
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**IMPACT OF NONIMMIGRANTS
WHO CONTINUE
WORKING AFTER THEIR
IMMIGRATION STATUS EXPIRES**

September 2005

A-08-05-15073

AUDIT REPORT



Mission

We improve SSA programs and operations and protect them against fraud, waste, and abuse by conducting independent and objective audits, evaluations, and investigations. We provide timely, useful, and reliable information and advice to Administration officials, the Congress, and the public.

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- 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.
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By conducting independent and objective audits, investigations, and evaluations, we are agents of positive change striving for continuous improvement in the Social Security Administration's programs, operations, and management and in our own office.



SOCIAL SECURITY

MEMORANDUM

Date: September 9, 2005

Refer To:

To: The Commissioner

From: Inspector General

Subject: Impact of Nonimmigrants Who Continue Working After Their Immigration Status Expires (A-08-05-15073)

OBJECTIVE

Our objective was to assess the extent to which nonimmigrants may have continued working after their immigration status expired and the impact such unauthorized work may have on the Social Security Administration (SSA).

BACKGROUND

Thousands of nonimmigrants¹ come to the United States each year and obtain Social Security numbers (SSN). Although the Department of Homeland Security (DHS) admits nonimmigrants for a limited time, DHS estimated that, as of January 2000, 2.3 million nonimmigrants had overstayed their authorized periods of admission.² Motivated by economic opportunities, some nonimmigrants may remain in the United States and continue working without DHS authorization, while others leave the country and someone else may use their SSNs to obtain employment.

We recognize SSA has no specific role in immigration laws and enforcement. Additionally, we acknowledge that issues surrounding immigration laws and enforcement are complex, with no simple resolution. Nevertheless, unauthorized work by nonimmigrants may require that SSA pay benefits to these individuals in the future. According to section 211 of the *Social Security Protection Act of 2004*, P.L. 108-203, Title II benefits may be paid to a noncitizen who has been issued an SSN indicating

¹ A nonimmigrant is a foreign-born individual who is granted temporary admission to the United States for a specific purpose. Examples of nonimmigrants are foreign government officials, visitors for business or pleasure, temporary workers and trainees, students, exchange visitors, and fiancés of U.S. citizens.

² A Government Accountability Office (GAO) report, *Overstay Tracking: A Key Component of Homeland Security and a Layered Defense* (GAO-04-82, May 2004), disclosed that this estimate may be understated.

authorization to work in the United States and meets all other eligibility requirements.³ As such, nonimmigrants who obtain SSNs based on temporary work authorization may be able to obtain Title II benefits if they continue working in the United States beyond the date authorized by DHS.

To accomplish our objective, we identified a population of 794,678 nonimmigrants to whom SSA assigned original SSNs during Fiscal Year (FY) 2000. From this population, we randomly selected a sample of 275 nonimmigrants to determine whether these individuals may have continued to work in the U.S. economy after their immigration status expired. For each of the sampled cases, we verified the individual's immigration status with DHS or the Department of State (State).⁴ Because of DHS' responsibility for immigration enforcement, we will provide a copy of this report to its Inspector General.

We also analyzed the earnings reported to SSA for nonimmigrants whose immigration status expired. We relied primarily on SSA's Master Earnings File (MEF) to perform this test and determined the MEF data were sufficiently reliable given the audit objective and use of the data. We also discussed possible causes of unauthorized work by nonimmigrants with Office of Disability and Income Security Programs personnel. Appendix B includes a detailed description of our scope, methodology and sample appraisal.

RESULTS OF REVIEW

Based on data obtained from DHS and/or State for the individuals in our sample, we estimate that 31,787 nonimmigrants who obtained SSNs during FY 2000 either continued working after their immigration status expired or someone else may have used their SSNs to work after they left the country. This figure represents 4 percent of the original SSNs SSA assigned to nonimmigrants during this period.⁵ This estimate may be conservative because complete earnings information was not available for 11 percent of the nonimmigrants in our sample whose immigration status had expired.⁶ Furthermore, some nonimmigrants in our sample may have remained in the country

³ SSA administers the Old-Age, Survivors and Disability Insurance program under Title II of the *Social Security Act*.

⁴ We did not determine the reliability of the information systems at these agencies. Accordingly, any conclusions or estimates made in this report are qualified by the statement "based on data obtained from DHS and/or State."

⁵ We identified 11 (4 percent) instances in which nonimmigrants either worked after their immigration status expired or left the country and someone else used their SSNs to work from our review of 275 sample cases.

⁶ We identified 29 (11 percent) individuals in our review of 275 sample cases whose immigration status expired during the conduct of our audit (August 2004 through April 2005). However, because of a lag in the annual wage reporting cycle, not all 2004 earnings and no 2005 wages had been reported to SSA at the time of our audit.

after their immigration status expired and worked under someone else's name and/or SSN or did not report their earnings. As such, we could not quantify such activity.

Unauthorized work by nonimmigrants impacts SSA because it weakens SSN integrity and may require that the Agency pay future benefits to these individuals. In addition, nonimmigrants who continue working after their immigration status expires potentially could affect homeland security because they may obtain employment in sensitive areas. To identify and help reduce the number of nonimmigrants who continue working after their immigration status expires, we believe SSA should continue to coordinate with DHS regarding work authorization issues, including the potential for data sharing activities.

NONIMMIGRANTS CONTINUED WORKING AFTER THEIR IMMIGRATION STATUS EXPIRED OR SOMEONE ELSE MAY HAVE USED THEIR SSNS TO WORK

Based on data provided by DHS and/or State, of the 794,678 nonimmigrants who obtained SSNs during FY 2000, we estimate 31,787 (4 percent) worked after their immigration status expired or someone else may have used their SSNs to work after the numberholder left the country. As discussed above, we believe this is a conservative estimate because complete earnings information was not available for some nonimmigrants in our sample whose immigration status expired during the conduct of our audit.

Should the current situation remain unchanged, we estimate that, over the next 5 years, almost 159,000 nonimmigrants will continue working after their immigration status expires.⁷ Given DHS' interest in better monitoring nonimmigrants' entrance into and exit from the United States (for homeland security purposes), we believe this information is significant.⁸ Additionally, SSA's potential responsibility for paying Title II benefits to these individuals provides an important motive for SSA to be proactive in coordinating with DHS regarding a strategy for addressing the "visa overstayer" issue.

We believe the following instances in which nonimmigrants either continued working after their immigration status expired or someone else may have used their SSNs to work after they left the country illustrate SSA's exposure to such activity. We referred these cases to our Office of Investigations. Our Office of Investigations reviewed these allegations and determined that none of the subjects were receiving Title II or Title XVI benefits.⁹ Accordingly, our investigators referred these cases to DHS' Bureau of Immigration and Customs Enforcement for further investigation.

⁷ We based this estimate on the projected number of nonimmigrants who worked after their immigration status expired or someone else may have used their SSNs to work after they left the country, and projected it over the next 5 years.

⁸ DHS established a program—the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT)—intended to enhance national security by collecting, maintaining, and sharing information on individuals who enter and exit the United States.

⁹ SSA administers the Supplemental Security Income Program under Title XVI of the *Social Security Act*.

- In September 1999, the Immigration and Naturalization Service (INS) granted temporary work authorization to a 20-year-old female.¹⁰ SSA assigned her a work-authorized SSN in November 1999. An Immigration Judge ordered her deported in 2002. However, DHS had no record of her leaving the country.¹¹ She had recorded earnings in 2003 and 2004.
- A 23-year-old female entered the country in November 1999 as a temporary worker. SSA assigned her a work-authorized SSN in February 2000. Although her nonimmigrant status expired in May 2000, DHS had no record of her leaving the country. She had recorded earnings in 2002 and 2003.
- A 25-year-old male entered the United States in May 2000 as an intracompany transferee. SSA assigned him a work-authorized SSN in June 2000. Although his immigration status expired in May 2001, DHS records indicated he did not leave the country until February 2002. Additionally, it appears someone else may have used his SSN to work because he had recorded earnings in 2003, after he purportedly left the country.
- A 23-year-old man initially entered the United States in July 2000 as an emergency farm worker. SSA assigned him a work-authorized SSN in September 2000. Although his immigration status expired in November 2002, DHS had no record of him leaving the country. He had recorded earnings in 2003.

OPPORTUNITY TO REDUCE SSA'S RISK FROM NONIMMIGRANTS WHO CONTINUE WORKING AFTER THEIR IMMIGRATION STATUS EXPIRES

To its credit, SSA recognizes the impact unauthorized work has on its programs and has identified a number of initiatives to reduce such activity. For example, SSA supports DHS in a joint initiative, known as the Basic Pilot. This initiative is designed to assist participating employers in confirming employment eligibility for newly hired employees. In addition, the Agency sends an annual report to DHS about earnings reported to SSA on SSNs issued to noncitizens not authorized to work in the United States (that is, nonwork SSNs). We believe such initiatives enhance SSN integrity.

Unauthorized work by nonimmigrants impacts SSA because it weakens SSN integrity and may require the Agency to pay future benefits to individuals who misuse the SSN to work in the United States without appropriate authorization. We believe nonimmigrants who continue working after their immigration status expires misuse SSNs because these numbers are “valid for work only with DHS authorization,” as shown on the SSN card. SSN misuse also occurs when other individuals use nonimmigrants’ SSNs to

¹⁰ INS' functions were transferred to DHS on March 1, 2003.

¹¹ A GAO report, *Immigration Enforcement: DHS Has Incorporated Immigration Enforcement Objectives and Is Addressing Future Planning Requirements* (GAO-05-66, October 2004), disclosed there were approximately 350,000 to 480,000 nonimmigrants who had been ordered to leave the United States, but DHS could not verify that they had actually departed.

work after they leave the country. Unauthorized work by nonimmigrants may also require SSA to pay future benefits to these individuals. That is, nonimmigrants who obtain SSNs based on temporary work authorization may be able to obtain Title II benefits if they continue working in the United States beyond the date authorized by DHS. In addition, nonimmigrants who overstay their authorized periods of admission can affect homeland security because they may obtain employment in sensitive areas, such as airports, hospitals, or mass transit systems.

SSA has an opportunity to further enhance SSN integrity and reduce its risk from nonimmigrants who continue working after their immigration status expires. We believe SSA should continue to coordinate with DHS regarding work authorization issues. This could include the potential for data sharing activities to identify and reduce the number of nonimmigrants who continue working after their immigration status expires. We encourage SSA to explore all potential options when considering data sharing applications, including seeking legislative authority, if necessary.

CONCLUSION AND RECOMMENDATION

Based on the results of this audit, we estimate that thousands of nonimmigrants continue working after their immigration status expires. While we recognize SSA is not responsible for immigration enforcement, unauthorized work by nonimmigrants impacts the Agency because it weakens SSN integrity and may require SSA to pay benefits to these individuals in the future. Furthermore, nonimmigrants who overstay their authorized periods of admission can affect homeland security. We recognize there is no easy fix to this problem. However, we believe SSA has an opportunity to limit unauthorized work by nonimmigrants.

Accordingly, we recommend that SSA continue to coordinate with DHS regarding work authorization issues, including the potential for data sharing activities to identify and reduce the number of nonimmigrants who continue working after their immigration status expires.

AGENCY COMMENTS AND OIG RESPONSE

SSA agreed with our recommendation. SSA also provided technical comments that we considered and incorporated, where appropriate. The Agency's comments are included in Appendix C.



Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Scope, Methodology and Sample Appraisal

APPENDIX C – Agency Comments

APPENDIX D – OIG Contacts and Staff Acknowledgments

Appendix A

Acronyms

| | |
|----------|--|
| DHS | Department of Homeland Security |
| State | Department of State |
| FY | Fiscal Year |
| GAO | Government Accountability Office |
| INS | Immigration and Naturalization Service |
| MEF | Master Earnings File |
| SSA | Social Security Administration |
| SSN | Social Security Number |
| US-VISIT | U.S. Visitor and Immigrant Status Indicator Technology |

Scope, Methodology, and Sample Appraisal

We obtained a data extract from the Social Security Administration's (SSA) Modernized Enumeration System Transaction History File for Fiscal Year (FY) 2000. From this extract, we identified a population of 794,678 nonimmigrants to whom SSA had assigned original Social Security numbers (SSN). We then randomly selected and reviewed a sample of 275 records.

For each of the sampled cases, we obtained the individual's current immigration status with the Department of Homeland Security or the Department of State and identified instances where the individual's immigration expired. We did not determine the reliability of the information systems at these agencies.

We also analyzed the earnings reported to SSA for nonimmigrants whose immigration status expired. We relied primarily on SSA's Master Earnings File to perform this test and determined the Master Earnings File data were sufficiently reliable given the audit objective and use of the data. We also discussed possible causes of unauthorized work by nonimmigrants with Office of Income Security Programs personnel.

The SSA entities reviewed were the Offices of the Deputy Commissioner for Operations and the Deputy Commissioner for Disability and Income Security Programs. We conducted our work from August 2004 through April 2005 in accordance with generally accepted government auditing standards.

Table B.1 shows our sample size, results, and appraisal.

Table B. 1: Sample Appraisal

| Estimate of Original SSNs Assigned to Nonimmigrants Who Worked After Their Immigration Status Expired or Someone Else May Have Used Their SSNs to Work After They Left the Country | |
|---|---------------|
| Total population of original SSNs that SSA assigned to nonimmigrants during FY 2000 | 794,678 |
| Sample Size | 275 |
| Number of instances in sample where nonimmigrants worked after their immigration status expired or someone else may have used their SSNs to work after they left the country. | 11 |
| Point Estimate | 31,787 |
| Projection—Lower Limit | 17,954 |
| Projection—Upper Limit | 51,922 |
| <i>Projection made at the 90-percent confidence level.</i> | |

Appendix C

Agency Comments



SOCIAL SECURITY

MEMORANDUM

34217-24-1302

Date: August 29, 2005

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 Nonimmigrants Who Continue Working After Their Immigration Status Expires" (A-08-05-15073)--
INFORMATION

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

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 Response

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, "IMPACT OF NONIMMIGRANTS WHO CONTINUE WORKING AFTER THEIR IMMIGRATION STATUS EXPIRES" (A-08-05-15073)

Thank you for the opportunity to review and comment on the draft report. We appreciate your acknowledgement of the steps we have taken to establish a cooperative communication base with the Department of Homeland Security (DHS) by the creation of the Basic Pilot Program and the Nonwork Alien File.

Recommendation 1

The Social Security Administration (SSA) should continue to coordinate with DHS regarding work authorization issues, including the potential for data sharing activities to identify and reduce the number of nonimmigrants who continue working after their immigration status expires.

Response

We agree. We will continue to coordinate with DHS regarding work authorization issues. Regarding the second part of the recommendation (i.e., “potential for data sharing activities”), we support, and will work to pursue, additional data sharing activities with DHS to the extent that there is sufficient statutory authority in the Social Security Act, the Internal Revenue Code, and the Immigration and Nationality Act.

Appendix D

OIG Contacts and Staff Acknowledgments

OIG Contacts

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Acknowledgments

In addition to those named above:

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Social Security Advisory Board

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