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**OFFICE OF  
THE INSPECTOR GENERAL**

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**SOCIAL SECURITY ADMINISTRATION**

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**DACOTAH FOUNDATION,  
AN ORGANIZATIONAL  
REPRESENTATIVE PAYEE FOR  
THE SOCIAL SECURITY ADMINISTRATION**

**March 2012**

**A-06-10-20174**

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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.**

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## SOCIAL SECURITY

### **MEMORANDUM**

Date: March 9, 2012

Refer To:

To: Sean Brune  
Regional Commissioner  
Denver

From: Inspector General

Subject: Dacotah Foundation, an Organizational Representative Payee for the Social Security Administration (A-06-10-20174)

### **OBJECTIVE**

Our objectives were to determine whether the Dacotah Foundation (1) had effective controls over the receipt and disbursement of Social Security benefits, (2) used and accounted for Social Security benefits in accordance with the Social Security Administration's (SSA) policies and procedures, and (3) adequately protected personally identifiable information of the beneficiaries in its care.

### **BACKGROUND**

SSA provides benefits to the most vulnerable members of society—the young, elderly, and disabled. Congress granted SSA the authority to appoint representative payees for those beneficiaries determined incapable of managing or directing the management of their benefits.<sup>1</sup> Representative payees receive and manage payments on behalf of these beneficiaries.<sup>2</sup> Given the vulnerability of the beneficiaries and the risk a representative payee may misuse beneficiaries' funds, it is imperative that SSA have appropriate safeguards to ensure representative payees meet their responsibilities. We provide a summary of representative payee responsibilities in Appendix B.

Dacotah Foundation is a fee-for-service organizational payee that serves approximately 264 Social Security beneficiaries and Supplemental Security Income recipients.<sup>3</sup> SSA

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<sup>1</sup> Social Security Act §§ 205(j)(1)(A) and 1631(a)(2)(A)(ii)(I); 42 U.S.C. §§ 405(j)(1)(A) and 1383(a)(2)(A)(ii)(I).

<sup>2</sup> 20 C.F.R. §§ 404.2001 and 416.601.

<sup>3</sup> This included the period January 2009 through December 2010. We use the term "beneficiary" throughout the report in reference to both beneficiaries and recipients.

requires that non-governmental, fee-for-service payees be sufficiently bonded to collect a fee.<sup>4</sup> Bonding constitutes a bond or insurance contract that protects the representative payee and SSA from financial loss caused by actions or inaction of employees or officers of the organization. In addition to serving as a representative payee, Dacotah Foundation operates 11 residential facilities and additional community-based service programs.

In Calendar Year 2010, SSA's staff became aware of incidents in which Dacotah Foundation transferred beneficiary funds into its business operating account. The Denver Region referred the matter to our Office of Investigations and requested this audit. We provide the scope and methodology of our review in Appendix C.

## **RESULTS OF REVIEW**

With the significant exception noted below, Dacotah Foundation had effective controls over the receipt and disbursement of Social Security benefits and used and accounted for Social Security benefits in accordance with SSA's policies and procedures. Dacotah Foundation maintained documentation supporting receipts and expenditures for transactions reviewed and timely and accurately recorded transactions in its accounting records. Also, Dacotah Foundation adequately secured beneficiaries' personal and financial information.

However, from January 2006 through April 2010, the Dacotah Foundation improperly transferred \$789,500 from beneficiary accounts into its business operating account. A Dacotah Foundation official stated it temporarily borrowed from beneficiary accounts to cover cash flow shortages in the business operating account. Although we confirmed that Dacotah Foundation eventually returned all funds to the appropriate beneficiary accounts, these transactions were a misuse of beneficiary funds.<sup>5</sup>

We also determined that Dacotah Foundation did not maintain adequate bonding to protect SSA and the beneficiaries in its care against potential financial harm caused by its officers or employees.

## **MISUSE OF BENEFICIARY FUNDS**

From January 2006 through April 2010,<sup>6</sup> Dacotah Foundation improperly transferred \$789,500 from 43 beneficiary accounts into its business operating account. During this time, Dacotah Foundation made 177 separate transfers from beneficiary accounts in

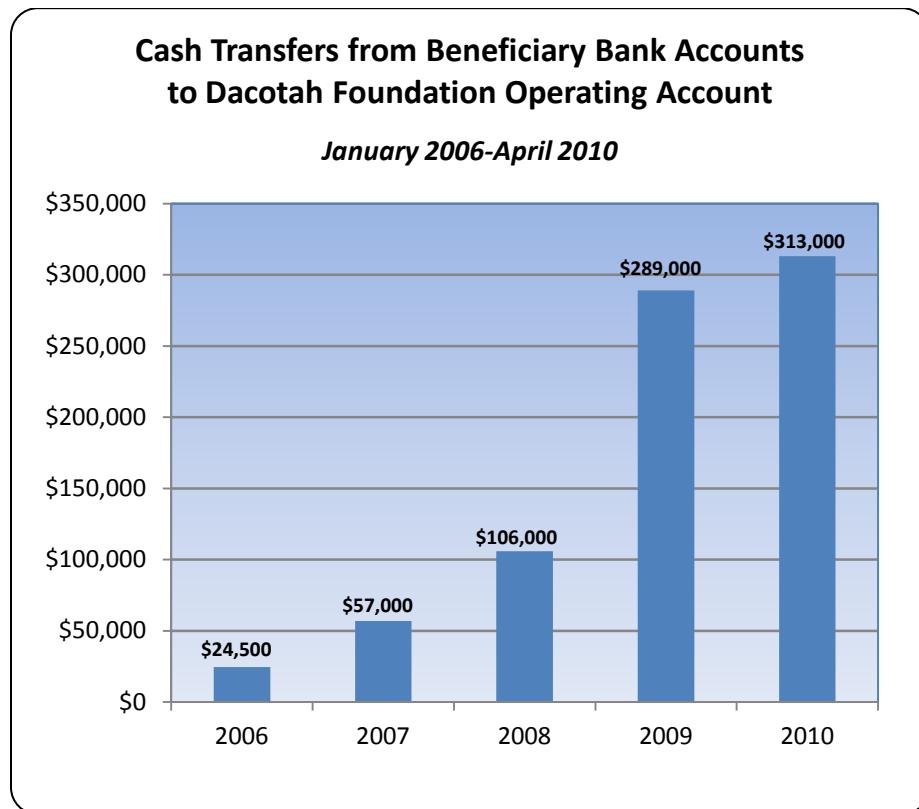
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<sup>4</sup> SSA, POMS, GN 00506.105A (October 24, 2011).

<sup>5</sup> SSA, *Guide for Organizational Representative Payees*, pages 30 and 33 <http://www.ssa.gov/payee/NewGuide/toc.htm>. Misuse occurs when an organizational representative payee uses any portion of a beneficiary's funds for something other than the use and benefit of the beneficiary. Further, organizational representative payees may not mix beneficiary's funds with the organization's funds.

<sup>6</sup> The last transfer we identified was made on April 8, 2010.

amounts ranging from \$1,000 to \$10,000. The frequency and volume of these transactions steadily increased until SSA became aware of the transactions and notified our Office of Investigations.



A Dacotah Foundation official stated she initiated the fund transfers to cover short-term cash flow shortages in the Dacotah Foundation's business operating account. The Dacotah Foundation used the borrowed funds to cover operating expenses until it could obtain operating funds from non-SSA sources. The official stated she did not realize transferring funds from beneficiary accounts was improper as long as the funds were returned to the beneficiary accounts.<sup>7</sup> However, we determined the official did not record the fund transfers in beneficiary accounting records or, when applicable, on monthly bank statement reconciliations. Also, the official did not inform the beneficiaries of these transfers.<sup>8</sup>

Representative payees are responsible for keeping any benefits received on a beneficiary's behalf separate from organizational funds.<sup>9</sup> Misuse of beneficiary funds occurs when a representative payee uses beneficiary funds for purposes other than the

<sup>7</sup> We verified that the Dacotah Foundation returned all borrowed funds to beneficiary accounts in periods ranging from the same day to up to 43 days.

<sup>8</sup> The official stated she did not believe beneficiaries needed to know about the transfers as long as they continued to have money available to them.

<sup>9</sup> 20 C.F.R. §§ 404.2035(b) and 416.635(b).

beneficiary's use and benefit.<sup>10</sup> In this case, Dacotah Foundation misused beneficiary funds each time it transferred balances from beneficiary accounts into the business operating account. In April 2010, the Office of Investigations informed the Dacotah Foundation that bank transfers from beneficiary accounts should stop immediately. The official agreed and stated the Dacotah Foundation would make other arrangements to address cash flow issues.

During the audit period, the Dacotah Foundation charged each SSA beneficiary in its care a \$30 monthly management fee. However, organizational representative payees may not collect a fee from an individual for any month the Commissioner of Social Security determines the organization misused all or part of an individual's benefits.<sup>11</sup> For the months in which the 177 funds transfers occurred, the Dacotah Foundation charged the 43 beneficiaries \$4,740 in fees.

## **INADEQUATE BOND COVERAGE**

Dacotah Foundation did not maintain adequate bond coverage to protect beneficiaries from financial loss caused by its officers or employees. Fee-for-service payees are required to maintain bond coverage in amounts sufficient to compensate beneficiaries for any loss of SSA benefits and any conserved funds on hand.<sup>12</sup> The minimum amount of bonding or insurance coverage must equal the average monthly amount of social security payments received by the organization plus the amount of the beneficiaries' conserved funds.<sup>13</sup> As of December 2010, Dacotah Foundation's bond requirement was approximately \$555,000.<sup>14</sup> However, Dacotah Foundation maintained only \$200,000 of bond coverage. This exposed SSA and the beneficiaries in Dacotah Foundation's care to potential losses of approximately \$355,000.

## **CONCLUSION AND RECOMMENDATIONS**

From January 2006 through April 2010, Dacotah Foundation improperly transferred \$789,500 from beneficiary accounts into its business operating account. The payee temporarily borrowed the funds from beneficiary accounts to cover short-term cash flow shortages in its business operating account. Although we confirmed that Dacotah Foundation eventually returned all borrowed funds to the appropriate beneficiary accounts, these transactions constituted misuse of beneficiary funds. When a representative payee or its employees misuses SSA funds, the Agency will reevaluate

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<sup>10</sup> Social Security Act, §§ 205(j)(9) and 1631(a)(2)(A)(iv); SSA, POMS, GN 00604.001 (10/24/2011).

<sup>11</sup> 42 U.S.C. §§ 205(j)(4)(A)(i) and 1631(a)(2)(D)(i).

<sup>12</sup> SSA, POMS, GN 00506.105.C.5.

<sup>13</sup> 20 C.F.R. §§ 404.2040a(a)(2) and 416.640a(a)(2).

<sup>14</sup> During 2010, Dacotah Foundation received \$184,275 in average monthly SSA payments. As of December 2010, Dacotah Foundation was maintaining beneficiary conserved fund balances totaling approximately \$370,600.

the payee's suitability to remain a payee.<sup>15</sup> SSA can allow the payee to continue serving as payee if there is good reason to believe the payee will use benefits properly in the future.<sup>16</sup>

We also determined that Dacotah Foundation did not maintain sufficient bond coverage to protect beneficiaries from financial loss caused by its officers or employees. As a result, we recommend that SSA:

1. Make an official determination of whether benefit misuse occurred. If so, SSA should seek recovery of \$4,740 in monthly management fees Dacotah Foundation charged affected beneficiaries during periods of misuse.
2. Reevaluate Dacotah Foundation's suitability to remain an SSA payee.
3. Work with Dacotah Foundation or a replacement payee to ensure maintenance of required bonding.

## AGENCY COMMENTS AND OIG RESPONSE

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

Dacotah Foundation stated it was committed to continual service delivery improvement and wished to continue its role as a representative payee. Dacotah Foundation further stated it would work to assure SSA of its commitment to comply with representative payee program guidelines and safeguard the funds entrusted to it. Dacotah Foundation also provided documentation indicating that effective February 21, 2012, Dacotah Foundation had increased its employee theft bond coverage from \$200,000 to \$560,000. See Appendix D for the full text of the Agency's comments and Appendix E for the full text of Dacotah Foundation's comments.



Patrick P. O'Carroll, Jr.

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<sup>15</sup> SSA, *Guide for Organizational Representative Payees*, supra note 5 at page 31.

<sup>16</sup> SSA, POMS, GN00604.045B.1 (10/14/2011).

# *Appendices*

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[APPENDIX A](#) – Acronyms

[APPENDIX B](#) – Representative Payee Responsibilities

[APPENDIX C](#) – Scope and Methodology

[APPENDIX D](#) – Agency Comments

[APPENDIX E](#) – Representative Payee Comments

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

## ***Appendix A***

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### **Acronyms**

C.F.R.	Code of Federal Regulations
OIG	Office of the Inspector General
POMS	Program Operations Manual System
SSA	Social Security Administration
U.S.C.	United States Code

# Representative Payee Responsibilities

Representative payees are responsible for using benefits to serve its beneficiaries' best interests.<sup>1</sup> The responsibilities include the following.

- Determine beneficiaries' current needs for day-to-day living and use their payments to meet those needs.
- Conserve and invest benefits not needed to meet their current needs.
- Maintain accounting records of how their benefits are received and used.
- Report events to the Social Security Administration (SSA) that may affect their entitlement or benefit payment amount.
- Report any changes in circumstances that would affect their performance as a representative payee.
- Provide SSA an annual *Representative Payee Report* (Form SSA-6234) to account for benefits spent and invested.
- Return any payments to SSA for which a beneficiary is not entitled.
- Return conserved funds to SSA when no longer the representative payee for a beneficiary.
- Ensure Supplemental Security Income recipients do not exceed their resource limits, be aware of any other income they may have, and monitor their conserved funds.

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<sup>1</sup> 20 C.F.R. §§ 404.2035 and 416.635. See also SSA's *Guide for Organizational Representative Payees*, pages 16 and 48 <http://www.ssa.gov/payee/NewGuide/toc.htm>.

# **Scope and Methodology**

To accomplish our objectives, we:

- Reviewed applicable Federal laws and regulations, pertinent parts of the Social Security Administration's (SSA) Program Operations Manual System, and other instructions pertaining to representative payees.
- Interviewed Dacotah Foundation personnel.
- Reviewed the Dacotah Foundation's internal controls over the receipt and disbursement of Social Security benefits.
- Reviewed bank reconciliations and traced general ledger entries to bank statements.
- Compared and reconciled the payee's list of SSA beneficiaries in Dacotah Foundation's care to a list obtained from SSA's Representative Payee System.
- Selected a sample of 50 beneficiaries in the representative payee's care during the audit period and performed the following tests.
  - ✓ Compared and reconciled benefit amounts received according to the Dacotah Foundation's records to benefit amounts paid according to SSA's records.
  - ✓ Traced recorded expenses for the randomly selected months of July 2009 and August 2010 to available source documents.
- Interviewed five beneficiaries in Fargo and five beneficiaries in Bismarck, North Dakota, to determine whether their basic needs were being met.
- Observed beneficiary living conditions in residential facilities operated by Dacotah Foundation.
- Reviewed the most recent *Representative Payee Reports* (Forms SSA-6234) for 10 beneficiaries to determine whether Dacotah Foundation properly reported benefit use to SSA.

We performed the audit from December 2010 through December 2011 at the SSA Regional Office in Dallas, Texas, and Dacotah Foundation office locations in Fargo and Bismarck, North Dakota. We did not test the general or application controls of SSA's systems that generated electronic data used for this audit. Instead, we traced selected transactions to source documents and performed other validation tests. As a result, we found the data to be sufficiently reliable to meet our audit objectives. We conducted our 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 believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# **Agency Comments**

**Sent:** Monday, February 27, 2012

**Subject:** Denver Region Comments: Signed Draft Report (A-06-10-20174)

Patrick,

The Denver Region agrees with all three OIG recommendations found in the draft report, "Dacotah Foundation, an Organizational Representative for the Social Security Administration". We offer the following comments for each recommendation:

- 1. Make an official determination of whether benefit misuse occurred. If so, SSA should seek recovery of \$4,740 in monthly management fees Dacotah Foundation charged affected beneficiaries during periods of misuse.** We will undertake full misuse development and make an official determination, examining all factors, including results of prior reviews and field office feedback from beneficiaries.
- 2. Re-evaluate Dacotah Foundation's suitability to remain an SSA payee.** Bismarck, ND District Office management will schedule an onsite meeting with the Dacotah Foundation to discuss requirements and review current practices. Appropriate SSA components in the field, area, and regional offices will meet to discuss the results of the onsite visit and will make a suitability determination.
- 3. Work with Dacotah Foundation or a replacement payee to ensure maintenance of required bonding.** On July 27, 2011, we certified that the organization possesses sufficient and current bonding with an expiration date of June 20, 2012. If, after our suitability determination, the Dacotah Foundation remains as representative payee, we will again certify bonding as part of the annual fee-for-service requirements in July 2012.

Staff may direct questions to Greg Roy, Director, Center for Program Support.

Sean P. Brune  
Denver Regional Commissioner  
Social Security Administration

# **Representative Payee Comments**

**Sent:** Monday, February 27, 2012

**Subject:** audit response

Mr. Gunia,

We received a copy of the draft report for Dacotah Foundation from Patrick P. O'Carroll with a request to submit our comments to you. Attached is a copy of our response and the endorsement page for the commercial crime coverage showing the increase in coverage. Please let me know if anything else is needed. Thank you for the opportunity to comment.

Doreen Eichele  
Chief Operations Officer

Based on conversations with our local Social Security Administrative staff, our original understanding of our role as an agency representative payee was that funds received on behalf of the beneficiary are the responsibility of our agency to manage and assure the availability for the needs of the beneficiary. We understood that any loss of funds was the responsibility of our agency. Based on that understanding, the funds entrusted with our agency on behalf of the beneficiary have been used for the benefit of the individual. When informed by the Office of Investigations that our transfer of funds was not an acceptable practice, our agency immediately complied and provided documentation that all funds transferred were accounted for and we have ceased the practice of fund transfers. Our agency regrets this misunderstanding of our role and affirms that we will safe guard and keep the funds entrusted to us on behalf of the beneficiary. Dacotah Foundation has the necessary and effective controls in place to assure the safekeeping and accounting of those funds in accordance with SSA's policies and procedures as confirmed by the audit conducted by the Social Security Administration.

Dacotah Foundation has provided this service for over 25 years. We serve a very challenging population and have demonstrated our ability to provide other services that augment the role of the representative payee to benefit the individual served. Our staff is also very committed to their role in serving the needs of this population. Our agency has established a sound working relationship with the staff and administration of the local Social Security offices to meet the particular needs of the beneficiaries. We communicate readily, provide information and consult with the local offices so that all entities involved can better serve the beneficiary. We also work very closely with the beneficiary's assigned mental health case manager to assure they have adequate housing, food and clothing to meet their basic needs. We notify them of concerns as they arise so the beneficiary's situation does not become detrimental to their mental health. It is our goal and commitment to continually improve in our delivery of service and we would wish to continue our role as a representative payee. We are willing to work with the Social Security Administration in any way to assure them of our commitment to comply with the guidelines for the representative payee program and safeguard the funds entrusted to our agency.

Documentation of employee theft coverage has been provided to the local Social Security Administration Offices annually upon renewal of our insurance policy. This documentation is send directly to the local Social Security Administrative offices. Our agency was not aware that our bond coverage did not meet the minimum amount required by the Social Security Administration. We have since increased our coverage to \$560,000 as documented by the copy of the insurance endorsement provided. We will reevaluate the coverage annually to make sure our coverage meets the average monthly amount of social security benefits received by our organization each June.

Dacotah Foundation does charge a nominal fee for our services of \$30/month per client or 10% of the benefits received. We also continue to maintain services for individuals who have suspended benefits and lost their source of income due to incarceration and hospitalization without a monthly fee. We try to maintain a lower fee so the beneficiary

has more funds available for their needs. While recovery of the \$4740 month fee will be a hardship, we are prepared to comply with the SSA determination and return the funds in whatever manner determined appropriate.

## ***Appendix F***

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# OIG Contacts and Staff Acknowledgments

### ***OIG Contacts***

Ron Gunia, Director, Dallas Audit Division

Neha Smith, Audit Manager, Denver Audit Office

### ***Acknowledgments***

In addition to those named above:

Warren Wasson, Senior Auditor

For additional copies of this report, please visit our Website at <http://oig.ssa.gov> or contact the Office of the Inspector General's Public Affairs Staff at (410) 965-4518. Refer to Common Identification Number A-06-10-20174.

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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.

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