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**OFFICE OF  
THE INSPECTOR GENERAL**

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**SOCIAL SECURITY ADMINISTRATION**

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**FOLLOW-UP: THE SOCIAL SECURITY  
ADMINISTRATION'S CONTROLS OVER THE  
OLD-AGE, SURVIVORS AND DISABILITY  
INSURANCE OVERPAYMENT WAIVER  
APPROVAL PROCESS**

July 2010                  A-13-09-19040

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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.
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## SOCIAL SECURITY

### **MEMORANDUM**

**Date:** July 1, 2010

**Refer To:**

**To:** The Commissioner

**From:** Inspector General

**Subject:** Follow-up: The Social Security Administration's Controls over the Old-Age, Survivors and Disability Insurance Overpayment Waiver Approval Process (A-13-09-19040)

### **OBJECTIVE**

Our objective was to determine whether the Old-Age, Survivors and Disability Insurance (OASDI) waiver approval decisions for overpayments exceeding \$500 were in accordance with the Social Security Administration's (SSA) policies and procedures.

### **BACKGROUND**

SSA administers the Old-Age, Survivors and Disability Insurance (OASDI) program under Title II of the *Social Security Act*.<sup>1</sup> The OASDI program provides protection against the loss of earnings due to retirement, disability, or death. Under the program, benefit payments are provided to qualified retired and disabled workers and their dependents as well as to survivors of insured workers. As of December 2009, SSA paid approximately \$56 billion in monthly OASDI benefits to about 52 million beneficiaries.

OASDI benefits greater than the amount to which individuals are entitled are considered overpayments. SSA's policies provide various options to collect overpaid amounts. In addition, it is the Agency's responsibility to pursue recovery of the debts.<sup>2</sup> Beneficiaries can seek relief from repaying overpayments by requesting that SSA waive the debts. Generally, SSA policy allows field office personnel to waive recovery of an overpayment if (1) the person is without fault, and (2) recovery would either defeat the purpose of Title II of the *Act*, or if recovery would be against equity and good conscience.<sup>3</sup>

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<sup>1</sup> *Social Security Act* § 201 *et seq.*, 42 U.S.C. § 401 *et seq.*

<sup>2</sup> *Social Security Act* § 204, 42 U.S.C. § 404.

<sup>3</sup> 20 C.F.R. § 404.506 and SSA, POMS, GN 02250.001 and GN 02250.150.

Before October 2008, SSA could administratively waive overpayments under \$500.<sup>4</sup> For overpayments exceeding \$500, SSA used Form SSA-632-BK to document waiver requests and Form SSA-635 to document waiver decisions.<sup>5</sup> In addition, SSA policy requires that waiver approvals for overpayments exceeding \$2,000 contain a secondary peer review and signoff on Form SSA-635. According to the Agency's policy, if the amount for which the person is liable is over \$2,000 but less than \$20,000, the decision is made by a claims representative or higher position. The secondary review should also be by a claims representative or higher position.<sup>6</sup> See Appendix B for additional information on OASDI waiver procedures.

In a February 2006 report, we concluded that SSA did not always comply with its waiver approval policies and procedures for overpayments exceeding \$500.<sup>7</sup> In addition, we found that waiver approvals for overpayments exceeding \$2,000 lacked appropriate documentation to support the approval decisions. We reported SSA needed to ensure adherence to its policies and procedures to prevent the improper waiver of OASDI overpayments. Noncompliance with Agency waiver approval policies and procedures may result in SSA's inability to collect OASDI overpayments that should be collected. SSA agreed with the actions we recommended. See Appendix C for the recommendations and the status of SSA's corrective actions.

To perform our current review, we obtained a September 2008 electronic data extract of 7,086 overpayments exceeding \$500 (from 1 Social Security number [SSN] segment) for the period January 1, 2007 through June 30, 2008 that were coded as approved waivers on SSA's records.<sup>8</sup> This data extract represented about \$33.7 million in OASDI overpayments.<sup>9</sup> From this data extract, we randomly selected 200 overpayments totaling about \$885,000 for detailed analysis. This included (1) 100 overpayments ranging from \$500.01 to \$1,999.99 and (2) 100 overpayments of \$2,000 or more.

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<sup>4</sup> In October 2008, the Agency increased the limit on administrative discontinuation of overpayment recovery from \$500 to \$1,000. Since all waivers included as part of this review were approved before the policy change, we applied the waiver criteria in effect when the waivers were approved.

<sup>5</sup> Form SSA-632-BK (*Request for Waiver of Overpayment Recovery or Change in Repayment Rate or Change in Repayment Rate*) and Form SSA-635 (*Waiver Determination*).

<sup>6</sup> SSA, POMS, GN 02250.301.

<sup>7</sup> SSA OIG, *The Social Security Administration's Controls over the Old-Age, Survivors and Disability Insurance Waiver Approval Process* (A-13-05-15027), February 2006.

<sup>8</sup> The last 2 digits of the SSN contain digits "00" to "99." SSNs can be categorized into 20 segments, each containing 5 sequential groups of these digits. For this audit, we randomly selected SSNs ending with the digits "40" to "44" which represents 1 SSN segment.

<sup>9</sup> The data extract was obtained from SSA's records as of September 3, 2008.

We requested supporting documentation from SSA to determine whether the Agency documented and approved these 200 sample cases in accordance with SSA's policies and procedures.<sup>10</sup> See Appendix D for additional information regarding our scope and methodology.

## RESULTS OF REVIEW

Many OASDI waiver approval decisions for overpayments exceeding \$500 were in accordance with SSA's policies and procedures. However, we found SSA waived some overpayments that did not appear to be in accordance with the Agency's policies and procedures. Of the 200 sample cases, we were able to review supporting documentation for 57 waiver approval decisions. Of these 57 decisions, 32 complied with SSA's policies and procedures, but 25 did not comply. Specifically, of the 200 sample cases coded as approved waivers, we found

- 16 (8 percent), totaling \$78,346, were not in accordance with policies and procedures because they did not have Form SSA-632-BK to support the waiver request or Form SSA-635 to support the approval decision;
- 9 (5 percent), totaling \$59,920, were not in accordance with policies and procedures because they did not receive the required secondary peer review and signoff on Form SSA-635;
- 36 (18 percent), totaling \$216,128, were coded as approved waivers but we were unable to determine whether they were in accordance with SSA's policies and procedures;
- 32 (16 percent), totaling \$224,903, were in accordance with policies and procedures; and
- 107 (53 percent) were not waivers.<sup>11</sup>

Table 1 summarizes the 16 waiver approval decisions that did not have appropriate documentation to support the waiver request or approval decision by overpayment amounts.

Table 1: Summary by Overpayment Amounts		
Overpayment Amount	Number of Cases	Allocation
\$501 to \$2,000	7	44%
\$2,001 to \$10,000	6	38%
\$10,001 to \$20,000	3	18%
<b>Total</b>	<b>16</b>	<b>100%</b>

<sup>10</sup> Unless supporting documentation was missing, we did not question the Agency's decisions regarding whether individuals were without fault or lacked the financial ability to repay the overpayments.

<sup>11</sup> Although these 107 records included a code in SSA's systems that indicated they were approved waivers, they were not, in fact, waivers. These 107 records included 99 cross-program adjustment, 6 bankruptcy, and 2 compromise cases.

## **Inadequate Documentation to Support Waiver Requests or Approval Decisions**

We found 16 waiver approvals for overpayments totaling \$78,346 were waived without documentation to support the waiver requests or approval decisions. These 16 cases included 11 that were missing documentation to support the waiver request and 5 that were missing documentation to support the approval decisions.

For example, in one case, SSA approved a waiver for a \$15,229 overpayment. We researched information available on SSA's systems and contacted the Agency to obtain the documentation to support the waiver request and decision. Although SSA provided documentation to support the approval decision, SSA was unable to provide documentation to support the waiver request. Although this documentation may have been provided to the Agency when the waiver was initially requested, SSA no longer had it available.

According to SSA's policy, the Agency must determine whether (1) a person is without fault and (2) recovery would either defeat the purpose of Title II of the Social Security Act or be against equity and good conscience.<sup>12</sup> Without adequate supporting documentation, SSA has no assurance these waiver decisions were in accordance with its policies and procedures. Noncompliance with the Agency's waiver policies and procedures weakens the integrity of the waiver process and makes it susceptible to fraud, waste, and mismanagement.

## **Waivers Lacked Evidence of Required Secondary Review**

We found nine waiver approvals for overpayments \$2,000 or greater lacked evidence to support that the decisions received the required secondary peer review.<sup>13</sup> Although we did not determine whether these waivers were appropriate, these nine cases—totaling \$59,920—did not contain the required secondary peer review and signoff on Form SSA-635.<sup>14</sup>

For example, in one case, SSA approved a waiver for a \$9,147 overpayment. The overpayment occurred because SSA did not offset for the beneficiary's workers compensation and therefore, benefits continued. According to SSA, the beneficiary was without fault in causing the overpayment. Although the request was appropriately

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<sup>12</sup> 20 C.F.R. § 404.506 and SSA, POMS, GN 02250.001 and GN 02250.150.

<sup>13</sup> One waiver, totaling about \$5,000, lacked the appropriate documentation to support the waiver request/approval and also lacked the secondary peer review sign-off. It was included as 1 of the 16 waivers that lacked appropriate documentation.

<sup>14</sup> During our 2006 audit, SSA stated that an overpayment's presence in its Recovery of Overpayments, Accounting and Reporting (ROAR) system signifies a second review has been completed. Otherwise, the overpayment would not be present in ROAR. However, the Agency also acknowledged that according to its policy (SSA, POMS, GN 00250.301), waiver approvals for overpayments greater than \$2,000 must obtain the appropriate secondary peer review on Form SSA-635.

documented on Form SSA-632-BK, the waiver approval decision documented on Form SSA-635 did not contain the secondary peer review and signoff required by SSA's policy since it was greater than \$2,000.

### **Unable to Determine Whether Waivers Were in Accordance with Policy**

We were unable to determine whether an additional 36 waivers, totaling \$216,128, were processed in accordance with SSA's policies and procedures. For these cases, we requested documentation from SSA to support the waiver requests and approval decisions. Although the information may have been available when the waivers were initially processed, the Agency was not able to provide any supporting documentation for these 36 cases.

For example, in one case, SSA approved a waiver for a \$6,994 overpayment. We researched information on SSA's systems and contacted the Agency to obtain documentation to support the waiver request and decision. In December 2008, Agency staff stated, "At this point in time, we no longer have any waiver documentation in the office for this case." Without documentation to support the waiver request or approval decision, the Agency has no assurance that staff complied with policies and procedures.

### **SSA's EFFORTS TO IMPROVE THE OVERPAYMENT RECOVERY PROCESS**

SSA made efforts to improve staff compliance with OASDI waiver policies and procedures. For example, in June 2007, SSA issued a *Desk Guide for Improving the Overpayment Recovery Process*. This Desk Guide assists SSA staff in making accurate overpayment decisions as well as improving the overpayment recovery process for the Title II and XVI programs.<sup>15</sup> Specifically, the Desk Guide provided detailed instructions for the methods by which an overpayment can be resolved—including instructions on documenting approved waivers.

### **CONCLUSION AND RECOMMENDATION**

We found many OASDI waiver approval decisions for overpayments exceeding \$500 were in accordance with SSA's policies and procedures. However, we found that SSA waived some overpayments in which documentation was not maintained or the required secondary peer review and sign off did not occur. Without adequate review or supporting documentation, SSA has no assurance that Agency staff complied with policies and procedures.

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<sup>15</sup> In addition to OASDI benefits under Title II, SSA also administers the Supplemental Security Income program under Title XVI of the *Social Security Act*. The Supplemental Security Income program is a nation-wide, Federal cash assistance program that provides a minimum level of income to financially needy individuals who are aged, blind or disabled. The *Social Security Act* § 1601 *et seq.*, 42 U.S.C. § 1381 *et seq.*

Therefore, we recommend SSA remind employees of the proper procedures to follow when processing waivers, including (1) properly documenting all waiver requests and approval decisions; and (2) obtaining the required secondary peer review and sign-off for waiver approvals greater than \$2,000.

### **AGENCY COMMENTS**

SSA agreed with our recommendations. See Appendix E for the full text of the Agency's comments.

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

Patrick P. O'Carroll, Jr.

# **Appendices**

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[\*\*APPENDIX A\*\*](#) – Acronyms

[\*\*APPENDIX B\*\*](#) – Waiver Approval of Amounts Exceeding \$500

[\*\*APPENDIX C\*\*](#) – Status of Recommendations from Prior Audit

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

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

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

## **Appendix A**

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### **Acronyms**

C.F.R	Code of Federal Regulations
OASDI	Old-Age, Survivors and Disability Insurance
OIG	Office of the Inspector General
POMS	Program Operations Manual System
ROAR	Recovery of Overpayments, Accounting and Reporting
SSA	Social Security Administration
SSN	Social Security Number
U.S.C.	United States Code

# **Waiver Approval of Amounts Exceeding \$500**

Before October 2008, Agency policy indicated that, before approving a waiver request for an overpayment amount exceeding \$500, the Agency must determine whether (1) a person is without fault and (2) recovery would either defeat the purpose of Title II of the Social Security Act or be against equity and good conscience.<sup>1</sup>

### **Without Fault**

Without fault is found if the person was blameless in creating the overpayment. An individual is expected to exercise a high degree of care in preventing an overpayment. Any individual who demonstrates either a lack of good faith or failure to exercise a high degree of care in reporting circumstances that may affect entitlement to, or the amount of, benefits will be found at fault for the overpayment.<sup>2</sup>

### **Defeat the Purpose of Title II of the Social Security Act**

“Recovery of an overpayment will defeat the purpose of Title II of the Social Security Act if recovery would deprive a person of income required for ordinary and necessary living expenses.”<sup>3</sup> Also, recovery of an overpayment would defeat the purpose of Title II of the *Social Security Act* to the extent the person does not possess any of the overpaid funds when notified of the overpayment, and the person receives cash public assistance or needs substantially all current income to meet ordinary and necessary living expenses and recovery would reduce assets below specific limits.<sup>4</sup>

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<sup>1</sup> SSA, POMS, GN 02250.001. In October 2008, the Agency increased the limit from \$500 to \$1,000. Since all waivers included in this review were approved before the policy change, we applied the waiver criteria in effect when the waivers were approved.

<sup>2</sup> SSA, POMS, GN 02250.005.

<sup>3</sup> SSA, POMS, GN 02250.100.

<sup>4</sup> *Id.*

### **Against Equity and Good Conscience**

Recovery of an overpayment would be considered against equity and good conscience if a beneficiary, "...relying on benefit payments or notice that such payments would be made, relinquished a valuable right or changed his or her position for the worse; or a contingently liable beneficiary was living in a separate household from the overpaid person at the time of the overpayment and did not receive the overpayment."<sup>5</sup>

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<sup>5</sup> SSA, POMS, GN 02250.150.

## **Appendix C**

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### **Status of Recommendations from Prior Audit**

In February 2006, we issued a report, *The Social Security Administration's Controls over the Old-Age, Survivors and Disability Insurance Waiver Approval Process* (A-13-05-15027). The following tables list the recommendations from the prior report, the Social Security Administration's (SSA) actual/proposed actions when the report was issued, and the status as of December 2009.

<b>Recommendation 1 – Alert employees to follow policies and procedures when approving waivers for Old-Age, Survivors and Disability Insurance (OASDI) overpayments that exceed \$500 regarding decisions of whether beneficiaries are without fault for the overpayment, and recovery of the overpayment would either defeat the purpose of Title II of the Social Security Act or be against equity and good conscience.</b>	
SSA's Comments and/or Actions	SSA agreed and stated it would issue a reminder in the form of an Administrative Message and would request that the Office of Training present it during one of the transmittal training broadcast sessions no later than March 2006.
Status as of 2009	SSA published Administrative Message (AM-7090) on June 25, 2007, which included a comprehensive overpayment processing guide. This guide had extensive instructions on processing Title II waivers. The Office of Training conducted training on AM-7090 in July 2007.

**Recommendation 2 – Ensure required secondary peer review and sign-off occurs for waivers of overpayments greater than \$2,000.**

SSA Comments and/or Actions	SSA generally agreed with this recommendation and stated that only the paper documentation lacked a “second signature” review based on the amount of the overpayment. When a waiver approval is input into the Debt Management System, the program looks at the amount of the overpayment. If the debt amount is greater than \$2,000, the Debt Management System holds the transaction until the Review Waiver Disposition is completed. Therefore, all the waivers posted to the Recovery of Overpayments, Accounting and Reporting (ROAR) system obtained a “second PIN” signature signifying that the second review had been completed. However, in AM-7090, SSA also reminded the field offices that the secondary reviewer needs to sign the SSA-635 Waiver Determination to ensure proper documentation.
Status as of 2009	<p>SSA, POMS GN 02250.301 was rewritten and re-released in May 2007 to clarify the review requirements for OASDI Waiver Approvals over \$2,000. It also included the requirement for management review of waiver approvals over \$20,000 and Regional Office review of waiver approvals over \$75,000.</p> <p>In addition, most regions issue program circulars giving specific instructions for their region and reminding employees of the review requirements.</p> <p>Furthermore, a reminder to get a second signature on the SSA-635 and on all overpayment waiver approvals over \$2,000 was included in AM-7090.</p>

**Recommendation 3 – Remind employees to properly document all waiver approval decisions.**

**Recommendation 4 – Determine whether employee training is needed, and, if so, provide training necessary to ensure compliance with Agency policies and procedures for granting OASDI overpayment waivers for amounts exceeding \$500.**

SSA Comments and/or Actions	SSA agreed with these recommendations and stated it would issue a reminder by March 2006.
Status as of 2009	On June 25, 2007, SSA published AM-7090 giving a reminder in the form of an overpayment guide with instructions and guidelines in a clear and easy to read format explaining waiver procedures for Title II and XVI waivers.

# **Scope and Methodology**

To accomplish our objective, we

- Reviewed applicable Federal regulations governing overpayment waivers under Title II of the *Social Security Act*.
- Reviewed prior Office of the Inspector General reports pertaining to Old-Age, Survivors and Disability Insurance (OASDI) overpayment waivers.
- Interviewed Social Security Administration (SSA) staff regarding procedures for developing an overpayment decision.
- Obtained a September 2008 electronic data extract of 7,086 OASDI overpayments exceeding \$500 (from 1 Social Security number [SSN] segment) for the period January 1, 2007 through June 30, 2008 that were coded as approved waivers on SSA's records.<sup>1</sup> This data extract represented about \$33.7 million in OASDI overpayments.<sup>2</sup>
- Randomly selected 200 overpayments totaling about \$885,000 for detailed analysis. This included (1) 100 overpayments ranging from \$500.01 to \$1,999.99, and (2) 100 overpayments exceeding \$2,000. Specifically, for these 200 cases coded as approved waivers, we requested supporting documentation from SSA to determine whether it documented and approved these 200 sample cases in accordance with the Agency's policies and procedures. Supporting documentation included case files from the Servicing District Office, Claims File Record Management System, eView, the Automated Folder Location Web Site, and other possible locations referred to us from previous contacted locations. Unless supporting documentation was missing, we did not question the Agency's decisions regarding whether individuals were without fault or lacked the financial ability to repay the overpayments.

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<sup>1</sup> The last 2 digits of the SSN contain digits "00" to "99." SSNs can be categorized into 20 segments, each containing 5 sequential groups of these digits. For this audit, we randomly selected SSNs ending with the digits "40" to "44" which represent 1 SSN segment.

<sup>2</sup> The data extract was obtained from SSA's records as of September 3, 2008.

We conducted fieldwork from October 2008 through December 2009 at SSA's Headquarters in Baltimore, Maryland. The entity audited was the Office of Public Service and Operations Support under the Deputy Commissioner for Operations. We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We tested the data obtained for our audit and determined it was sufficiently reliable to meet our objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## **Appendix E**

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### **Agency Comments**



## SOCIAL SECURITY

### MEMORANDUM

Date: June 24, 2010

Refer To: S1J-3

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

From: James A. Winn /s/  
Executive Counselor  
to the Commissioner

Subject: Office of the Inspector General (OIG) Draft Report, "Follow-up: The Social Security Administration's Controls over the Old-Age, Survivors and Disability Insurance Overpayment Waiver Approval Process" (A-13-09-19040)--INFORMATION

Thank you for the opportunity to review and comment on the draft report. We appreciate OIG's efforts in conducting this review. Attached is our response to the report findings and recommendation.

Please let me know if we can be of further assistance. Please direct staff inquiries to Candace Skurnik, Director, Audit Management and Liaison Staff, at extension 54636.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, “FOLLOW-UP: THE SOCIAL SECURITY ADMINISTRATION’S CONTROLS OVER THE OLD-AGE, SURVIVORS AND DISABILITY INSURANCE OVERPAYMENT WAIVER APPROVAL PROCESS” A-13-09-19040**

Below is our response to the report’s recommendation.

**Recommendation**

Remind employees of the proper procedures to follow when processing waivers, including (1) properly documenting all waiver requests and approval decisions; and (2) obtaining the required secondary peer review and sign-off for waiver approvals greater than \$2,000.

**Response**

We agree. As stated in the report, we issued Administrative Message (AM) 07090 in June 2007 in a desk guide format. We included documentation requirements for Titles II and XVI waivers in the AM, in addition to the requirements for peer review and sign-off of Title II waivers and management sign off on Title XVI waivers greater than \$2,000. Because this AM is currently archived, by July 30, 2010, we will issue a new AM to remind employees of the proper procedures. In addition, we retrained employees via interactive video training on June 16, 2010. The training will be available on Video on Demand from June 21, 2010 through June 2011.

## ***Appendix F***

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# **OIG Contacts and Staff Acknowledgments**

### ***OIG Contacts***

Shirley E. Todd, Director, Evaluation Division

Melinda Padeiro, Acting Audit Manager

### ***Acknowledgments***

In addition to those named above:

Tracey Edwards, Senior Auditor

For additional copies of this report, please visit our web site at  
[www.socialsecurity.gov/oig](http://www.socialsecurity.gov/oig) or contact the Office of the Inspector General's Public Affairs Staff Assistant at (410) 965-4518. Refer to Common Identification Number A-13-09-19040.

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### **Office of Audit**

OA conducts 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 reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

### **Office of Investigations**

OI conducts investigations 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 liaison to the Department of Justice on all matters relating to the investigation of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

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