



SOCIAL SECURITY

MEMORANDUM

Date: September 26, 2011 Refer To:

To: The Commissioner

From: Inspector General

Subject: *Employee Retirement Income Security Act Related Notices (A-13-11-01141)*

The attached report presents the results of our review. Our objective was to assess certain aspects of the *Employee Retirement Income Security Act* related notices the Social Security Administration issued to claimants about potential private pension benefits. This evaluation was conducted to determine whether claimants (1) took action in response to receiving the notices; (2) obtained pension benefits; and (3) found the information provided in the notices was accurate.

If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.

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

Patrick P. O'Carroll, Jr.

Attachment

QUICK RESPONSE EVALUATION

***Employee Retirement Income Security Act
Related Notices***

A-13-11-01141



September 2011

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.

Background

OBJECTIVE

The objective of our review was to assess certain aspects of the *Employee Retirement Income Security Act* (ERISA) related notices the Social Security Administration (SSA) issued to claimants about potential private pension benefits. We conducted this evaluation to determine whether claimants (1) took action in response to receiving the notices; (2) obtained pension benefits; and (3) found the information provided in the notices was accurate.

BACKGROUND

In 1974, as a result of concerns that funds of private pension plans¹ were being mismanaged and abused, Congress enacted ERISA.² Also known as the *Pension Reform Act of 1974*, ERISA sets minimum standards for pension plans in private industry. The administration of ERISA is divided among three Federal agencies—the Department of Labor, Internal Revenue Service (IRS), and Pension Benefit Guaranty Corporation.

Under ERISA and the *Social Security Act* (Act),³ SSA is responsible for relaying information it receives from the IRS⁴ and Pension Benefit Guaranty Corporation to certain claimants about potential private pension benefits. ERISA requires that the Department of Health and Human Services maintain files of individuals who have deferred vested benefit rights in a private pension plan, and furnish this information to these individuals (and dependents or survivors) upon request or automatically when they apply for Social Security benefits. This responsibility has been delegated to SSA.⁵ These claimants may be eligible for deferred, vested benefits from private pension plans. Generally, SSA sends Form SSA-L99-C1, *Potential Private Pension Benefit Information*,⁶ to new Social Security or Medicare claimants for whom it has information about potential pension benefits.

¹ A pension plan is a plan, fund, or program of an employer or employee organization that provides retirement income to employees. SSA, Program Operations Manual System (POMS), RM 03201.003 (July 30, 1996).

² Pub. L. No. 93-406, 88 Stat. 829 (Sept. 2, 1974). ERISA is codified at 29 U.S.C. §§1001 through 1461.

³ *Social Security Act* §§1131, 42 U.S.C. §§1320b-1.

⁴ According to Agency staff, the IRS sends information to SSA based on data provided by employers in their annual submission of Form 5500, Annual Return/Report of Employee Benefit Plan.

⁵ SSA, POMS, RM 03258.007 D (January 12, 2011).

⁶ See Appendix B.

Each month, SSA checks the name and Social Security number of each new claimant for Social Security benefits or hospital insurance coverage to determine whether the claimant is listed in SSA's electronic pension benefit record. SSA mails a notice to each new claimant for whom it has pension benefit information, in compliance with section 1131 of the Act.⁷ If the claimant filed for the lump-sum death payment on a relative's Social Security account, SSA mails the claimant pension information concerning the deceased individual. The notice shows the type, payment frequency, and amount of private pension benefit, as well as the plan administrator's name and address as reported to the IRS. The claimant can use this information to request any potential benefits due from the private pension plan.⁸ Agency staff stated that SSA mails about 90,000 notices each month.

The Act also requires that SSA provide available private pension benefit information upon request.⁹ SSA will provide this potential pension benefit information only to the individual who has the pension coverage (or a legal guardian or parent, in the case of a minor, on the individual's behalf).¹⁰ However, if the individual is deceased, the information may be provided to someone who would be eligible for any underpayment of benefits that might be due the individual under section 204(d) of the Act.¹¹

SSA maintains policy related to ERISA requests and correspondence. The policy states that field office personnel and 800-number agents can access the ERISA query screens that allow them to provide individuals information about potential entitlement of private pensions.¹²

In June 2011, the Assistant Deputy Commissioner, Office of Retirement and Disability Policy, requested that we study certain aspects of the Agency's responsibilities under ERISA. We assessed the ERISA-related notices the Agency issues to claimants.

⁷ Social Security Act §§1131, 42 U.S.C. §§1320b-1.

⁸ 20 C.F.R. §422.122 (a).

⁹ Social Security Act §§1131, 42 U.S.C. §§1320b-1.

¹⁰ 20 C.F.R. §422.122 (a).

¹¹ Social Security Act §§204(d), 42 U.S.C. §404(d).

¹² SSA, POMS, RM 03202.005 C (May 25, 2011).

To perform our assessment, we used an electronic file provided by SSA. According to Agency staff, the file contained information for the ERISA-related notices mailed in March 2011. For this period, SSA issued notices to 71,765 claimants. We noted that notices included information about both private pension and 401(k) benefit plans.¹³

We randomly selected 250 claimants to participate in our assessment. We sent letters to the selected claimants or their representative payees explaining we would contact them by telephone to discuss the ERISA-related notices. Of the 250 selected, we spoke to 193 claimants. We were unable to contact 49 claimants by telephone, and 8 claimants declined to participate in the discussions. See Appendix C for our scope and methodology.

¹³ The IRS defines a 401(k) plan as a type of tax-qualified deferred compensation plan in which an employee can elect to have the employer contribute a portion of his or her cash wages to the plan on a pretax basis. Distributions from a 401(k) plan may qualify for optional lump-sum treatment or rollover treatment as long as they meet the respective requirements. IRS, *Topic 424 – 401(k) Plans*, IRS.gov (last reviewed or updated March 1, 2011), <http://www.irs.gov/taxtopics/tc424.html>.

Results of Review

We asked 193 claimants whether they received an ERISA-related notice from SSA. Of the 193 claimants, 59 (31 percent) did not confirm receiving the notices—34 claimants could not remember receiving the notices, and 25 reported they did not receive the notices from SSA. We ended the conversation if the claimant did not confirm he/she received the notice.

Of the 134 claimants who confirmed they received the notices, 88 (66 percent) indicated they were aware of their possible eligibility for pension benefits before they received the notice from SSA. Of the 44 (33 percent) who indicated they were not aware of the possible pension before receiving the notice, most (82 percent) said the notices were useful, but only 23 inquired about the potential benefits. Of the 23 who followed up on the notices, 3 found they were eligible for lump-sum distribution [from a 401(k)] or private pension benefits as a result of the notices, while 8 were still following up on their notices from SSA.

MAJORITY OF CLAIMANTS AWARE OF POSSIBLE ELIGIBILITY FOR PRIVATE PENSION BENEFITS BEFORE RECEIVING ERISA-RELATED NOTICES FROM SSA

Of the 134 claimants who confirmed receipt of the ERISA-related notices, the majority were already aware they were eligible for private pension benefits. A total of 88 claimants (66 percent) reported they were already aware of possible eligibility for the private pension identified in the notices. See Chart 1 and Tables 1 and 2.

For example, an Oregon resident reported he had already taken action on his private pension benefits for the company identified in the notice. When the claimant received the notice, he thought he was eligible for additional pension benefits. After contacting the company, he was told no additional private pension benefits were due. The claimant stated the form contained outdated and misleading information and was not useful.

Chart 1: Claimants' Knowledge of Eligibility Prior to Receipt of Notice

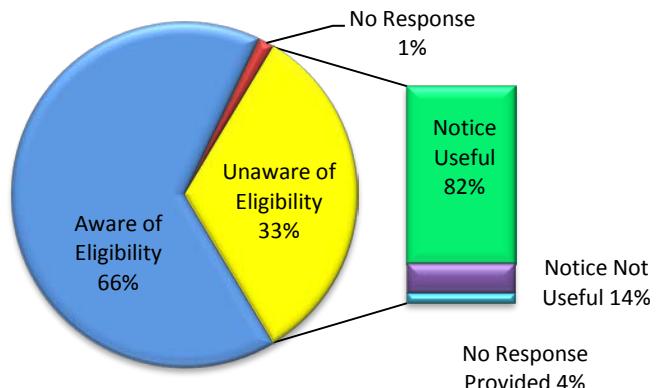


Table 1: Claimants Already Aware of Eligibility		
Responses	Claimants	Percent
Claimant Already Aware of Pension	88	66
Claimant Not Aware of Pension Before Receiving Notice	44	33
Provided No Response	2	1
Total	134	100

Of the 134 claimants, 44 indicated they were not aware of possible eligibility for private pension benefits before receiving the notices from SSA. A majority of these same claimants (82 percent) reported finding the notices useful.

Table 2: Usefulness of ERISA Related Notices for Claimants Not Aware of Eligibility for Private Pension Benefits		
Responses	Claimants	Percent
Notice Useful	36	82
Notice Not Useful	6	14
Provided No Response	2	4
Total	44	100

ACTION TAKEN IN RESPONSE TO RECEIVING NOTICES

Of the 44 claimants who were not aware of their pension eligibility, 23 (52 percent) contacted their former employer, the pension administrator identified in the notice, or SSA (see Table 3).

Table 3: Follow-up Action Taken by Claimants Not Aware of Eligibility for Private Pension Benefits		
Responses	Claimants	Percent
Took Follow-up Action	23	52
Did Not Take Follow-up Action	21	48
Total	44	100

Some claimants received information from SSA about more than one employer and found they may have been eligible for a pension from a second company. Of the 23 who reported taking follow-up action, in the majority of cases, the follow-up actions did not result in obtaining new, private pension benefits. However, three claimants found they were eligible for pension benefits as a result of their follow-up (see Table 4).

Table 4: Results of Follow-up Completed by Claimants Not Aware of Eligibility for Private Pension Benefits

Responses	Claimants	Percent
Not Eligible for Pension Benefits	11	48
Follow-up Actions Not Completed	8	35
Eligible for Pension Benefits as a Result of Follow-up ¹⁴	3	13
Employer No Longer Exists	1	4
Total	23	100

Several claimants said they contacted the company reported on the notice, and were told they were not eligible for private pension benefits. For example, one claimant explained to us that after her husband passed away, she began receiving a pension from his pension plan. However, she did not know about the 401(k) Employees Retirement/Savings Plan discussed in the notice she received from SSA. She contacted the company and found that her husband cashed out the 401(k) when he left the company, and therefore, she was not entitled to any additional benefits. In another instance, a claimant stated the pension belonged to her ex-husband, and she found she was not eligible for any benefits.

CLAIMANTS INDICATED INFORMATION PROVIDED WAS ACCURATE

Generally, claimants indicated that the information identified in the notice was accurate. Of the 134 claimants confirming receipt of the notices, 78 percent reported the notices from SSA contained accurate information (see Table 5).

Table 5: Accuracy of Information on Notices

Responses	Claimants	Percent
Information Correct	105	78
Information Partially Correct	16	12
Did Not Recall	13	10
Total	134	100

Several claimants, however, reported finding the notice confusing. One claimant reported not understanding the purpose of the form; another explained she was on disability and originally thought there might be a pension benefit for her disability. Another individual reported that when he received the notice from SSA, he first thought he was entitled to an additional pension benefit. However, when he followed up, he realized the notice was for a pension he was already aware of before receiving the notice.

¹⁴ Of the three claimants who received pension benefits, one claimant received a lump-sum distribution. The remaining two claimants found they would be eligible for pension benefits once they reach retirement age.

CLAIMANTS RECEIVED OTHER NOTICES AND COLLECTED PRIVATE PENSIONS

About 21 percent of the claimants who confirmed receiving SSA's notice also acknowledged receiving notification about eligibility for the private pension benefits from organizations other than SSA (see Table 6).

Table 6: Received Notice of Eligibility for Private Pension Benefits from Other Organizations		
Response	Claimants	Percent
Did Not Receive Notice	101	75
Received Notice	28	21
Provided No Response	5	4
Total	134	100

Of the claimants who confirmed receiving notices, 45 percent either was collecting or will collect private pension-related benefits (see Table 7).

Table 7: Claimants Who Collect Private Pension Benefits		
Responses	Claimants	Percent
Did Not Indicate Private Pension Received	45	34
Collecting Private Pension Benefit ¹⁵	35	26
Will Receive Private Pension in Future	25	19
Received/Will Receive Lump-Sum Distribution	26	19
Provided No Response	3	2
Total	134	100

¹⁵ These claimants did not specify the type of pension received.

Conclusions

Based on our discussions with 134 claimants who confirmed receipt of the ERISA-related notices, 88 (66 percent) indicated they were aware of possible eligibility for private pension benefits before they received the notices from SSA. Of the 44 claimants (33 percent) who indicated they were not aware of their possible pension benefits before they received the notices from SSA, 23 followed up on the new information. Of the 23 who followed up on the notices, 3 stated they received, or will receive, new pension benefits as a result of the notices, while 8 were still following up on their notices from SSA. Generally, claimants indicated the information identified in the notice was accurate.

Appendices

[APPENDIX A](#) – Acronyms

[APPENDIX B](#) – Form SSA-L99-C1, *Potential Private Pension Benefit Information*

[APPENDIX C](#) – Scope and Methodology

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

Appendix A

Acronyms

ERISA	<i>Employee Retirement Income Security Act</i>
IRS	Internal Revenue Service
OIG	Office of the Inspector General
POMS	Program Operations Manual System
Pub. L. No.	Public Law Number
SSA	Social Security Administration
U.S.C.	United States Code
<u>Form</u>	
SSA-L99-C1	<i>Potential Private Pension Benefit Information</i>

Appendix B

Form SSA-L99-C1 – Potential Private Pension Benefit Information

Social Security Administration

Potential Private Pension Benefit Information

Social Security Number:

Name:

We are writing to tell you that you, or the worker whose Social Security number appears at the top of this form, MAY be entitled to some private pension benefits upon retirement. Also, your family, or the worker's family, may be entitled to retirement or survivor benefits.

These Are Not Social Security Benefits

These potential benefits are NOT Social Security benefits and we do not make any decisions about the payment of these benefits. The following provides some basic information about these private pension benefits.

Information About Pension Benefits

You have, or the worker has, earned pension rights although no longer employed in a job covered by the pension plan. These are called "deferred vested benefits." Private pension plan administrators must provide information about such benefits to us through the Internal Revenue Service. We provide this information about the pension plan when the individual asks for it or when a claim is filed for Social Security benefits.

If You Want to Apply for These Benefits

If you want to apply for these pension benefits or have any questions, you should contact the pension Plan Administrator shown below. Include the 9 digit identification number shown below and a copy of this notice when you write to the Plan Administrator.

Plan Name	Plan Number	
	Identification Number	
	Year Reported	Estimated Amount
Plan Administrator and Address	Type of Annuity	Payment Frequency
	Units or Shares	Value of Account

IMPORTANT: This is all the information we have. See the other side of this page for an explanation of this information.

For SSA Use Only: 84037035498774

2004135

Form SSA-L99-C1 (8-02) Prior editions may be used

EXPLANATION OF INFORMATION

YEAR REPORTED	This is the year for which the Plan Administrator reported the pension plan information to the Internal Revenue Service.																
ESTIMATED AMOUNT	This was the amount that would be paid under the plan then in effect. The actual amount could differ because of latter changes in the plan. If you have already received payments from the plan, the amount shown on this notice should be disregarded.																
TYPE OF ANNUITY	The code listed identifies the type of annuity to be paid: <table><tr><td>A. A</td><td>A single payment of a lump sum</td></tr><tr><td>B</td><td>Annuity payable over a fixed number of years</td></tr><tr><td>C</td><td>Life annuity</td></tr><tr><td>D</td><td>Life annuity with period certain</td></tr><tr><td>E</td><td>Cash refund life annuity</td></tr><tr><td>F</td><td>Modified cash refund life annuity</td></tr><tr><td>G</td><td>Joint and last survivor annuity</td></tr><tr><td>M</td><td>Other (Type of annuity not reported)</td></tr></table>	A. A	A single payment of a lump sum	B	Annuity payable over a fixed number of years	C	Life annuity	D	Life annuity with period certain	E	Cash refund life annuity	F	Modified cash refund life annuity	G	Joint and last survivor annuity	M	Other (Type of annuity not reported)
A. A	A single payment of a lump sum																
B	Annuity payable over a fixed number of years																
C	Life annuity																
D	Life annuity with period certain																
E	Cash refund life annuity																
F	Modified cash refund life annuity																
G	Joint and last survivor annuity																
M	Other (Type of annuity not reported)																
PAYMENT FREQUENCY	The code listed shows how often the estimated payments would be made under the plan: <table><tr><td>A</td><td>Lump sum</td><td>E</td><td>Monthly</td></tr><tr><td>B</td><td>Annually</td><td>M</td><td>Other (Payment frequency not reported)</td></tr><tr><td>C</td><td>Semi-annually</td><td></td><td></td></tr><tr><td>D</td><td>Quarterly</td><td></td><td></td></tr></table>	A	Lump sum	E	Monthly	B	Annually	M	Other (Payment frequency not reported)	C	Semi-annually			D	Quarterly		
A	Lump sum	E	Monthly														
B	Annually	M	Other (Payment frequency not reported)														
C	Semi-annually																
D	Quarterly																
UNITS OR SHARES	If the pension amount is based on units or shares the number of units or shares will be shown. The number of share will be shown followed by "S".																
VALUE OF ACCOUNT	If shown, this indicates the value of the account at the time the worker stopped working under the plan.																
WRONG ADDRESS OR COMPLAINTS	If you cannot locate the plan Administrator at the address shown on this notice, contact your former employer for the current address. If you cannot locate your former employer, check the reference department of your local library or contact your State's corporation commission. This agency should be in the telephone directory under State government.																
	If you have a complaint about the way the private pension plan has handled your claim, contact the local office of the Department of Labor's Pension and Welfare Benefits Administration. If this office is not listed in your telephone directory, write to the Department of Labor, Pension and Welfare Benefits Administration, Room N-5619, 200 Constitution Avenue N.W., Washington, DC 20210.																

If you have any other questions, call us toll-free at 1-800-772-1213.

Form **SSA-L99** (9-97) (Back)

Scope and Methodology

To achieve our objective, we:

- Reviewed applicable Federal laws and regulations and sections of the Social Security Administration's (SSA) Program Operations Manual System related to the *Employee Retirement Income Security Act* (ERISA).¹
- Reviewed prior Office of the Inspector General reports.
- Obtained from SSA an electronic file of 95,443, Form SSA-L99-C1, *Potential Private Pension Benefit Information* issued in March 2011. Through further analysis, we identified 71,765 claimants who received 1 or more ERISA-related notices and had a mailing address within the 48 contiguous United States.
- From this electronic file, we selected a random sample of 250 claimants for review. For each sampled individual, we:
 - ✓ Reviewed records from SSA's Master Beneficiary Record.
 - ✓ Mailed claimants or their representative payees a letter informing them of our review and indicating we would be contacting them by telephone. We explained the purpose of the telephone call was to discuss the ERISA-related notices sent by SSA. For two claimants, we obtained mailing addresses but no telephone numbers. We mailed them up to two letters requesting they contact us by telephone to discuss the ERISA-related notices sent by SSA. We spoke to both claimants.
 - ✓ Called claimants or their representative payees with valid telephone numbers up to three times. For those we were able to contact, we summarized responses to questions pertaining to (1) receipt and accuracy of Form SSA-L99-C1; (2) follow-up actions taken in response to receiving the notices; and (3) pension benefits obtained.
 - ✓ Spoke with 193 of the 250 claimants in our sample. We were unable to contact 49 claimants by telephone, and 8 claimants declined to participate in the discussions. Results of our attempts to contact selected claimants by telephone are in Table C-1.

¹ Pub. L. No. 93-406, 88 Stat. 829 (Sept. 2, 1974). ERISA is codified at 29 U.S.C. §§1001 through 1461.

Table C-1: Results of Attempts to Contact Selected Claimants

Region	Claimants Selected	Claimants Contacted	Claimants Could Not be Contacted ²	Claimants Declined To Participate
Atlanta	52	44	7	1
Boston	11	10	0	1
Chicago	43	29	13	1
Dallas	23	16	7	0
Denver	9	4	5	0
Kansas City	7	2	5	0
New York	26	22	3	1
Philadelphia	31	28	2	1
San Francisco	31	25	4	2
Seattle	17	13	3	1
Total	250	193	49	8

The entities reviewed were the Offices of the Deputy Commissioners for Operations, Retirement and Disability Policy, and Systems. We performed our review in Baltimore, Maryland, from June through August 2011. We conducted our review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*.

² If the telephone number was invalid, or the claimant did not answer at least three telephone call attempts, we determined the claimant could not be reached.

Appendix D

OIG Contacts and Staff Acknowledgments

OIG Contacts

Shirley E. Todd, Director, Evaluation Division

Florence Wolford, Acting Audit Manager

Acknowledgments

In addition to those named above:

Tracey Edwards, Auditor-in-Charge

Bryan Kaminski, Auditor

Brennan Kraje, Statistician

For additional copies of this report, please visit our Website at
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-13-11-01141.

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Social Security Advisory Board

Overview of the Office of the Inspector General

The Office of the Inspector General (OIG) is comprised of an Office of Audit (OA), Office of Investigations (OI), Office of the Counsel to the Inspector General (OCIG), Office of External Relations (OER), and Office of Technology and Resource Management (OTRM). To ensure compliance with policies and procedures, internal controls, and professional standards, the OIG also has a comprehensive Professional Responsibility and Quality Assurance program.

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.

Office of the Counsel to the Inspector General

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

Office of External Relations

OER manages OIG's external and public affairs programs, and serves as the principal advisor on news releases and in providing information to the various news reporting services. OER develops OIG's media and public information policies, directs OIG's external and public affairs programs, and serves as the primary contact for those seeking information about OIG. OER prepares OIG publications, speeches, and presentations to internal and external organizations, and responds to Congressional correspondence.

Office of Technology and Resource Management

OTRM supports OIG by providing information management and systems security. OTRM also coordinates OIG's budget, procurement, telecommunications, facilities, and human resources. In addition, OTRM is the focal point for OIG's strategic planning function, and the development and monitoring of performance measures. In addition, OTRM receives and assigns for action allegations of criminal and administrative violations of Social Security laws, identifies fugitives receiving benefit payments from SSA, and provides technological assistance to investigations.