
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**ASSIGNMENT OF SOCIAL SECURITY
NUMBERS TO NONCITIZENS
WITH FIANCÉ VISAS**

May 2008

A-08-07-17044

AUDIT REPORT



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SOCIAL SECURITY

MEMORANDUM

Date: May 6, 2008

Refer To:

To: The Commissioner

From: Inspector General

Subject: Assignment of Social Security Numbers to Noncitizens with Fiancé Visas
(A-08-07-17044)

OBJECTIVE

Our objective was to assess the Social Security Administration's (SSA) process for assigning Social Security numbers (SSN) to noncitizens with fiancé visas.

BACKGROUND

Each year, thousands of U.S. citizens petition the Department of Homeland Security (DHS) to allow their foreign fiancé to visit the United States under a K-1 visa.¹ The foreign national must marry the petitioner within 90 days of arriving in the United States or leave.² After marriage, noncitizens with K-1 visas may adjust their temporary immigration status to a permanent resident.³

Under §205(c)(2)(B)(i)(I) of the *Social Security Act*, SSA is required to assign SSNs "to aliens at the time of their lawful admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States. . . ." Because Federal law authorizes K-1 visa holders to work incident to their visa status,⁴ K-1 visa holders are eligible for SSNs.

¹ The *Immigration and Nationality Act (INA)* provides a nonimmigrant visa classification "K-1" for aliens coming to the United States to marry American citizens and reside here.

² The *INA*, as amended, Public Law Number 82-414, § 101(a)(15)(K)(i), 8 U.S.C. § 1101(a)(15)(K)(i); see also 22 C.F.R. § 41.81(a).

³ If K-1 visa holders marry someone other than the petitioner, DHS denies adjustment of status. For those who marry the petitioner and apply for adjustment of immigration status, DHS grants "conditional" Lawfully Admitted Permanent Resident status. The conditional status remains for 2 years, and, if, at that time, the individual has met the required conditions, DHS grants him/her permanent residence.

⁴ 8 C.F.R. §§ 214.2(k)(9) and 274a.12(a)(6).

In addition, the Code of Federal Regulations (C.F.R.) requires that K-1 visa holders who seek employment must also apply for an Employment Authorization Document (EAD) with DHS.⁵ However, SSA policy states that an unexpired I-94 (*Arrival/Departure Record*)⁶ with a “K-1” admission code confirms work authorization for a foreign fiancé, and therefore SSA does not require that K-1 visa holders present an EAD when applying for an SSN.⁷ The Agency established its policy based on the Immigration and Naturalization Service’s, now DHS, guidance in 1998. At that time, DHS could not always process and issue an EAD to K-1 visa holders before their 90-day stay in the United States expired. DHS sent a memorandum to SSA clarifying which evidentiary documents established K-1 visa holders’ work authorization. DHS’ memorandum advised SSA that “Evidence of K-1 status includes an unexpired Form I-94 showing admission as a K-1 nonimmigrant with an admission period of 90 days **or** an EAD referring to INS regulations at 8 CFR 274a.12(a)(6).” [Emphasis added]

Noncitizens with K-1 visas applying for an original SSN must complete, sign and submit an *Application for a Social Security Card* (Form SS-5) at an SSA field office and provide acceptable evidence of (1) age, (2) identity, and (3) work-authorized immigration status. SSA policy requires that field office personnel verify these individuals’ immigration status with DHS before processing the SSN application.⁸ In Calendar Year 2005, SSA assigned approximately 14,000 original SSNs to K-1 visa holders.

To accomplish our objective, we obtained a data extract of 10,293 original SSNs SSA assigned to K-1 visa holders from April 1 through December 31, 2005. From this population, we randomly selected a sample of 250 records to determine whether the K-1 visa holder (1) married and changed his/her immigration status, (2) departed the United States or (3) remained in the United States beyond the date DHS authorized. We also reviewed SSA’s policies and procedures for assigning SSNs to K-1 visa holders⁹ and obtained information from DHS and Department of State representatives regarding our 250 sample records. Because the subject of this report involves immigration enforcement and visa-related issues, we plan to share our report with DHS and Department of State Inspectors General. Appendix B includes a detailed description of our scope and methodology, and Appendix C contains our sample results and projections.

⁵ Id.

⁶ Noncitizens entering the United States complete an I-94 and DHS officials stamp, sign, and code noncitizens’ documents with an admission code and date of expiration.

⁷ Program Operations Manual System (POMS), section RM 00203.500C.1.

⁸ POMS, sections RM 00202.001, RM 00203.001C.1, RM 00203.500 and RM 00203.720.

⁹ POMS, section RM 00203.

RESULTS OF REVIEW

We believe SSA's policy, which permits the Agency to assign SSNs to K-1 visa holders without requiring that they present an EAD, creates opportunities for SSN misuse. Additionally, we are concerned that having an SSN makes it easier for K-1 visa holders who do not marry to remain in the country after their immigration status expires. DHS and Department of State personnel with whom we spoke told us K-1 nonimmigrant visas have traditionally been problematic because of the misuse and fraud associated with this category. Based on our sample analysis, we estimate that SSA assigned about 371 SSNs during our audit period to K-1 visa holders who did not marry their American petitioner and remained in the United States beyond the date DHS authorized (see Appendix C, Table 1).¹⁰ Furthermore, some of these individuals had wages posted to their earnings records after their immigration status expired.¹¹ While DHS regulations authorize K-1 visa holders to work and the *Social Security Act* allows K-1 visa holders to obtain an SSN before they marry, we question the prudence of regulations that allow SSN assignment to K-1 visa holders who may only be in the country for 90 days or less and choose not to marry their American petitioner.

SSA instituted policies and procedures to prevent improper SSN assignment. Yet, they can only be effective if personnel processing SSN applications comply with them. Of the 250 K-1 SSN applications we reviewed, 17 (7 percent) contained compliance errors. As such, we estimate personnel did not fully comply with SSA's policies and procedures when processing SSN applications for about 700 noncitizens with K-1 fiancé visas (see Appendix C, Table 2). Occurrences of noncompliance included SSA field office personnel (1) improperly assigning original SSNs when K-1 visa holders' immigration status had expired or would expire within 14 days and (2) incorrectly coding the citizenship/work authorization status of K-1 applicants.

SSA NEEDS TO ASSESS ITS POLICY AND THE IMPACT OF ASSIGNING SSNS TO K-1 VISA HOLDERS

We believe SSA should strengthen its evidentiary requirements for assigning SSNs to K-1 visa holders. Although DHS regulations authorize K-1 visa holders to work based on their visa status, DHS regulations also state that an EAD is evidence of their work authorization.¹² However, SSA does not require that K-1 visa holders present an EAD as proof of their work authorization. The Agency established this policy based on a 1998 memorandum from DHS. According to SSA, DHS advised that its processing time for issuing an EAD hindered K-1 visa holders' SSN attainment before their authorized 90-day stay in the United States expired. As such, we believe the Agency

¹⁰ We based our projection on the nine K-1 visa holders in our sample who did not marry or married someone other than the petitioner and remained in the country after their immigration status expired.

¹¹ Two K-1 visa holders had wages in Calendar Year 2006—the year after their immigration status expired.

¹² 8 C.F.R. §§ 214.2(k)(9) and 274a.12(a)(6).

should seek clarification from DHS to determine whether Federal law requires an EAD as proof of K-1 visa holders' work authorization—and, if so, the Agency should correct its policy accordingly.

We acknowledge law and DHS regulations authorize K-1 visa holders to work. We also realize the *Social Security Act* requires that SSA assign SSNs to those who are eligible to receive one. However, we believe assigning an SSN to K-1 visa holders who choose not to marry makes it easier for them to remain in the country after their immigration status expires. DHS and Department of State personnel with whom we spoke acknowledged K-1 visas are problematic because some individuals commit marriage fraud or overstay their authorized period of admission. In fact, a consular officer in the Department of State's Fraud Preventions Program stated many K-1 visa applicants do not marry the petitioner. Additionally, DHS' Immigration and Customs Enforcement initiated almost 200 administrative cases involving K-1 visa holders who violated or may have violated the conditions of their immigration status by committing marriage fraud or remaining in the United States beyond the date authorized.¹³ Furthermore, some of the overstayers DHS identified continued working after their immigration status expired.

Unauthorized work by nonimmigrants may require that the Agency pay them future benefits. In addition, nonimmigrants who overstay their authorized periods of admission can potentially affect homeland security because they may obtain employment in sensitive areas, such as airports, hospitals, or mass transit systems.¹⁴

Although our sample review found K-1 visa holders generally fulfilled their visa requirements by marrying the petitioner or departing, not all did. Of the 250 SSN applications we reviewed, DHS could not verify the status or departure for 9 (4 percent) K-1 visa holders.¹⁵ Consequently, we believe these individuals may have remained in the United States beyond their DHS-authorized stay. As such, we estimate about 371 K-1 visa holders who obtained an SSN during our audit period overstayed their admission period. Of the nine who overstayed, we determined that some did not work during their authorized period of admission, while others worked *after* their immigration status expired.¹⁶ Additionally, two of these K-1 visa holders married someone other than the petitioner, and DHS denied them an adjustment of their immigration status.

¹³ DHS Immigration and Customs Enforcement's list was not all-inclusive but contained 183 names of K-1 visa holders who violated, or may have violated, the conditions of their immigration status from May 2003 to December 2005. Although DHS representatives stated these individuals posed the highest potential risk to national security, they also said they did not represent the K-1 population.

¹⁴ SSA/OIG report, *Impact of Nonimmigrants Who Continue Working After Their Immigration Status Expires* (A-08-05-15073), September 2005.

¹⁵ Of the remaining 250 sample K-1 visa holders, 234 (about 94 percent) had married *and* adjusted or were in the process of adjusting their immigration status with DHS. Furthermore, DHS granted three K-1 visa holders asylum and told us that four K-1s departed the United States.

¹⁶ Of the nine K-1 visa holders who remained in the United States beyond their DHS-authorized stay, three (33 percent) had earnings in 2006. However, only two of the three had earnings after their immigration status expired.

Finally, one K-1 visa holder may have presented SSA an invalid marriage certificate because the issuing Bureau of Vital Statistics told us the marriage certificate number was too old for their 2005 records—which was the year the K-1 visa holder alleged she married. To further substantiate that the marriage certificate may have been counterfeit, DHS records did not indicate the K-1 visa holder married or adjusted her immigration status. We believe these examples illustrate SSA’s exposure to potential SSN misuse. Therefore, we believe SSA should work with DHS to explore the possibility of not granting work authorization to K-1 visa holders until they marry—thus, limiting SSN assignment.

FIELD OFFICE PERSONNEL DID NOT ALWAYS COMPLY WITH ENUMERATION POLICIES AND PROCEDURES WHEN PROCESSING SSN APPLICATIONS

Of the 250 K-1 SSN applications we reviewed, 17 (7 percent) contained compliance errors. As such, we estimate personnel did not fully comply with SSA’s policies and procedures when processing SSN applications for about 700 noncitizens with K-1 fiancé visas. Occurrences of noncompliance included SSA field office personnel (1) improperly assigning original SSNs when K-1 visa holders’ immigration status had expired or would expire within 14 days and (2) incorrectly coding the citizenship/work authorization status of K-1 applicants.¹⁷

Field Office Personnel Improperly Assigned SSNs

SSA policy states field office personnel should not process an SSN application when an individual’s DHS document or immigration status has expired or will expire within 14 calendar days.¹⁸ However, in 8 (3 percent) of the 250 sample SSNs we reviewed, SSA personnel processed SSN applications for K-1 visa holders whose I-94s had expired or would expire within 14 days.¹⁹ As such, we estimate SSA improperly assigned approximately 329 SSNs to K-1 visa holders during our 9-month audit period (see Appendix C, Table 3).

Field office personnel used the Agency’s SS-5 Assistant and/or Modernized Enumeration System (MES) to process the SSN applications.²⁰ We believe field office personnel did not carefully examine the expiration date on I-94s to ensure K-1 visa holders were eligible for an SSN. While SSA created an edit in its SS-5 Assistant to

¹⁷ Of the 17 compliance errors, we determined that none corresponded with the potential overstayers mentioned previously in the report.

¹⁸ POMS, section RM 00203.720C. From this point forward, we will use the term “14-day expiration rule” to indicate this policy.

¹⁹ The I-94 expiration date is important because it indicates when the noncitizen’s lawful alien status and/or DHS-granted work authorization ends.

²⁰ SSA’s SS-5 Assistant and MES are its SSN processing systems. The SS-5 Assistant, in effect, works with MES and implements many of the Agency’s enumeration policies and procedures. SSA mandated field office use of the SS-5 Assistant for most SSN applications on March 1, 2005.

alert staff when immigration documents have expired or will expire within 14 days, this edit is not functional for SSN applications that are pending and processed later. We discussed the 14-day expiration rule and SS-5 Assistant's edit limitation with SSA representatives responsible for this system. They informed us that they would determine whether implementing a corresponding edit is feasible. We realize SSA is developing a new SSN processing system, the SSN Application Process, which replaces the SS-5 Assistant and MES, and we believe SSA should consider a corresponding edit in the new system design.

Field Office Personnel Incorrectly Coded SSN Applications

SSA policy requires that field office personnel ensure data²¹ they input in SSN applications' evidence fields correctly reflect, and are supported by, the evidentiary documents applicants present.²² However, we identified 9 (4 percent) instances from the 250 SSNs tested in which field office personnel incorrectly coded evidence fields on SSN applications. As such, we estimate SSA incorrectly coded approximately 371 SSN applications during our audit period (see Appendix C, Table 4).

SSA's SSN processing systems generate an evidence code (or IDN) on each numberholder's Numident record²³ based on data field office personnel input to document the applicant's citizenship category, place of birth and work authorization status. Thus, the Numident's system-generated evidence code reflects numberholders' citizenship/work eligibility. After reviewing our sample SSN applications, we determined the evidence SSA recorded on SSN applications did not always support the evidence codes found on K-1 visa holders' Numident records.²⁴ For example, some K-1 visa holders did not provide SSA with documents indicating they had married and adjusted their immigration status to permanent. However, their Numident evidence code indicated they were permanent residents. Because there appears to be some confusion regarding the evidence codes field office personnel should use for K-1 visa holders—as evidenced by our audit findings—we believe SSA should periodically review evidence codes on K-1 SSN applications to ensure accuracy. Furthermore, the Agency should correct the Numident evidence code errors identified in this review.

²¹ Field office personnel are required to enter data for (or code) the Primary Birth Certificate, Evidence of Identity, Evidence of Age, Evidence of Citizenship/Alien Status and Permanent Resident Alien blocks in SSN applications. The codes in these blocks should agree with the evidence documents listed in the "Evidence Submitted" block.

²² POMS, section RM 00202.230.

²³ SSA's Numident houses records of original and replacement SSN cards issued over an individual's lifetime, as well as identifying information, such as date of birth, place of birth and parents' names.

²⁴ For this particular analysis, we reviewed the most recent entry on each K-1 visa holder's Numident for our audit period.

CONCLUSION AND RECOMMENDATIONS

We question whether SSA policy and practices for assigning SSNs to K-1 visa holders who do not present a work authorization document create opportunities for SSN misuse. We also question whether assigning SSNs to K-1 visa holders who may be in the country for 90 days or less and who do not marry is prudent. We acknowledge that law and DHS regulations authorize K-1 visa holders to work, thus permitting them to obtain SSNs before they marry. However, we believe SSA should not assign SSNs to K-1 visa holders until they marry and adjust their immigration status with DHS.

Despite SSA's controls to prevent improper SSN assignment, it is at-risk for such activity when field office personnel do not fully comply with policies and procedures. We recognize SSA's efforts cannot eliminate all SSN application processing errors. Nonetheless, we believe SSA has a stewardship responsibility to ensure compliance with all policies and procedures and improve the integrity of the enumeration process.

Accordingly, we recommend that SSA:

1. Seek clarification from DHS on whether K-1 visa holders must provide the Agency with an EAD as evidence of work authorization when applying for an SSN. If DHS specifies that K-1 visa holders must present an EAD as proof of work authorization, SSA should change its policies to reflect the requirement.
2. Discuss with DHS the feasibility of not granting work authorization to K-1 visa holders until they marry—thus, limiting SSN assignment.
3. Consider implementing an edit in the Agency's SSN processing systems that would prevent assignment of SSNs for pending SSN applications when the noncitizen's DHS document and/or status has expired or will expire within 14 days.
4. Periodically review K-1 SSN applications to ensure field office personnel accurately recorded evidence codes.
5. Correct K-1 visa holders' Numident evidence code errors we identified in our sample. Under separate cover, we will provide SSA with further details regarding these individuals.

AGENCY COMMENTS AND OIG RESPONSE

SSA agreed with our recommendations. The Agency's comments are included in Appendix D.

OTHER MATTER

During our review of SSN applications, we found that field office personnel recorded “none” in the I-94 expiration date field or left it blank for 15 (6 percent) of the 250 K-1 SSN applications we reviewed. As such, we estimate SSA did not record an I-94 expiration date for about 618 K-1 SSN applications during our audit period (see Appendix C, Table 5).

When there is no I-94 expiration date recorded in a K-1 SSN application, SSA cannot determine whether the K-1 visa holder was eligible to receive an SSN at the time of assignment. While we realize SSA must rely on DHS to record the expiration date on the I-94, we believe omission of the expiration date in an SSN application defeats the purpose of the Agency’s 14-day expiration rule. We encourage SSA to discuss the absence of I-94 expiration dates with DHS—and relay SSA’s need for this information to ensure proper SSN assignment.



Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Sample Results and Projections

APPENDIX D – Agency Comments

APPENDIX E – OIG Contacts and Staff Acknowledgments

Acronyms

C.F.R.	Code of Federal Regulations
DHS	Department of Homeland Security
<i>INA</i>	<i>Immigration and Nationality Act</i>
K-1	Classification for a Nonimmigrant Fiancé of a U.S. Citizen
MES	Modernized Enumeration System
POMS	Program Operations Manual System
SSA	Social Security Administration
SSN	Social Security Number
U.S.C.	United States Code

Forms

I-94	<i>Arrival/Departure Record</i>
SS-5	<i>Application for a Social Security Card</i>

Scope and Methodology

To achieve our objective, we:

- Reviewed applicable Federal laws, regulations and the Social Security Administration's (SSA) policies and procedures for assigning original Social Security numbers (SSN) to noncitizens with a nonimmigrant fiancé (K-1) classification.
- Visited two SSA field offices in California and interviewed SSA personnel from a Texas field office and the Brooklyn and Las Vegas National Card Centers. We spoke with representatives from SSA's Office of Income Security Programs, who are familiar with the K-1 classification. We also spoke with representatives from the New York Regional Office's Center for Automation concerning the SS-5 Assistant.
- Obtained a data extract from SSA's Modernized Enumeration System (MES) Transaction History File from April 1 through December 31, 2005. From this extract, we identified a population of 10,293 SSNs assigned to noncitizens with a K-1 classification and randomly selected and reviewed 250 SSN records.
- Reviewed SSA's Summary Earnings, MES and Numident files for our sample 250 SSNs to determine whether the applicant worked or SSA documented a marriage.
- Contacted the Department of Homeland Security (DHS) to determine each K-1 visa holder's current immigration status. We provided DHS with the name, date of birth and I-94 (*Arrival/Departure Record*) number SSA recorded on each SSN applicant's SS-5, *Application for a Social Security Card*.
- Queried alien registration numbers or I-94 numbers, if available, via DHS' Systematic Alien Verification for Entitlements to determine current immigration status for the 250 sample K-1 visa holders.
- Obtained DHS statistics regarding K-1 admissions to the United States during Calendar Year 2005. We also contacted DHS' U.S. Immigration and Customs Enforcement component and requested data regarding K-1 visa fraud and/or status violators.
- Obtained Department of State statistics regarding K-1 visa issuances for Calendar Year 2005. We also discussed K-1 visa fraud/misuse with Department of State.

- Contacted DHS and the Department of State to request the name and address of the U.S. citizens who filed petitions for our 250 K-1 visa holders.
- Contacted State/county Bureaus of Vital Statistics, searched the Internet, or contacted local SSA field offices to verify marriages of 247 sample individuals. We contacted Bureaus of Vital Statistics for 247 sample items, instead of 250, because DHS granted asylum²⁵ to 3 K-1 visa holders.
- Contacted the Department of Health and Human Services, Office of Child Support Enforcement, to determine whether Section 466(13) of the *Social Security Act* mandates that noncitizens who do not have an SSN and plan to marry a U.S. citizen must obtain an SSN before they apply for a license.

The SSA entities reviewed were the Offices of the Deputy Commissioner for Operations and the Deputy Commissioner for Retirement and Disability Policy (formerly known as the Deputy Commissioner for Disability and Income Security Programs). We conducted this performance audit from November 2006 through September 2007 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹ DHS grants asylum to noncitizens who are already in the United States or at a port of entry and who are found to be unable or unwilling to return to their country of nationality or to seek the protection of that country because of persecution or a well-founded fear of persecution.

Sample Results and Projections

To assess the Social Security Administration’s (SSA) process for assigning Social Security numbers (SSN) to noncitizens with K-1 fiancé visas, we obtained a data extract of 10,293 original SSNs the Agency assigned to K-1 visa holders from April 1 through December 31, 2005. From this population, we randomly selected a sample of 250 records to determine whether (1) the K-1 visa holder remained in the United States beyond the date DHS authorized (overstayed their visa) and (2) field office personnel complied with SSA’s enumeration policies and procedures when processing K-1 visa holder SSN applications.

Table 1: K-1 Visa Holders Who Remained in the United States Beyond Their DHS-Authorized Stay (Overstayed Their Visa)

Total Population of K-1 Visa Holders Assigned SSNs from April 1 through December 31, 2005	10,293
Sample Size	250
Number of Instances in Sample Where K-1 Visa Holders Remained in the United States Beyond Their DHS-Authorized Stay	9
Estimate of Instances in Population Where K-1 Visa Holders Remained in the United States Beyond Their DHS-Authorized Stay	371
Projection – Lower Limit	196
Projection – Upper Limit	635

Table 2: Aggregate Field Office Noncompliance with SSA Policies and Procedures²⁶

Total Population of K-1 Visa Holders Assigned SSNs from April 1 through December 31, 2005	10,293
Sample Size	250
All Instances in Sample Where Field Office Personnel Did Not Comply With SSA Policies and Procedures	17
Estimate of All Instances in Population Where Field Office Personnel Did Not Comply With SSA Policies and Procedures	700
Projection – Lower Limit	453
Projection – Upper Limit	1,028

¹ This table accounts for both compliance issues we identified. See Tables 3 and 4 for the individual compliance issues.

Table 3: Field Office Noncompliance: Improper SSN Assignment

Total Population of K-1 Visa Holders Assigned SSNs from April 1 through December 31, 2005	10,293
Sample Size	250
Number of Instances in Sample Where Field Office Personnel Improperly Assigned SSNs	8
Estimate of Instances in Population Where Field Office Personnel Improperly Assigned SSNs	329
Projection – Lower Limit	166
Projection – Upper Limit	584

Table 4: Field Office Noncompliance: Incorrectly Coded SSN Application

Total Population of K-1 Visa Holders Assigned SSNs from April 1 through December 31, 2005	10,293
Sample Size	250
Number of Instances in Sample Where Field Office Personnel Incorrectly Coded K-1 Visa Holders' SSN Application	9
Estimate of Instances in Population Where Field Office Personnel Incorrectly Coded K-1 Visa Holders' SSN Application	371
Projection – Lower Limit	196
Projection – Upper Limit	635

Table 5: No I-94 Expiration Date Recorded in SSN Applications

Total Population of K-1 Visa Holders Assigned SSNs from April 1 through December 31, 2005	10,293
Sample Size	250
Number of Instances in Sample Where Field Office Personnel Did Not Record an Expiration Date for K-1 Visa Holders' I-94s	15
Estimate of Instances in Population Where Field Office Personnel Did Not Record an Expiration Date for K-1 Visa Holders' I-94s	618
Projection – Lower Limit	386
Projection – Upper Limit	932

All projections made at the 90 percent confidence level.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: April 21, 2008 **Refer To:** S1J-3

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

From: David V. Foster /s/
Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report, "Assignment of Social Security Numbers to Noncitizens with Fiancé Visas" (A-08-07-17044)--INFORMATION

We appreciate OIG's efforts in conducting this review. Our response to the report findings and recommendations are attached.

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

Attachment

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, "ASSIGNMENT OF SOCIAL SECURITY NUMBERS TO NONCITIZENS WITH FIANCÉ VISAS" (A-08-07-17044)

Thank you for the opportunity to review and comment on the draft report. We agree that protecting the integrity of the Social Security number (SSN) is critical to our agency. We appreciate the report's acknowledgement that we are required *by law* to assign SSNs to aliens at the time of their lawful admission to the United States either for permanent residence or under authority of law permitting them to engage in employment in the United States. Our responses to the specific recommendations are provided below.

Recommendation 1

Seek clarification from the Department of Homeland Security (DHS) on whether K-1 visa holders must provide the Agency with an Employment Authorization Document (EAD) as evidence of work authorization when applying for an SSN. If DHS specifies that K-1 visa holders must present an EAD as proof of work authorization, we should change our policies to reflect the requirement.

Response

We agree. We have already contacted DHS to ask if the guidance they provided us in 1998 and 1999 is still current; namely, that a K-1 fiancé is considered to be work authorized based on *either* the I-94 or an EAD. We anticipate that a complete DHS response should be received by the end of fiscal year (FY) 2008. If DHS advises that an EAD is required, we will update the Program Operations Manual System (POMS) instructions.

Recommendation 2

Discuss with DHS the feasibility of not granting work authorization to K-1 visa holders until they marry—thus, limiting SSN assignment.

Response

We agree. We have asked DHS if they are, in general, considering any revisions to their regulations regarding work authorization for K-1 visa holders and, more specifically, if there is any discussion to not grant work authorization until the K-1 fiancé marries. We anticipate that a complete DHS response should be received by the end of FY 2008. If DHS decides not to grant work authorization to a K-1 visa holder until he/she marries, we will work with DHS to determine what immigration documents the spouse would have from DHS since his/her K-1 status would no longer be valid.

Recommendation 3

Consider implementing an edit in the SSN processing systems that would prevent assignment of SSNs for pending SSN applications when the noncitizen's DHS document and/or status has expired or will expire within 14 days.

Response

We agree. We are currently redesigning the Modernized Enumeration System to the new Social Security Number Application Process (SSNAP) and plan to include in the SSNAP system edits that would address this recommendation by not accepting the document or allowing processing of the document if it has expired or will expire within 14 days.

Recommendation 4

Periodically review K-1 SSN applications to ensure field office personnel accurately recorded evidence codes.

Response

We agree. We will review a sample of K-1 SSN applications on an annual basis to ensure field office personnel accurately record evidence codes. We will conduct the first review in the May-June 2009 timeframe.

Recommendation 5

Correct K-1 visa holders' Numident evidence code errors we identified in our sample.

Response

We agree. We are taking the necessary action to correct the numidents for the cases identified in the report.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Kimberly A. Byrd, Director, 205-801-1650

Theresa Roberts, Audit Manager, 205-801-1619

Acknowledgments

In addition to those named above:

Neha Smith, Senior Auditor

Susan Evans, Auditor

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Chairman and Ranking Minority, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Committee on Appropriations, House of Representatives

Chairman and Ranking Minority Member, Committee on Appropriations, U.S. Senate

Chairman and Ranking Minority Member, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Committee on Appropriations, U.S. Senate

Chairman and Ranking Minority Member, Committee on Finance

Chairman and Ranking Minority Member, Subcommittee on Social Security Pensions and Family Policy

Chairman and Ranking Minority Member, Senate Special Committee on Aging

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 Chief Counsel to the Inspector General (OCCIG), 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 Chief Counsel to the Inspector General

OCCIG provides independent legal advice and counsel to the IG on various matters, including statutes, regulations, legislation, and policy directives. OCCIG 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, OCCIG 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.