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**OFFICE OF  
THE INSPECTOR GENERAL**

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**SOCIAL SECURITY ADMINISTRATION**

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**IMPACT OF UNAUTHORIZED  
EMPLOYMENT ON  
SOCIAL SECURITY BENEFITS**

**December 2006**

**A-14-05-14042**

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**AUDIT REPORT**

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## **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:** December 21, 2006

**Refer To:**

**To:** The Commissioner

**From:** Inspector General

**Subject:** Impact of Unauthorized Employment on Social Security Benefits (A-14-05-14042)

### **OBJECTIVE**

The objectives of our review were to assess: (1) the accuracy of unauthorized employment information recorded on the Social Security Administration's (SSA) Numident Master File (NUMIDENT),<sup>1</sup> and (2) the impact of unauthorized employment on Social Security benefits.

### **BACKGROUND**

Each year, SSA uses NUMIDENT and earnings information to inform the Department of Homeland Security (DHS) about noncitizens who may be working illegally. SSA sends DHS information about individuals who have earnings recorded under Social Security numbers (SSN) that SSA assigned for nonwork purposes.<sup>2</sup> The information is sent to DHS in the form of an electronic data file called the NonWork Alien (NWALIEN) file as required by law.<sup>3</sup> The file is sent approximately 6 to 18 months after earnings are first reported to SSA.

According to DHS, resource priorities, data compatibility and possible data accuracy problems have prevented it from making effective use of the unauthorized earnings

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<sup>1</sup> The NUMIDENT is a result of SSA's enumeration process. When individuals apply for an SSN, SSA staff assigns an SSN and records information from the application on the NUMIDENT.

<sup>2</sup> As of October 2003, nonwork SSNs are assigned when DHS has not authorized employment and the noncitizen needs the SSN to qualify for benefits that rely on Federal funding such as food stamps, or where a State or local government requires an SSN for a noncitizen legally in the United States to receive benefits from a State public assistance program. See 20 C.F.R. §§ 422.104 and 422.107. SSA requires noncitizens who apply for an SSN to present proof of age, identity, and work authorization status, and SSA verifies all immigration documents (i.e., visas, employment authorization status, and permanent resident alien cards, etc.) with DHS' US Citizen and Immigration Services (formerly Immigration and Naturalization Services) before assigning an SSN. For an individual eligible for a nonwork SSN, SSA assigns a number and issues an SSN card bearing the legend, "NOT VALID FOR EMPLOYMENT."

<sup>3</sup> Pursuant to § 414 of Pub. L. 104-208, 110 Stat. 3009, (1996) the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, SSA is required to include in the file the names and addresses of nonwork numberholders and employers reporting the earnings, as well as the amount of the earnings.

information. While SSA notifies DHS of possible unauthorized employment, DHS is not required to tell SSA when it changes a person's work authorization status from unauthorized to authorized. Unless the person informs SSA directly of such a change, NUMIDENT records continue to show the person as not authorized for employment and SSA includes his or her earnings on the NWALIEN file.<sup>4</sup>

The *Social Security Protection Act of 2004* (SSPA) Section 211, prevents SSA from giving noncitizens credit toward future SSA benefits under Title II of the Social Security Act if they were never authorized to work in the United States (after this referred to as nonwork SSNs). The law only applies to individuals who were assigned original nonwork SSNs January 1, 2004 or later.<sup>5</sup> These individuals have to later obtain work authorization to be insured for Title II benefits.<sup>6</sup> Individuals assigned an original nonwork SSN before January 1, 2004 are not subject to SSPA's restrictions.

From a representative 5 percent segment of the NUMIDENT,<sup>7</sup> we identified 57,720 individuals who had prior earnings and, according to their most recent SSN application, were not work authorized. From this universe, we randomly selected 250 individuals for review. Our sample represented all individuals recorded on the NUMIDENT file over the past 3 decades who had earnings but, according to SSA's records, were never assigned an SSN for employment purposes. We obtained comprehensive earnings and benefit information for each sample case and, when available, current immigration and work authorization status from DHS' Immigration and Customs Enforcement (ICE).<sup>8</sup> Further information concerning the scope and methodology of this audit can be found at Appendix B.

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<sup>4</sup> Id.

<sup>5</sup> PL 108-203 § 211, "Prohibition on Payment of Title II Benefits to Persons Not Authorized to Work in the United States."

<sup>6</sup> The restrictions of Section 211 of the SSPA also do not apply to the individual who was admitted to the U. S. as a nonimmigrant visitor for business, or as an alien crewman under specified provisions of the Immigration and Nationality Act, Section 101(a) (15)(B) and (D).

<sup>7</sup> SSA stores NUMIDENT records in equal segments by arranging records in numerical order according to the last two digits of the SSN (i.e. 80-84, 85-89, 90-94, etc.). Each segment represents 5 percent of all NUMIDENT records and there are 20 total segments. It is common practice for SSA to use a segment to estimate results to the entire file. For our population, we randomly selected NUMIDENT Segment 17 and, as of November 1, 2004, it had 21,406,075 records. As of that date, SSA had assigned nonwork SSNs to 373,600 individuals in Segment 17, and 57,720 of these individuals had prior earnings.

<sup>8</sup> ICE is the DHS component that reviewed our 250 sample cases. ICE agents manually researched immigration and employment status for each case.

## RESULTS OF REVIEW

Based on our review of information obtained from DHS, we estimate that more than a third of work authorization information contained in SSA's NUMIDENT file for nonwork SSNs was no longer accurate. DHS found that work authorization status had changed from unauthorized to authorized for over a third of our 250 sample cases. The remaining cases were either still unauthorized or DHS could not locate immigration information for the individuals. Although data that no longer reflects current work authorization status reduces the usefulness of the NWALIEN file for DHS, we found that SSA could use data mining techniques and the information it now records on SSN applications to increase the usefulness of the NWALIEN file records.

We found that SSPA may have minimal impact on future SSA benefits to noncitizens since most noncitizens provided nonwork SSNs were enumerated prior to implementation of SSPA. Based on our sample results, we estimate that 378,640 individuals in the NUMIDENT (1) were assigned nonwork SSNs before January 2004, (2) have never been work authorized, (3) had \$25.4 billion in Social Security earnings, and (4) because they were assigned original nonwork SSNs before January 1, 2004, will not be affected by SSPA's restrictions (see Appendix B for details).

## INTEGRITY OF WORK AUTHORIZATION INFORMATION ON THE NUMIDENT

The information we received from DHS in January 2006 showed that, over time, work authorization status changed from unauthorized to authorized for more than one-third of our 250 sample cases. Those changes were not shown as reported to SSA and/or recorded on SSA's records. Work authorization status for the remaining cases was either still unauthorized as shown on SSA's records or could not be confirmed. DHS indicated that:

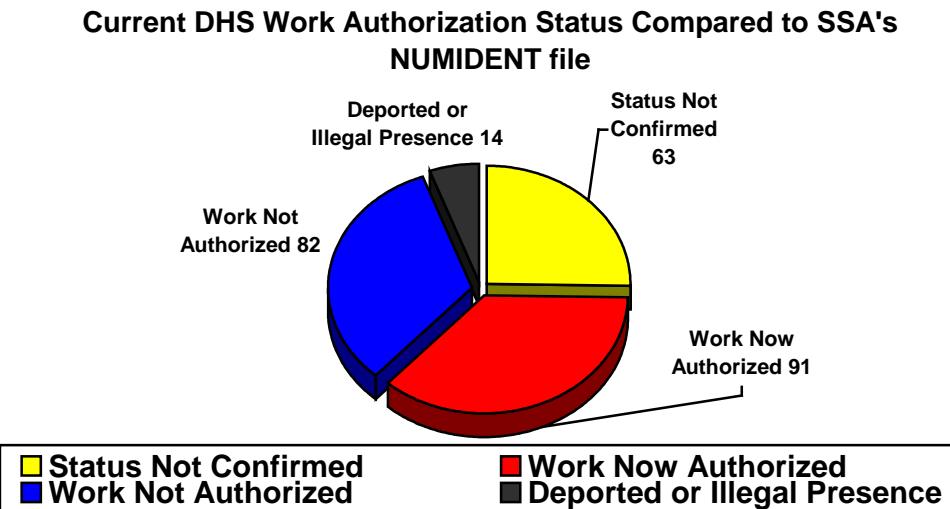
- ✓ Employment was now authorized in 91 of the 250 cases (36.4 percent). These individuals had become Legal Permanent Residents<sup>9</sup> (LPR), naturalized citizens or nonimmigrants with a current Employment Authorization Document (EAD).<sup>10</sup>
- ✓ Employment was still not authorized in 82 of the 250 cases (32.8 percent). These individuals were either temporary visitors, foreign students or nonimmigrants with expired EADs.

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<sup>9</sup> A LPR is a noncitizen who has been given permission by DHS to make his or her permanent home in the U. S. Individuals who have permanent residence are issued a green card and can travel as much as they like. Their place of residence must be the U.S. and kept on a permanent basis.

<sup>10</sup> Noncitizens who are temporarily in the U.S. may apply for an EAD. An EAD permits work in the U.S. and the specific categories that require an EAD include (but are not limited to) asylum seekers, refugees, students seeking particular types of employment, applicants for permanent residence status, people in or applying for temporary protected status, fiancés of U.S. citizens, and dependents of foreign government officials. An EAD is not required for a LPR.

- ✓ Individuals in 14 of the 250 sample cases were shown as deported or in the U.S. illegally (5.6 percent).<sup>11</sup>
- ✓ Immigration status could not be confirmed in 63 of the 250 cases (25.2 percent). DHS could not locate a record for 54 of the 63 cases. Additionally, for 9 of the 63 cases, DHS could locate the record but could not determine current immigration status. For example, in 3 of the 9 cases, immigration status had not been recorded.



We found that work authorization information is no longer correct for at least 36.4 percent of the NUMIDENT records in our sample. Therefore, the same information may be incorrect for 420,000 of the estimated 1.15 million NUMIDENT nonwork records associated with employment.<sup>12</sup>

When SSA combined unauthorized employment and annual earnings information to create the 2004 NWALIEN file and inform DHS of illegal employment, it would have included 109 of the 250 cases in our NUMIDENT sample. Sample results showed that work authorization information was either incorrect or could not be confirmed for three fourths of the 109 NWALIEN records.<sup>13</sup> Additional data analysis showed that the unconfirmed cases have characteristics similar to those where work is not authorized. For example, we found that the average length of work history for both the unauthorized

<sup>11</sup> We referred these 14 individuals to our Office of Investigations (OI) for additional review. OI has referred the cases to DHS.

<sup>12</sup> The estimated 1.15 million nonwork NUMIDENT records with recorded earnings is based on multiplying our sample population—57,720 nonwork records with earnings in 1 of 20 segments of the NUMIDENT—by 20 segments. The 420,000 potentially incorrect nonwork records associated with earnings is based on multiplying the 1.15 million records by 36.4 percent, the percentage of sample cases where employment authorization changed and SSA was not notified of the change.

<sup>13</sup> The 109 cases included 59 cases where authorized employment information was incorrect, 21 where employment status was not confirmed, and 29 where employment was still not authorized.

and unconfirmed cases in our 250-case sample is 4 years, and about 30 percent of the workers had Calendar Year (CY) 2004 earnings. In contrast, the average length of work history for those now authorized to work is 11 years, and 65 percent had CY 2004 earnings. Based on the similarities of these two groups, DHS may want to use both unauthorized and unconfirmed records to determine which employers listed on the NWALIEN file are most likely to engage in illegal hiring practices.

We believe that SSA and DHS should explore the use of data analysis to evaluate NWALIEN data and make it more useful for monitoring possible unauthorized employment. Such data mining would allow DHS to identify employers who appear to use a high number of illegal workers.<sup>14</sup> For example, if resource limits impact the number of NWALIEN records that DHS can examine, data mining would help DHS prioritize its work. DHS could use data mining to identify and concentrate on only those employers who appear to use a disproportionate number of unauthorized or unconfirmed employees, or operate in sensitive industries.<sup>15</sup>

## **USE OF DHS NUMBERS**

Starting in March 2005, SSA required personnel to use new software procedures known as *SS-5 Assistant* to help complete SSN applications.<sup>16</sup> The *SS-5 Assistant* helps personnel enter the correct information for SSN applications, by collecting and documenting the required evidence, including the DHS Alien or Admission Numbers for all noncitizens and naturalized citizens. The *SS-5 Assistant* uses the DHS numbers to automatically query on-line immigration records and verify immigration status.

We reviewed the evidence that 158 noncitizens submitted with their applications for original nonwork SSNs in March, April and May 2005 (See Appendix B for details). In our review of the 158 applications, we determined that SSA now captures the Alien or Admission Number 60 percent of the time.<sup>17</sup> Over time, SSA could improve the value of the NWALIEN file for workplace enforcement by including DHS Alien or Admission numbers captured in the SSN application process on the NWALIEN file. This would help DHS locate corresponding records.<sup>18</sup>

## **IMPACT OF UNAUTHORIZED EMPLOYMENT ON BENEFITS**

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<sup>14</sup> Employers who report unauthorized earnings are identified on the NWALIEN record.

<sup>15</sup> Sensitive industries would include airlines, seaport management, etc.

<sup>16</sup> The *SS-5 Assistant* is a set of computer screens and logic designed to guide Social Security staff in completing applications for an SSN. It enhances the SSN application process by helping users follow existing policies and collect the correct evidence.

<sup>17</sup> In cases where the Alien or Admission Number was not recorded, the SSN information was taken outside the regular SS-5 process, usually in conjunction with applications for Social Security benefits.

<sup>18</sup> Pursuant to § 414 of Pub. L. 104-208, 110 Stat. 3009, (1996) the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, SSA is required to include in the file the names and addresses of nonwork number holders and employers reporting the earnings, as well as the amount of the earnings. The inclusion of additional fields would require legislative action.

SSPA prohibits SSA from giving noncitizens credit for benefits under Title II of the Social Security Act if SSA neither assigned them original SSNs prior to 2004, nor authorized work.<sup>19</sup> We analyzed nonwork SSN NUMIDENT records and Social Security earnings records to assess the potential impact that SSPA and trends in unauthorized employment might have on future SSA benefits. Between January 1972 and November 2004, in one segment of the NUMIDENT, SSA assigned 373,600 individuals a nonwork SSN. In the course of those 32 years, we found:

- ✓ 35.4 percent of the 373,600 applicants acquired work authorization status and changed their status on SSA's records;
- ✓ 49.2 percent of the 373,600 applicants did not have recorded earnings or change their work authorization status on SSA's records; and
- ✓ 15.4 percent of the 373,600 applicants had recorded earnings and did not change their work authorization status on SSA's records. We sampled this group to evaluate the accuracy of employment authorization information as recorded on the NUMIDENT and NWALIEN files. We also used the group to delineate the number of individuals on SSA's records who are shown as unauthorized to work and potentially eligible for benefits.

Since the late 1990s, SSA has increased restrictions on who can receive a nonwork SSN.<sup>20</sup> This policy change has resulted in a significant decrease in the number of nonwork SSNs that SSA assigns each year. Between Fiscal Years (FY) 1998 and 2005, the number of nonwork SSNs assigned decreased by nearly 89 percent, from 132,865 in FY 1998 to 14,686 in FY 2005. This decrease happened to coincide with SSPA restrictions and will significantly reduce the impact SSPA will have on SSA benefits.

If current trends continue, only a small percentage of individuals assigned a nonwork SSN in 2005 will eventually find employment, remain unauthorized to work and be subject to SSPA's restrictions. This is especially true if we consider that only 15.4 percent of the individuals in our sample population who were originally assigned a nonwork SSN and found employment, remained unauthorized to work on SSA's records over time. In addition, in our sample, we found that one-third of the 15.4 percent did not report to SSA when their work authorization status changed.

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<sup>19</sup> The prohibition does not apply to the individual admitted to the U. S. as a nonimmigrant visitor for business, or as an alien crewman under specified provisions of the Immigration and Nationality Act, Section 101(a) (15)(B) and (D).

<sup>20</sup> POMS RM 00203.510. To compare current and past policies for the assignment of nonwork SSNs, see current and prior versions of RM 00203.510, especially November 2, 2001 – February 24, 2002.

Based on our sample results, we estimate there are 378,640 individuals on the NUMIDENT with earnings who have never been authorized to work. All were assigned nonwork SSNs before 2004 and are not subject to SSPA's restrictions. Since 1972, these individuals have earned an estimated \$25.4 billion in unauthorized employment (see Appendix B for further details). The average age for this group in our 250 sample is 44, and no one was receiving benefits at the time of our fieldwork.

As shown in the following table, we reviewed the future benefit eligibility for the 159 sample cases DHS indicated were not authorized to work or their work status was not confirmed.<sup>21</sup> Specifically, we determined whether these 159 individuals had accumulated sufficient periods of unauthorized employment to be potentially eligible for Social Security benefits.

**Benefit Earned – Individuals in Our Sample Not Authorized for Employment or Employment Status Was Unconfirmed by DHS**

Employment Status Per DHS	Retirement Benefit	Survivor Benefit	Disability Benefit	No Benefit	Total
Not Authorized	5	17	5	55	82
Illegal Presence	0	2	3	9	14
Status Unconfirmed	5	10	11	37	63
<b>Total</b>	<b>10</b>	<b>29</b>	<b>19</b>	<b>101</b>	<b>159</b>

- ✓ Of the 82 individuals in our sample who were not authorized to work on DHS' records, 27 had an average of 8 years' employment and were potentially eligible for some type of Title II benefit. Twenty-one of the 27 had recent earnings and therefore are probably still working.
- ✓ Five of the 14 individuals classified as in the U.S. illegally had an average of 9 years' employment and enough earnings to be potentially eligible for survivor or disability benefits. Four of the five had recent earnings.
- ✓ Although the work authorization status of 63 individuals was unconfirmed, 26 had an average of 8 years' employment and enough earnings to be potentially eligible for Title II benefits. Nineteen of the 26 had recent earnings.

Although individuals in our sample who were not authorized for employment and continued to work may eventually earn a Title II retirement benefit, some may change to an authorized work status with DHS or leave the U.S. before receiving benefit payments.

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<sup>21</sup> We determined future benefit eligibility based on date of birth, Social Security earnings through 2004 and the onset of death, retirement or disability. We did not include nonearning factors that could prevent benefit eligibility, such as an illegal immigration status.

## CONCLUSION AND RECOMMENDATIONS

Work authorization information was incorrect or could not be verified for 61.6 percent of the records in our 250 case sample.<sup>22</sup> Also, 38.4 percent of the individuals sampled were not authorized to work in the U.S.<sup>23</sup> In addition, although DHS could not determine work authorization status for one out of every four individuals in our sample, we could still identify their employer and this gives those records potential enforcement value. SSA would make employer work authorization programs more effective if it could correct immigration and employment status recorded on nearly 36.4 percent of all nonwork records.

To improve the integrity of work authorization information, SSA should consider using the DHS Alien and Admission numbers it collects in the SSN application process to check immigration and work authorization status as part of the NWALIEN process. If work authorization status changed during the past year, SSA could record the change and exclude the individual from the NWALIEN file. In discussions with DHS, SSA could consider different NWALIEN file characteristics to determine whether there are ways to classify or group NWALIEN records to show the likelihood that work authorization may have changed. This information would help DHS prioritize records for review and make more efficient use of its resources. Lastly, since an estimated 6 percent of the records in our sample involved individuals who were in the U.S. illegally, SSA could work with DHS to identify these records as priority cases for DHS.

We recommend SSA consider:

1. Working with DHS to determine what information could be added to the NWALIEN file to improve its usefulness.
2. Working with DHS to determine the types of data mining techniques that would improve the usefulness of unauthorized employment information.

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<sup>22</sup> We found employment now authorized (i.e. incorrect on Social Security records) in 91 of the 250 sample cases (36.4 percent), and DHS could not confirm or determine employment status in 63 cases (25.2 percent). This totals 61.6 percent.

<sup>23</sup> We found employment still not authorized in 82 of the 250 sample cases (32.8 percent) and individuals in 14 sample cases were shown as deported or in the U.S. illegally (5.6 percent). This totals 38.4 percent not authorized to work.

## **AGENCY COMMENTS**

SSA agreed with the intent of our recommendations. SSA stated that it has worked with DHS in the past to refine the NWALIEN file to meet DHS' requirements. However, SSA stated that neither SSA nor DHS is in a position to know what additional information might be helpful. As a result, SSA does not consider our recommendations feasible under current circumstances and considers them closed. The Agency's comments are included in Appendix C.



Patrick P. O'Carroll, Jr.

# **Appendices**

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[\*\*APPENDIX A\*\*](#) – Acronyms

[\*\*APPENDIX B\*\*](#) – Scope and Methodology

[\*\*APPENDIX C\*\*](#) – Agency Comments

[\*\*APPENDIX D\*\*](#) – OIG Contacts and Staff Acknowledgments

## **Appendix A**

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### **Acronyms**

CY	Calendar Year
DHS	Department of Homeland Security
EAD	Employment Authorization Document
FY	Fiscal Year
ICE	Immigration and Customs Enforcement
LPR	Legal Permanent Resident
NUMIDENT	Numident Master File
NWALIEN	Nonwork Alien
OI	Office of Investigations
SSA	Social Security Administration
SSN	Social Security Number
SSPA	Social Security Protection Act

### **Scope and Methodology**

In November 2004, we randomly selected a 5 percent segment of the Social Security Administration's (SSA) Numident Master File (NUMIDENT) and collected summary earnings information for each segment record.<sup>1</sup> From the segment, we copied records for 57,720 individuals with earnings who, according to their last Social Security number (SSN) application, were not work authorized.

From the 57,720 records, we randomly selected a sample of 250 individuals for review. For each individual record sampled, we obtained comprehensive earnings and benefit information and, where available, current immigration status from the Department of Homeland Security (DHS) Immigration and Customs Enforcement (ICE). We also researched key laws, regulations, policies and procedures pertaining to immigration status and employment authorization. We spoke with SSA and DHS staff about the impact the rules and regulations have on Agency programs.

To obtain a second audit population, we copied Segment 17 of the NUMIDENT records for all 954 individuals who were assigned original nonwork SSNs from January 1, 2004 through August 19, 2005. We collected summary benefit and earnings information for each of the 954 records. We also reviewed the documentation that 158 of the 954 individuals submitted with their SSN applications. SSA processed the 158 applications from March 2005 through May 2005.

We conducted our review in accordance with generally accepted government auditing standards. Our audit work was performed between March 2005 and February 2006 at DHS' headquarters in the District of Columbia and at SSA's headquarters in Baltimore, Maryland. Our work focused on the Office of Systems.

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<sup>1</sup> SSA stores NUMIDENT records in equal segments by arranging records in numerical order according to the last two digits of the SSN (i.e. 80-84, 85-89, 90-94, etc). Each segment represents 5 percent of all NUMIDENT records and there are 20 segments in total. It is common practice for SSA to use a segment to estimate results to the entire file. For our population, we randomly selected NUMIDENT Segment 17 and, as of November 1, 2004, it contained 21,406,075 records.

**SAMPLE RESULTS – Estimated Earnings for Individuals in the Sample  
who are not Authorized to Work**

<b>Population and Sample Size</b>	<b>Attributes</b>	
Sample Universe – 1 segment of the NUMIDENT	21,406,075	
Sample Population – Individuals in the Segment Who Have Earnings and are Not Authorized to Work	57,720	
Sample Size	250	
<b>Sample Results – Estimate of Individuals Not Authorized to Work and Had Earnings Prior to January 2004</b>	<b>Number of Individuals</b>	<b>Amount of Earnings</b>
Sample Individuals who are Not Authorized to Work and had Earnings Prior to January 2004	82	\$5,509,389
Point Estimate (for 1 segment)	18,932	\$1,272,007,732
Projection lower limit	16,102	\$635,045,106
Projection upper limit	21,939	\$1,908,970,359
Sample Results (Point Estimate x 20 segments)	378,640	\$25,440,154,640

Note: Projections were calculated at 90-percent confidence level.

## **Appendix C**

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### **Agency Comments**



## SOCIAL SECURITY

### MEMORANDUM

Date: December 13, 2006

Refer To: S1J-3

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

From: Larry W. Dye /s/  
Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report, "Impact of Unauthorized Employment on Social Security Benefits" (A-14-05-14042)--INFORMATION

Please accept our "revised" response to the subject draft report. After a discussion with your staff, we have reconsidered our response to the recommendations and would like our original comments dated December 6, 2006 disregarded.

Please let me know if you have any questions. Staff inquiries may be directed to Ms. Candace Skurnik, Director, Audit Management and Liaison Staff, at extension 54636.

Attachment:  
SSA Revised Response

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL'S (OIG) DRAFT REPORT, "IMPACT OF UNAUTHORIZED EMPLOYMENT ON SOCIAL SECURITY BENEFITS"(A-14-05-14042)**

Thank you for the opportunity to review and provide comments on this draft report. The Social Security Administration (SSA) is committed to ensuring that individuals who are authorized to work are provided proper credit and proper benefits based on an accurate work record. The report does not identify any fraud, waste or abuse in the administration of SSA programs. Rather, the report suggests that SSA undertake activities outside the scope of its mission without regard to SSA's current budget environment. In this light, we are further concerned that the report states SSA should consider undertaking such activities in order to assist the Department of Homeland Security (DHS) given DHS' limited resources. While SSA could "consider working with DHS" to find ways to improve the usefulness of the Nonwork Alien (NWALIEN) file, it is not SSA's mission to verify employment authorization status. Updating employment authorization status in the Numident or performing any extensive data analysis before submitting the NWALIEN file could be labor intensive. Any costs incurred from providing services that are not part of SSA's mission cannot be borne by the Social Security trust funds without the proper reimbursement.

There are additional concerns regarding the two objectives of the report. The first objective is, "to assess the accuracy of unauthorized employment information recorded on SSA's Numident Master File." The report incorrectly states that the work authorization data as recorded in SSA records is inaccurate. When a noncitizen applies for an original or replacement Social Security number (SSN) card, SSA verifies with DHS all immigration documents presented in support of the SSN application. Thus, the Numident serves as a "snapshot in time" as it records the individual's work authorization status at the time the SSN card was issued. OIG did not assess the accuracy of the work authorization status at the time the SSN card was issued; rather, OIG assessed whether the work authorization status as recorded in SSA's records reflected the individual's current work authorization status. The Numident, however, is not intended and does not act as a repository of work authorization status or contain earnings information. Only DHS can determine current work authorization for a noncitizen. Therefore, to suggest that the Numident file does not accurately record the "unauthorized" work status of an individual at a certain date, other than the date that the file is created, misrepresents the function and purpose of the Numident file.

The second objective of the report is "to assess the impact of unauthorized employment on Social Security benefits." It is not clear why OIG believes that payment of benefits to noncitizens who qualify for those benefits under current law is an area of concern. SSA administers the law as written. Further, we note that a citizen who is not authorized to work today may well become eligible to work at a future time; conversely, a noncitizen who is authorized to work today may lose that authorization at a future time. Thus, under current law, work authorization or lack of work authorization—or even lawful or unlawful presence in the United States—at any point in time is not a predictor of eligibility for benefits at retirement age.

In the report, OIG suggests that SSA annually re-verify work authorization status in preparation of the NWALIEN file in order to assist DHS in targeting worksite enforcement. SSA currently verifies and, if needed, updates the work authorization status of all noncitizens at the time the noncitizen applies for Social Security benefits to ensure that he or she meets certain factors of benefit entitlement, such as lawful presence and work authorization. (At any time, an individual may notify SSA of a change in work authorization status.) Given that the Numident information has no adverse impact on SSA operations or on the expenditure of trust fund monies, it is not clear why SSA should expend trust fund resources to make changes that have no benefit to the Agency or the public. SSA is very concerned about the finding that DHS could not determine immigration/work status on 25 percent of OIG's sample for this review. This in itself would seem to be an impediment to enforcement action that should be addressed by DHS. DHS has indicated it is working on improving its databases. When their work is complete, it should make it easier for them to track the status of noncitizens.

Another OIG conclusion in the report was that if SSA captured the DHS Alien or Admission numbers through SS-5 Assistant, SSA would be able to use that information when developing the NWALIEN file and exclude those individuals that had a change in employment status. The inclusion of the DHS Alien or Admission number would not change the immigration and employment status on SSA's records. (Currently, an individual must notify SSA of a change in work authorization status; SSA cannot accept the change from any other source.)

Finally, the recommendations made in this report may be moot in the near future, as the House and Senate-passed immigration reform bills (H.R. 4437 and S. 2611, respectively) both include provisions to make mandatory an employment eligibility verification system and S. 2611 would repeal the requirement that SSA provide the NWALIEN file to DHS, so using limited resources to explore changes would be of questionable value. Although the 109<sup>th</sup> Congress has adjourned, similar proposals may be introduced in the 110<sup>th</sup> Congress. As the report indicates, SSA has acted to reduce the number of nonwork SSNs to an insignificant number; therefore, the problem of noncitizens employed based on an SSN issued for nonwork purposes is of limited duration.

### **Recommendation 1**

SSA should consider working with DHS to determine what information could be added to the NWALIEN file to improve its usefulness.

### **Comment**

We agree with the intent of this recommendation. SSA has worked with DHS in the past to refine the file to meet its requirements. SSA works cooperatively with DHS in a number of areas and is certainly willing to continue to consider any proposal for reimbursable work that DHS might offer. However, DHS has not attempted to use the NWALIEN file in any meaningful way, so neither SSA nor DHS is in a position to know what additional information might be helpful. We also note that currently, SSA only has the legislative authority via 8 U.S.C. 1360(c)(2) to provide the following data from the earnings record: 1) the name and address of the alien; 2) the name and address of the person reporting the earnings; and 3) the amount of earnings. SSA cannot disclose additional data from the earnings record (which is tax return data)

unless there is an expressed authorization within section 6103 of the IRC (26 U.S.C. § 6103). DHS would have to seek legislation which would authorize SSA to provide additional data from its earnings records to the NWALIEN file.

Therefore, based on our concerns and given that work authorization status information in SSA's files is never going to be as current as that in DHS' own files, we do not believe that there is any additional action SSA could take to improve DHS capabilities. Having completed its consideration of this recommendation, SSA does not consider this recommendation feasible under current circumstances and considers it closed.

### **Recommendation 2**

SSA should consider working with DHS to determine the types of data mining techniques that would improve the usefulness of unauthorized employment information.

### **Comment**

We agree with the intent of the recommendation; however DHS has purview over the collection and maintenance of information related to work eligibility and would be in the best position to identify effective data mining techniques of its records concerning unauthorized employment information. Moreover, SSA would need to ensure that any proposal for disclosing additional information from SSA records to DHS would be authorized by applicable statutes and regulations. There would also be concerns as the work authorization information SSA has on record may not be updated and data mining information that may not be up to date could raise significant concerns about accuracy.

SSA works cooperatively with DHS in a number of areas and is certainly willing to continue to consider any proposal for reimbursable work that DHS might offer. However, as stated in our response to recommendation 1, DHS has not attempted to use the current unauthorized employment information (NWALIEN file) that we provide in any meaningful way, so neither SSA nor DHS is in a position to know what additional information or data mining might be helpful.

Therefore, based on our concerns and given that DHS is fully capable of undertaking data mining techniques with its files of current work authorization status, we do not believe that there is any additional action SSA could take to improve DHS capabilities. Having completed its consideration of this recommendation, SSA does not consider this recommendation feasible under current circumstances and considers it closed.

## ***Appendix D***

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# **OIG Contacts and Staff Acknowledgments**

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