2. calculated the amount of additional OASDI funds SSA paid to beneficiaries because administrative finality was invoked and benefits were not revised;¹ and
 3. calculated the amount of additional OASDI funds SSA will continue to pay in the future related to the errors the Agency did not correct because of administrative finality.²

We performed our audit in Boston, Massachusetts between November 2006 and February 2007. We tested the data obtained for our audit and determined it to be sufficiently reliable to meet our audit objective. The principal entities audited were the Office of Income Security Programs under the Deputy Commissioner for Disability and Income Security Programs and SSA's Field Offices and Program Service Centers under the Deputy Commissioner for Operations. We conducted our audit in accordance with generally accepted government auditing standards.

¹ For the purposes of our audit, we used the Primary Insurance Amounts or the Original Benefit Amounts in our calculations. These amounts may have been more than what was actually paid in benefits to the individuals (for example, benefits are reduced when a beneficiary elects to receive retirement benefits prior to full retirement age).

² We assumed the ongoing amounts will continue until: (1) the disability beneficiaries attain full retirement age and SSA makes new payment determinations, or (2) the beneficiaries die. For our estimates, we used the life expectancies as reported by the Center for Disease Control (National Vital Statistics Report, Vol. 54, No. 14, Tables 2 and 3, April 19, 2006).

SAMPLE RESULTS

Table 1: Population and Sample Size

Population	77,969
Sample Size	275

Table 2: OASDI Funds SSA Will Not Recover Because Administrative Finality Was Invoked and Benefits Were Not Revised

	Number of Beneficiaries	Dollars
Sample Results	156	\$495,666
Point Estimate	44,230	\$140,533,069
Projection Lower Limit	40,235	\$86,796,793
Projection Upper Limit	48,140	\$194,269,346

Note: All projections were calculated at the 90-percent confidence level.

Table 3: Cases in Table 2 that SSA could have corrected if the payment determinations were reopened when errors were discovered on the beneficiaries' earnings records

	Number of Beneficiaries	Dollars
Sample Results	40	\$85,186
Point Estimate	11,341	\$24,152,287
Projection Lower Limit	8,710	\$11,572,746
Projection Upper Limit	14,426	\$36,731,828

Note: All projections were calculated at the 90-percent confidence level.

Table 4: Cases in Table 2 that SSA did not correct because the administrative finality reopening period expired

	Number of Beneficiaries	Dollars
Sample Results	116	\$410,480
Point Estimate	32,889	\$116,380,782
Projection Lower Limit	28,998	\$63,607,370
Projection Upper Limit	36,878	\$169,154,194

Note: All projections were calculated at the 90-percent confidence level.

Table 5: OASDI Funds SSA Will Continue to Pay Because Administrative Finality Was Invoked and Benefits Were Not Revised

	Number of Beneficiaries	Dollars
Sample Results	91	\$175,533
Point Estimate	25,801	\$49,767,698
Projection Lower Limit	22,146	\$26,281,950
Projection Upper Limit	29,669	\$73,253,446

Note: All projections were calculated at the 90-percent confidence level.

Appendix D

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: June 19, 2007 **Refer To:** S1J-3

To: Patrick P. O'Carroll, Jr.
Inspector General

From: Larry W. Dye /s/

Subject: Office of the Inspector General (OIG) Draft Report, "Administrative Finality in the Old-Age, Survivors and Disability Insurance Program" (A-01-07-27029)—
INFORMATION

We appreciate OIG's efforts in conducting this review. Our comments on the draft report's content and recommendation are attached.

Please let me know if we can be of further assistance. Staff inquiries may be directed to Ms. Candace Skurnik, Director, Audit Management and Liaison Staff, at (410) 965-4636.

Attachment:
SSA Response

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT
REPORT "ADMINISTRATIVE FINALITY IN THE OLD-AGE, SURVIVORS AND
DISABILITY INSURANCE PROGRAM" (A-01-07-27029)**

Thank you for the opportunity to review and comment on the subject draft report.

Administrative finality is the principle that the Commissioner's determinations of eligibility for payment should be final and binding on both parties (the Agency and beneficiary) after a reasonable period of time. It functions like a statute of limitations on both the beneficiary and the Agency. The rules of administrative finality are designed to foster public confidence in the Agency's decisions by limiting the circumstances in which the Agency may change a decision that has previously been rendered. The rules also benefit the Agency in that it is protected from the administrative difficulties associated with having to accommodate every request to change decisions on claims for benefits, regardless of how far in the past the decision took place, unless our regulations or the law provide an exception.

While the report provides information, and we agree, that the rules of administrative finality have an impact on the Old-Age and Survivors and Disability Insurance (OASDI) Trust Funds, we have a major concern that is not addressed in the report. Specifically, the report does not contain any analysis or information related to the cost to the Agency of making the many additional benefit amount recalculations and readjudications that would result from OIG's recommendation. We believe the Agency would incur significant operational costs by not having administrative finality. This, in our opinion, would not advance the Agency's current strategic goal "to protect the integrity of Social Security programs through superior stewardship." Our response to the recommendation and a technical comment are provided below.

Recommendation

The Social Security Administration (SSA) should consider revisions to its rules and regulations that will permit changes to the ongoing OASDI benefit payments whenever errors are discovered.

Response

We disagree. As noted above, ongoing readjudication of claims would place an administrative burden on the Agency's resources, as well as impact the public's reliance on the government's decision. Our regulations state that four years is a reasonable time limit for us to identify and correct any error on our records. Correcting a record more than four years in the past could cause undue hardship for our beneficiaries, as well as create extensive public relations issues for the Agency. We are concerned that making decisions to correct and reduce beneficiary payments beyond the four year time span may erode public trust for our Social Security programs. Any changes in the existing rules would need to be carefully weighed to determine the potential impact of any changes on both the beneficiaries and the Agency. At this time we do not

agree that it would be in the Social Security program's best interest to perform ongoing OASDI benefit recalculations, as to do so would require additional administrative resources and/or the deferral of other Agency work.

Finally, Section 205(c) of the Social Security Act (and implementing regulations at 20 CFR 404.820ff) limits the circumstances in which earnings records from past years may be revised downward. This, in turn, may limit the ability of SSA in many cases to make the sorts of downward adjustments in benefit amounts that are intended in the recommendation. It may be that, in the absence of a statutory change to section 205(c), the impact of the recommendation with respect to SSA's regulatory administrative finality policy may be limited.

[SSA also provided a technical comment.]

Appendix E

OIG Contacts and Staff Acknowledgments

OIG Contacts

Judith Oliveira, Director, Boston Audit Division (617) 565-1765

Jeffrey Brown, Audit Manager, (617) 565-1814

Acknowledgments

In addition to those named above:

Chad Burns, Auditor

Kevin Joyce, IT Specialist

Toni Paquette, Program Analyst

Frank Salamone, Senior Auditor

Melinda Tabicas, Senior Auditor

David York, Program Analyst

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The Office of the Inspector General (OIG) is comprised of our Office of Investigations (OI), Office of Audit (OA), Office of the Chief Counsel to the Inspector General (OCCIG), and Office of Resource Management (ORM). To ensure compliance with policies and procedures, internal controls, and professional standards, we also have a comprehensive Professional Responsibility and Quality Assurance program.

Office of Audit

OA conducts and/or supervises financial and performance audits of the Social Security Administration's (SSA) programs and operations and makes recommendations to ensure program objectives are achieved effectively and efficiently. Financial audits assess whether SSA's financial statements fairly present SSA's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs and operations. OA also conducts short-term management and program evaluations and projects on issues of concern to SSA, Congress, and the general public.

Office of Investigations

OI conducts and coordinates investigative activity related to fraud, waste, abuse, and mismanagement in SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, third parties, or SSA employees performing their official duties. This office serves as OIG liaison to the Department of Justice on all matters relating to the investigations of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

Office of the Chief Counsel to the Inspector General

OCCIG provides independent legal advice and counsel to the IG on various matters, including statutes, regulations, legislation, and policy directives. OCCIG also advises the IG on investigative procedures and techniques, as well as on legal implications and conclusions to be drawn from audit and investigative material. Finally, OCCIG administers the Civil Monetary Penalty program.

Office of Resource Management

ORM supports OIG by providing information resource management and systems security. ORM also coordinates OIG's budget, procurement, telecommunications, facilities, and human resources. In addition, ORM is the focal point for OIG's strategic planning function and the development and implementation of performance measures required by the Government Performance and Results Act of 1993.