



SOCIAL SECURITY
Office of the Inspector General

MEMORANDUM

Date: January 22, 2001

Refer To: 31022-23-125

To: William A. Halter
Acting Commissioner
of Social Security

From: Inspector General

Subject: Obstacles to Reducing Social Security Number Misuse in the Agriculture Industry
(A-08-99-41004)

The attached final report presents the results of our review. Our objective was to assess the potential for misuse of Social Security numbers within the agriculture industry.

Please comment within 60 days from the date of this memorandum on corrective action taken or planned on each recommendation. 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.



James G. Huse, Jr.

Attachment

**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**OBSTACLES TO REDUCING
SOCIAL SECURITY NUMBER
MISUSE IN THE AGRICULTURE
INDUSTRY**

January 2001

A-08-99-41004

**MANAGEMENT
ADVISORY 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.

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

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.

Executive Summary

OBJECTIVE

The objective of the review was to assess the potential for misuse of Social Security numbers (SSN) within the agriculture industry.¹

BACKGROUND

One of the Social Security Administration's (SSA) most important responsibilities is to maintain records of wage amounts employers pay individuals. To facilitate this responsibility, SSA created SSNs as a method of maintaining individual earnings records and issued workers cards as a record of their SSN.

Because SSA calculates future benefit payments based on the earnings an individual has accumulated over his or her lifetime, accuracy in recording those earnings is critical. SSA's ability to do so, however, greatly depends on employers and employees correctly reporting names and SSNs on Form W-2s (*Wage and Tax Statement*). As such, SSA provides employers information and services to help them with this responsibility. For example, SSA offers employers an Enumeration Verification System (EVS) that provides a mechanism to match employees' names and SSNs with SSA records.

SSA also uses over 20 automated edits to match employees' names and SSNs and properly credit their earnings to the Master Earnings File. SSA places wage items that fail to match name and SSN records into its Earnings Suspense File (ESF).² From 1996 through 1998, the ESF grew by an average of 6.6 million wage items and \$27.4 billion, annually. To address this growth, SSA developed an ESF tactical plan, which it issued in draft in 1997 and finalized in March 1999. This plan outlines the policy, operational, and system improvements SSA believes are necessary to fulfill its commitment to reduce the ESF's growth and size.

SSN misuse often occurs when an individual provides an employer with an SSN that either has (1) never been issued or (2) already been assigned to another person. Individuals use SSNs illegally for a variety of reasons, one of which is to obtain employment. SSA efforts to address SSN misuse require coordination with, and/or assistance from, other Federal agencies, such as the Internal Revenue Service (IRS) and the Immigration and Naturalization Service (INS).

¹ We use the term "SSN misuse" throughout this report to refer to situations in which individuals illegally used SSNs to obtain employment.

² A wage item is an individual employee report prepared by employers on Form W-2 after the close of the calendar year that shows wages paid and taxes withheld during the prior year.

We met with SSA Headquarters senior staff and regional and field office staff responsible for planning, managing, and implementing the Agency's initiatives regarding the ESF and SSN misuse. Additionally, to determine the potential for misuse of SSNs within the agriculture industry, we obtained ESF data for Calendar Years 1996 through 1998 for California and Florida, two of the country's largest agricultural States. We then identified all employers who contributed 100 or more wage items to the ESF in each of the 3 years, selecting for further analysis the 10 agricultural employers with the most suspended wage items within each State. For the 20 employers selected, we analyzed categories of reporting irregularities, such as SSNs that SSA had never issued or assigned to another individual. We also visited 6 of the 20 agricultural employers and 2 agricultural growers associations. Additionally, we interviewed senior staff at the IRS and the INS to obtain their views on employers who submit inaccurate wage reports and the extent to which unauthorized noncitizens contribute to this problem.³

RESULTS OF REVIEW

The extent of SSN misuse in the agriculture industry can never be precisely quantified; however, based on our interviews with agricultural employers, growers associations, and SSA senior staff, we believe it is widespread. For example, for Calendar Years 1996 through 1998, the 20 agricultural employers we reviewed submitted over 150,000 wage items for which the employee's name and/or SSN did not match SSA records. These items represented almost \$250 million in suspended earnings over the 3-year period. About 6 of every 10 wage items submitted by these agricultural employers did not match the names/SSNs contained in SSA files.

We also identified various types of reporting irregularities. During our review period, 2 employers submitted over 7,000 SSNs that SSA had never issued. Another employer submitted more than 900 duplicate SSNs over the 3-year period. While we recognize there are legitimate reasons why a worker's name and SSN may not match SSA's files, such as name changes, we believe the magnitude of erroneous or incorrect wage reporting is indicative of SSN misuse. SSA senior staff acknowledged the intentional misuse of SSNs by noncitizens not authorized to work is a major contributor to the ESF's growth.

To its credit, SSA recognizes the impact SSN misuse has on its programs, including growth of the ESF, and has identified a number of initiatives to reduce such activity. For example, SSA has initiated several outreach efforts to assist and train employers in accurate wage reporting. Despite these efforts, significant obstacles to reducing SSN misuse and growth of the ESF remain. Resistance on the part of employers to participate in EVS and the IRS' reluctance to impose existing civil penalties against employers who submit inaccurate wage reports have hampered SSA's ability to combat SSN misuse. Furthermore, privacy and disclosure issues (that is, sharing name/SSN

³ We use the term "unauthorized noncitizens" to refer to individuals who do not have permission from the INS to work in the United States but who are working, regardless of whether they entered legally or illegally. Unauthorized noncitizens in the United States are subject to removal from the country by the INS.

information) have limited collaborative efforts between SSA and the INS. SSA believes its application of privacy and disclosure policy complies with existing law, and we agree with this analysis. However, such a position should not detract from SSA's obligation to seek legislative remedies. Specifically, SSA should seek additional legislative authority to assist in removing any current barriers it believes preclude the sharing of this information. In addition, although SSA senior staff told us unauthorized noncitizens account for a significant portion of suspended wage items, SSA's tactical plan for reducing the growth and size of the ESF does not adequately address this issue.

CONCLUSIONS AND RECOMMENDATIONS

SSN misuse within the agriculture industry results in millions of dollars in wages that cannot be associated with workers' earnings records. Additionally, reports of SSN misuse adversely affect public confidence in SSA's stewardship of Agency programs. We recognize no single agency can adequately combat this problem. However, given the large number of erroneous wage items submitted by agricultural employers, we believe SSA should take preemptive and preventive measures to ensure the SSN's integrity. Ultimately, the success of SSA's efforts will depend on the priority it places on prevention and detection of SSN misuse and how successful it is in obtaining assistance and support from the IRS and the INS.

In prior Office of the Inspector General reports, we made recommendations to help reduce growth of the ESF. The report titles and applicable recommendations are listed in Appendix A of this report. We continue to support these recommendations and encourage SSA to implement these actions. In addition to the previously suggested initiatives, we recommend that SSA:

- Expedite implementation of the initiative to improve communication of name/SSN errors to employers and employees.
- Seek legislative authority to provide SSA with the tools to require chronic problem employers to use EVS.
- Collaborate with the INS to develop a better understanding of the extent that immigration issues contribute to SSN misuse and growth of the ESF. Additionally, reevaluate its application of existing disclosure laws or seek legislative authority to remove barriers that would allow the Agency to share information regarding chronic problem employers with the INS.
- Establish performance goals and measures in accordance with the Government Performance and Results Act of 1993 that track SSA's success in reducing the growth and size of the ESF.

AGENCY COMMENTS

In its response, SSA agreed with our first recommendation and stated it has already begun implementing the corrective action. For Tax Year (TY) 2000, which begins January 29, 2001, SSA plans to accelerate the return of name/SSN error information to employers. Additionally, SSA has developed a stronger notice communicating name/SSN error information to employers. Further, on its resubmittal notices (which return the entire report to the employer), SSA plans to include counts of the number of zero SSNs (000-00-0000), invalid SSNs (SSNs that could not be compared to SSA's Numident), and name/SSN mismatches.

As a part of its response to our first recommendation, SSA also described further changes it plans to implement to the TY 2000 Annual Wage Reporting (AWR) edits. Specifically, SSA plans to (1) eliminate the current 50-percent tolerance rate for acceptance of name/SSN mismatches; (2) apply a 95-percent format edit for SSN and name fields in reports with 50 or more W-2s; and (3) eliminate the threshold of 5,000 or more name/SSN mismatches (failure of edit requires a resubmission). For TYs 2001 and beyond, SSA plans to modify the AWR process so all good name/SSN items are processed to the Master Earnings File, incorrect items go into the ESF, and a request for corrective action is sent to the employer as soon as possible.

SSA disagreed with our second recommendation. SSA stated the IRS already has the authority to penalize employers who do not comply with wage reporting requirements. Furthermore, the Agency stated it identified the top chronic ESF offenders for TYs 1996 through 1998 and shared this information with the IRS.

SSA also disagreed with our third recommendation concerning collaboration and the sharing of information with the INS. In its response, SSA stated its interpretation of privacy and disclosure issues is accurately applied and continues to provide appropriate disclosure guidance with existing authority. SSA stated current regulations provide sufficient authority to share information with other agencies, including the INS, in situations that are consistent with the purpose of the Social Security program and SSA's disclosure policies. The Agency does not see a need to reevaluate its disclosure policies or seek legislation in this area.

To address recommendation four, SSA agreed a performance measure related to the steps it is taking to limit the growth of the ESF may be appropriate and plans to evaluate how it can establish such goals and measures.

OFFICE OF THE INSPECTOR GENERAL RESPONSE

We acknowledge the steps SSA has taken and contemplated to combat SSN misuse and the ESF's growth. We believe the Agency's response and planned actions adequately address recommendations 1 and 4. However, we believe SSA's responses to recommendations 2 and 3 do not effectively respond to our goal of combating SSN misuse and reducing the ESF's growth and size. Additionally, we have concerns

regarding the proposed changes to AWR edits SSA described in its response to recommendation 1. We believe these changes will serve as a disincentive for employers to improve their wage reporting accuracy. Accordingly, we encourage SSA to reconsider its implementation of these policies until it conducts further analysis to determine the possible effect on the ESF.

Regarding recommendation 2, the IRS has been reluctant to impose existing civil penalties against employers who submit inaccurate wage reports, as discussed in this report. IRS senior staff expressed concern with the application of penalties because they believe it is difficult to determine whether an employer exercised appropriate diligence in obtaining the necessary information from employees. We continue to believe it is important that SSA seek legislative authority to require employers who submit inaccurate wage reports to use EVS. By doing so, SSA could assist the IRS in its efforts to apply penalties (by providing them with sufficient evidence to show an employer knew, or should have known, its employees' SSNs were incorrect). We acknowledge SSA's efforts in working with the IRS to improve employer wage reporting. However, until SSA requires chronic problem employers to use EVS and holds them accountable for their actions, we do not believe employer wage reporting will significantly improve. Accordingly, we ask the Agency to reconsider its response to this recommendation.

We also do not agree with SSA's response to recommendation 3. We did not intend to suggest that SSA is not in compliance with current law and regulations. Rather, our intent was to urge the Agency to explore all potential options under current law and regulations first before seeking new legislative authority. We acknowledge SSA's efforts to combat SSN misuse and reduce the ESF's growth. However, given the magnitude of SSN misuse by unauthorized noncitizens, we continue to believe SSA should take preemptive and preventive measures to ensure the SSN's integrity. We believe that seeking legislative authority to remove barriers that would allow the Agency to share information with the INS, as it currently does with the IRS, is imperative. In fact, an INS senior staff member stated the INS would be interested in receiving information on chronic problem employers from SSA. Without SSA action, we do not believe the Agency will make significant progress in addressing SSN misuse and the ESF's growth. We also point out that SSA's response did not address the part of our recommendation about collaborating with the INS to develop a better understanding of the extent immigration issues contribute to SSN misuse and the ESF's growth. As discussed in this report, unauthorized noncitizens contribute greatly to SSN misuse and the ESF's growth. As such, we continue to believe SSA should collaborate with the INS to determine the extent to which unauthorized noncitizens contribute to these problems. Therefore, we also ask that SSA reconsider its response to this recommendation.

SSA also provided technical comments that we considered and incorporated, where appropriate. The full text of SSA's comments is included in Appendix B.

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Acronyms

AWR	Annual Wage Reporting
CY	Calendar Year
ESF	Earnings Suspense File
EVS	Enumeration Verification System
INS	Immigration and Naturalization Service
IRCA	Immigration Reform and Control Act of 1986
IRS	Internal Revenue Service
MEF	Master Earnings File
OEVS	On-line Employee Verification Service
SSA	Social Security Administration
SSN	Social Security Number
TY	Tax Year

Introduction

OBJECTIVE

The objective of the review was to assess the potential for misuse of Social Security numbers (SSN) within the agriculture industry.

BACKGROUND

One of the Social Security Administration's (SSA) most important responsibilities is to maintain records of wage amounts employers pay individuals. To facilitate this responsibility, SSA created SSNs as a method of maintaining individual earnings records and issued workers cards as a record of their SSNs. SSA's ability to accurately record wages depends on employees and employers providing correct names and SSNs.

SSA provides employers information and services to help them accurately record and report employees' names and SSNs on Form W-2s (*Wage and Tax Statement*). For example, SSA provides an Enumeration Verification System (EVS), a voluntary program that offers employers a mechanism to match employees' names and SSNs with SSA records. In addition, SSA uses over 20 automated edits to match employees' names and SSNs and properly credit their earnings to the Master Earnings File (MEF). SSA places wage items that fail to match name and SSN records in its Earnings Suspense File (ESF). When wage items reach the ESF, SSA mails letters to employees to resolve discrepancies. SSA sends letters to the employer only if it has no address for the employee. From 1996 through 1998, the ESF grew by an average of 6.6 million wage items and \$27.4 billion, annually. To address this growth, SSA developed an ESF tactical plan, which it issued in draft in 1997 and finalized in March 1999. This plan outlines the policy, operational, and system improvements SSA believes are necessary to fulfill its commitment to reduce the ESF's growth and size.

Exhibit 1: Citrus Harvesting in Florida



Ensuring that employers report correct names and SSNs is important to employees because their future benefits will be based on their earnings records. Accurate reporting is also important to employers because they can avoid the costs of correcting

inaccurate reports as well as possible penalties by the Internal Revenue Service (IRS). Further, the accuracy of employees' names and SSNs is important to SSA because it reduces operating costs. SSA estimates it costs less than \$.50 to post a correctly submitted wage item to an individual's earnings record and an average of \$300 to correct an item once it goes into the ESF.

SSN Misuse

Expanded use of the SSN has given rise to individuals using counterfeit SSNs and misusing SSNs that belong to others. Individuals use SSNs illegally for a variety of reasons, one of which is to obtain employment. SSN misuse often occurs when an individual provides an employer with an SSN that either has (1) never been issued (unassigned SSN) or (2) already been assigned to another individual. SSA studies have shown that about 55 percent of items in the ESF have no name, no SSN, no name and no SSN, or an invalid SSN. About 41 percent show no relationship to the names on SSA's master file of SSNs issued. These percentages strongly suggest that many items enter the ESF because of SSN misuse. Unlike the IRS, SSA has no legal authority to levy fines and penalties against employers who submit erroneous wage reports.

Exhibit 2: Orchard Pruning in California

The Agriculture Industry Is the Largest Contributor to the ESF

SSA statistics show three industries (agriculture, bars and restaurants, and services) account for almost one-half of all wage items in the ESF. Of these industries, agriculture is the largest contributor, representing about 17 percent of all ESF items. Many agriculture employees are transient, frequently changing jobs and residences. These circumstances complicate SSA's name and SSN correction efforts when recontacts are necessary.



Unauthorized Noncitizens

One of the magnets attracting unauthorized noncitizens to the United States is jobs. Even among those noncitizens who enter the United States legally (for example, as tourists or students), many are believed to overstay their visas and take jobs. In 1996, the Immigration and Naturalization Service (INS) estimated that over 5 million unauthorized noncitizens resided illegally in the United States, and their numbers increased at an average rate of about 275,000 per year between 1992 and 1996. Many immigration experts have said that, as long as opportunities for employment exist, the incentive to enter the United States illegally or overstay visas will persist.

Role of Other Federal Agencies

The IRS uses W-2s to enforce tax laws and can penalize employers and employees for providing incorrect information. Under IRS Code, the IRS may charge a \$50 penalty each time an employer does not furnish an employee's correct SSN on a wage report.¹ The IRS may also charge an employee a \$50 penalty each time he or she does not furnish an employer the correct SSN. The IRS is authorized to impose these penalties unless the employer or employee can show reasonable cause for not providing the correct information.

The INS has oversight responsibility for unauthorized noncitizens. The Immigration Reform and Control Act of 1986 (IRCA) made it illegal for employers to knowingly hire or continue to employ unauthorized noncitizens. Employers must request newly hired employees to present documents that establish their identity and eligibility to work. The INS also requires employers to complete Form I-9 (Employment Eligibility Verification Form), certifying they have reviewed the documents, and the documents appear genuine and relate to the individual. In making their certifications, employers are expected to determine whether documents are obviously fraudulent. IRCA provides penalties or sanctions against employers who violate the law.

Prior SSA/Office of the Inspector General Reports

Recognizing the impact SSN misuse has on SSA programs, we conducted two reviews to identify employers who contribute to the growth and size of the ESF and report on SSA's efforts to address this problem. Our report, *Patterns of Reporting Errors and Irregularities by 100 Employers with the Most Suspended Wage Items*, September 1999, recommended, among other things, SSA develop and implement a corrective action plan for the 100 employers and continue its efforts to contact those employers who are responsible for large numbers of suspended wage items. Our February 2000 report, *The Social Security Administration's Earnings Suspense File Tactical Plan and Efforts to Reduce the File's Growth and Size*, made further recommendations, including pursuing penalties for chronic problem employers. See Appendix A for a full list of recommendations made in these reports.

¹ 26 U.S.C., section 6721 (a).

SCOPE AND METHODOLOGY

To accomplish our objective, we interviewed SSA Headquarters senior staff and regional and field office staff responsible for planning, managing, and implementing the Agency's initiatives regarding the ESF and SSN misuse. We reviewed SSA regulations, policies, and requirements pertaining to enumeration and wage reporting functions as well as tactical plans developed by SSA.

To determine the potential for SSN misuse within the agriculture industry, we obtained ESF data for Calendar Years (CY) 1996 through 1998 for California and Florida, two of the country's largest agricultural States. From this population, we selected the 10 agricultural employers from each State with the most suspended wage items over the 3-year period. We then analyzed ESF data for each of the 20 selected employers. Specifically, we categorized the ESF wage items for each of the 3 years to include the following reporting irregularities: unassigned SSNs and assigned SSNs used by multiple individuals (duplicates). We also performed additional analyses to identify instances where employers submitted the same incorrect SSN over multiple years. In addition, we visited 6 of the 20 agricultural employers selected and 2 agricultural growers' associations to obtain information on their experiences with employees who provide erroneous or incorrect names or SSNs.

We performed our work at SSA Headquarters in Baltimore, Maryland; SSA regional offices in Atlanta, Georgia, and San Francisco, California; and field offices in Ft. Meyers, Florida, and Fresno, California. In addition, we interviewed IRS and INS senior staff as well as INS field office agents in Miami, Florida, and Fresno, California, to obtain their views on employers who submit inaccurate wage reports and the extent to which unauthorized noncitizens contribute to this problem.

The SSA entities reviewed were the Office of Central Operations within the Office of the Deputy Commissioner for Operations and the Office of Systems Requirements within the Office of the Deputy Commissioner for Systems. We conducted our work from August 1999 through May 2000.

Results of Review

The extent of SSN misuse in the agriculture industry can never be precisely quantified; however, based on our interviews with agricultural employers, growers associations, and SSA senior staff, we believe it is widespread. For example, from 1996 through 1998, the 20 agricultural employers we reviewed submitted over 150,000 wage items for which the employee's name and/or SSN did not match SSA records. These wage items represented almost \$250 million in suspended wages over the 3-year period. About 6 of every 10 wage items submitted by these agricultural employers did not match names/SSNs contained in SSA files. Moreover, we identified several reporting irregularities, such as unassigned SSNs and SSNs used by multiple individuals. While we recognize there are legitimate reasons why a worker's name and SSN may not match SSA files, such as name changes, we believe the magnitude of incorrect wage reporting is indicative of SSN misuse.

To its credit, SSA recognizes the impact SSN misuse has on its programs, including growth of the ESF, and has identified a number of initiatives to reduce such activity. For example, SSA initiated several outreach efforts to assist and train employers in accurate wage reporting. Despite these efforts, significant obstacles to reducing SSN misuse and growth of the ESF remain. Resistance on the part of employers to participate in EVS and the IRS' reluctance to impose existing civil penalties against employers who submit inaccurate wage reports have hampered SSA's ability to combat SSN misuse.

Furthermore, privacy and disclosure issues (that is, the sharing of information) have limited collaborative efforts between SSA and the INS. SSA believes its application of privacy and disclosure policy complies with existing law, and we agree with this analysis. However, such a position should not detract from SSA's obligation to seek legislative remedies. Specifically, SSA may seek additional legislative authority to assist in removing any current barriers it believes preclude the sharing of this information. In addition, although SSA senior staff told us unauthorized noncitizens account for a significant portion of suspended wage items, SSA's tactical plan for reducing the growth and size of the ESF does not adequately address this issue.

SSN MISUSE IN THE AGRICULTURE INDUSTRY IS WIDESPREAD

About 6 of every 10 wage items submitted by the 20 agricultural employers we reviewed did not match SSA records and went into the ESF, as shown in Exhibit 3.

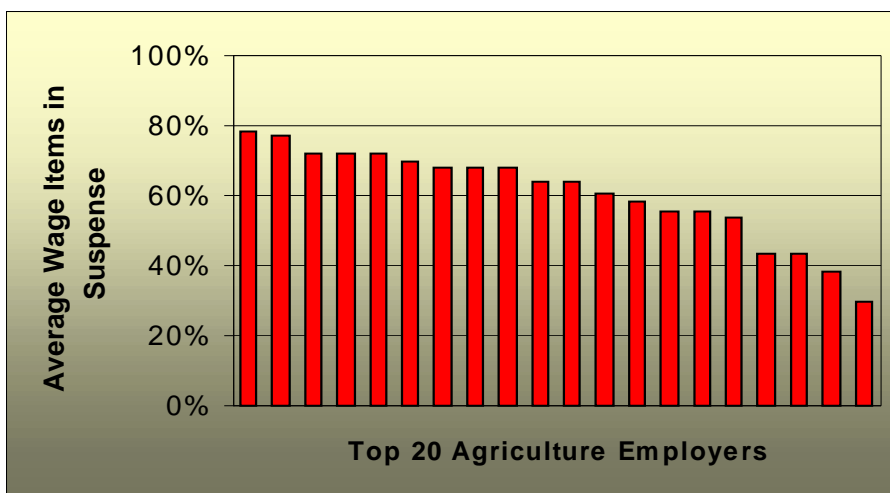
On Average, 6 of Every 10 Agricultural Wage Items Reviewed Went Into Suspense

The average percentage of wage items going into the ESF over the 3-year period ranged from a low of about 30 percent for one employer to a high of about 79 percent for another, as shown in Exhibit 4. Moreover, 18 of the 20 employers (90 percent) experienced increases in the percentage of suspended wage items from 1996 through 1998. The 2 employers who did not experience a percentage increase still contributed over 20,000 wage items and over \$28 million to the ESF over the 3-year period.

Exhibit 3: Ratio of Wage Items Posted to the MEF and ESF



Exhibit 4: Average Percentage of Wage Items In Suspense for 20 Employers in CYs 1996-1998



Types of Reporting Irregularities

During our review of the 20 agricultural employers' annual wage reports, we identified various types of reporting irregularities, such as large numbers of unassigned and duplicate SSNs. Our analysis showed the following.

- SSA had never assigned about 50,000 (33 percent) of the reported SSNs. Two employers submitted over 7,000 unassigned SSNs from 1996 through 1998. Another employer submitted over 4,000 unassigned SSNs during the 3-year period. Twelve of the remaining 18 employers submitted at least 1,000 unassigned SSNs.
- The remaining 100,000 (67 percent) SSNs were numbers SSA had assigned to someone else. One agricultural employer submitted over 900 duplicate SSNs from 1996 through 1998, meaning multiple employees used the same SSNs to work for the employer. Another employer submitted over 500 duplicate SSNs during the 3-year period. Three additional employers submitted over 100 duplicate SSNs.

Additional analysis of the 20 agricultural employers' annual wage reports showed employees repeatedly used the same incorrect SSNs over multiple years. We identified over 15,000 incorrect SSNs employees used during 1996 and 1997. Of these, we identified over 6,000 incorrect SSNs employees also used in 1998.

Unauthorized Noncitizen Workforce Is a Major Contributor to SSN Misuse in the Agriculture Industry

Based on interviews we conducted with employers, growers associations, and SSA senior staff, there is a general consensus that unauthorized noncitizens contribute

Several Agricultural Employers Acknowledged That Large Numbers of Their Workers Were Unauthorized Noncitizens

significantly to SSN misuse and to the growth of the ESF. In fact, several of the agricultural employers we interviewed acknowledged that large numbers of their workers were unauthorized noncitizens. They told us that, while they examine various types of employment eligibility documents, they know many of them may be fraudulent. Several employers stated they did not believe it was their responsibility to be a "police force."

Employers we spoke with also stated the unauthorized workforce was the only labor pool available to them. These employers stated they could go out of business if they ask too many questions regarding their employees' work eligibility. Specifically, the demand for agriculture workers is great; therefore, employees could work for many other employers who do not verify the validity of their work authorization documents. Faced with losing workers to their competitors and/or having a crop rot in the field, the employers told us they have no choice but to hire unauthorized workers. As to the potential penalties associated with hiring illegal workers, one employer told us it is a business decision and the company will take its chances with the Government.

Exhibit 5: Preparation of Strawberry Fields in California



Employers also expressed concern over legal issues. For example, some employers told us they photocopied the SSN cards of new hires to show they made a good faith effort to hire legal workers. On the other hand, others were unsure if they should copy the card because it could be used against them if the INS subsequently determined the worker was illegal. Employers were also concerned about their liability if they fired workers whose names and SSNs did not match SSA's records.

Both of the agricultural growers' associations we interviewed acknowledged that most of the employers they represent hire unauthorized noncitizens. For example, the president of a growers' association representing over 1,000 employers in California stated that about 90 percent of the agricultural workforce is illegal. He told us many of the letters his employers receive from SSA regarding name and SSN mismatches affirm this fact. Further, the president stated SSA (through its identification of name/SSN mismatches) has done the INS' job. However, he stated INS did not want to be the "bad guy" and be negatively viewed by Congress and the public. The association president also told us he instructs his growers not to use EVS or make copies of workers' SSN cards because knowingly hiring an unauthorized noncitizen is a Federal offense, and growers cannot be charged with something they do not know. The association president believed the only real solution to the unauthorized noncitizen problem was for Congress to legalize the illegal workforce with guestworker legislation.

SSA senior staff acknowledged the agriculture industry is the largest contributor to the ESF, and the intentional misuse of SSNs by unauthorized noncitizens has been a major contributor to the growth of the ESF. Senior staff told us employers hire unauthorized workers because there is no deterrent to prevent them from doing so. That is, employers know that SSA has no legal authority to levy fines and penalties, and they do not fear sanctions from the IRS or the INS. Therefore, the employers we spoke with

generally ignore SSA outreach efforts aimed at reducing SSN misuse and improving the effectiveness of annual wage reporting.

SSA IS TAKING STEPS TO REDUCE ITS VULNERABILITY TO SSN MISUSE, YET CONSIDERABLE OBSTACLES REMAIN

Despite a number of initiatives to reduce SSA's vulnerability to SSN misuse, significant obstacles remain. Resistance on the part of employers to participate in SSA's EVS and the IRS' reluctance to impose existing civil penalties against employers who submit inaccurate wage reports have hampered SSA's ability to combat SSN misuse. Furthermore, privacy and disclosure issues (that is, sharing name/SSN information) have limited collaborative efforts between SSA and the INS. SSA believes its application of privacy and disclosure policy complies with existing law, and we agree with this analysis. However, such a position should not detract from SSA's obligation to seek legislative remedies. In addition, although SSA senior staff told us unauthorized noncitizens account for a significant portion of suspended wage items, SSA's tactical plan for reducing the growth and size of the ESF does not adequately address this issue.

SSA Outreach to Employers

SSA has initiated several efforts to educate employers about the importance of accurate wage reporting. Since 1997, SSA has been contacting employers responsible for 100 or more suspended wage items to assist them in correcting suspended wages for the past tax year and preparing accurate wage reports in subsequent years. In addition, SSA provides assistance to employers in verifying employees' names and SSNs through its 800-telephone number. SSA senior staff believe outreach is important, but they acknowledge its impact to reduce the ESF is limited. Outreach efforts are only effective for those employers who have a desire to report wages correctly.

SSA has additional plans to assist employers by improving its method of communicating name and SSN errors to employers and employees. SSA recognizes that employer error notices do not communicate to the employer in a timely, efficient, and effective manner. The process is slow; does not take full advantage of technology, such as the use of fax and e-mail; and does not adequately consider differences in error notice requirements among magnetic media and paper filers. Furthermore, error notices do not provide employers with a single complete list of name and/or SSN errors found. As part of SSA's initiative to address these concerns, the Agency plans to direct name and SSN error correspondence to the employer rather than to the employee, which is the current policy. SSA senior staff told us their overall goal is to make wage reporting as easy as possible for those employers interested in accurate reporting.

To further assist employers, SSA and the INS have been participating in a pilot since 1997 to help employers determine their new hires' employment eligibility through an automated check of SSA's and INS' data bases. SSA offered the Basic Pilot to employers on a voluntary basis in States with the highest number of immigrants, per the

terms of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Employers in New York, Texas, Illinois, California, Florida, and Nebraska are using the Pilot.

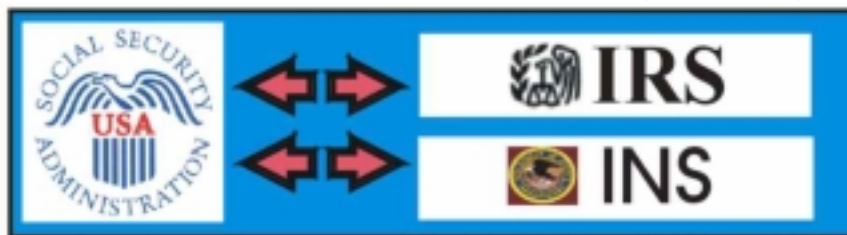
Employer Participation in EVS

SSA made EVS available to employers to assist them in verifying employee names and SSNs with SSA records, thus reducing the incidence of SSN misuse. However, the agricultural employers we interviewed did not use EVS. Employers stated EVS is not helpful because SSA takes too long to respond or is too helpful because they learn that many of their employees are unauthorized noncitizens. For example, one employer told us he hires hundreds of workers at a time, and he can't wait weeks for a response from SSA. Another employer stated he does not want to know whether his employees are illegal because such knowledge makes him vulnerable to fines and penalties.

SSA is considering expanding EVS and has plans for a pilot project to provide employers with an on-line employee verification service (OEVS). We believe SSA's plans to provide on-line verification is a positive step. However, we have concerns about the extent to which the new service will actually reduce SSN misuse, given it will still be voluntary, and many employers do not want to know whether their employees are unauthorized. SSA senior staff agree that requiring employers who consistently submit erroneous or incorrect wage reports to use EVS could increase employer accountability.

Assistance from Other Federal Agencies

Because SSA has no legal authority to levy fines and penalties, the Agency requires other Federal agencies to assist in combating SSN misuse. Specifically, as provided by law, SSA must rely on the IRS to enforce penalties for inaccurate wage reporting and the INS to enforce immigration laws. Unfortunately, the IRS has been reluctant to apply penalties, and SSA and the INS have had limited collaboration on the issue.



IRS Reluctant to Apply Penalties. SSA senior staff stated that employers have no incentive to submit accurate annual wage reports because the IRS rarely enforces existing penalties. SSA staff believed applying penalties would have a rippling effect on employers who consistently misreport wage information and serve as a deterrent to SSN misuse in the agriculture industry. Although SSA is primarily interested in penalizing only the most egregious employers, IRS senior staff expressed concern with the application of even these penalties. IRS senior staff members believe they and SSA will have a difficult time determining whether an employer exercised appropriate

diligence in obtaining the necessary information from employees. SSA senior staff, however, believes the Agency could provide the IRS with sufficient evidence to show an employer knew or should have known its employees' SSNs were incorrect. For example, a reasonable person should recognize it is infeasible for hundreds of workers to have the same or consecutively numbered SSNs.

Despite the IRS' concerns, the two Agencies have held discussions to explore the enforcement of an existing penalty provision (\$50 per error) for employers who repeatedly submit erroneous name and/or SSN information. To implement the penalty, SSA and the IRS agree the Agencies must (1) jointly define the circumstances for applying penalties, (2) identify information needed from SSA for the IRS to support applying penalties, and (3) develop the proposed data flow and procedures to be followed.

SSA is also discussing with the IRS a regulation that would give employers the right to see a newly hired employee's SSN card.² SSA senior staff believe if prospective employees are required to show employers their SSN card, inaccurate names and SSNs will be reduced. We support employers' rights to see the SSN card and have recommended that SSA assign a higher priority to this initiative. However, we are concerned the proliferation of fraudulent employment eligibility documents, such as the SSN card, will still make it difficult for employers to ensure employment to only authorized workers. For example, in May 1998, the INS seized over 24,000 counterfeit SSN cards in Los Angeles after undercover agents purchased 10,000 fraudulent INS permanent resident cards from a counterfeit document ring. Many of these counterfeit cards could have been used to obtain employment.

Limited Collaboration Between SSA and the INS. Both SSA and INS senior staff told us collaboration between the two Agencies has been limited. In SSA's December 1997 version of the ESF Tactical Plan, the Agency included an initiative to develop a better understanding of the extent that immigration issues may contribute to name and SSN mismatches and the ESF's growth. The initiative was to involve SSA working with the INS to formulate and conduct a limited review of employers who (1) employ large number of immigrants and (2) experience high name and SSN error rates in their Annual Wage Reporting (AWR). According to SSA representatives, because of privacy and disclosure limitations, the Agency determined it could not share such information with the INS. Therefore, SSA did not include this project in subsequent versions of the ESF Tactical Plan.

SSA recognizes unauthorized noncitizens contribute to SSN misuse and the growth of the ESF, but it cannot quantify the extent to which they contribute to this problem. SSA

² The U.S. Immigration and Nationality Act provides that employers hiring an individual must verify his/her employment authorization. Individuals are not required to submit a specific document, but rather may provide one of several specified documents, including the SSN card.

senior staff acknowledged the political nature of this issue and told us there is no consensus in Congress on how to address the problem of unauthorized noncitizens.

We recognize SSA has no control over immigration policy; however, we are concerned the INS' new worksite enforcement strategy (de-emphasis on workplace raids) will impact SSA's ability to address SSN misuse in the agriculture industry. INS senior staff told us workplace inspections are not an enforcement priority. In fact, INS field office staff we interviewed stated they were unaware of any California or Florida farmer who had been fined for hiring unauthorized workers over the past several years. However, an INS senior staff member stated the INS would be interested in receiving information regarding chronic problem employers from SSA. He added these data would assist the INS in assigning its limited resources in productive areas.

During the course of our audit SSA senior officials reaffirmed that the Agency could not share information on problem employers with the INS because of privacy and disclosure issues. SSA believes its application of privacy and disclosure policy (that is, sharing name/SSN information) complies with existing law, and we agree with this analysis. However, such a position should not distract from SSA's obligation to seek legislative remedies. Specifically, SSA may seek additional legislative authority to assist in removing any barriers it believes preclude the sharing of this information.

We believe the INS' worksite enforcement strategy encourages even more employers to hire unauthorized noncitizens and may result in growth of the ESF. A March 9, 2000 *New York Times* article illustrates this point. In the article, one individual discussed how he had practiced an escape plan for years in the event of an INS raid, but now he feels safe given INS' de-emphasis on workplace raids.

Plans for Addressing Unauthorized Noncitizens

As required by the Government and Performance Results Act of 1993, agencies must articulate, in a strategic plan, how they will address issues that significantly affect their ability to manage program operations.³ Given the magnitude of SSN misuse, especially in the agriculture industry, it is important for SSA to address this concern in such a plan. SSA's ESF Tactical Plan, however, does not articulate how SSA will address the intentional misuse of SSNs by unauthorized noncitizens and how this affects the ESF's growth and size. This issue is particularly important, given that SSA acknowledges unauthorized noncitizens account for a major portion of suspended wage items. An expanded plan would provide better direction and guidance by identifying specific objectives, describing how SSA would achieve them, and explaining key external factors that could affect achievement of those objectives.

In addition, taking a more strategic approach would help SSA establish annual performance goals and measures related to its long-term objectives and determine how

³ Government and Performance Results Act (P.L. 103-62) requires agencies to clearly define their missions, set goals, measure performance, and report on their accomplishments.

it will assess its progress in achieving them. Specific performance measures could include tracking the Agency's progress in reducing the ESF's growth and size. By benchmarking and periodically assessing progress in reducing the growth and size of the ESF, SSA would be in a better position to measure its vulnerability to SSN misuse, focus its efforts on the largest contributors to the ESF, and allocate an appropriate level of resources to address this problem.

Conclusions and Recommendations

SSN misuse within the agriculture industry results in millions of dollars in wages that cannot be associated with workers' earnings records and adversely affects public confidence in SSA's stewardship of Agency programs. We recognize no single agency can adequately combat this problem. However, given the magnitude of SSN misuse, as evidenced by the large number of incorrect wage items submitted by agricultural employers, we believe SSA should take preemptive and preventive measures to ensure the integrity of the SSN. Ultimately, the success of SSA's efforts will depend on the priority it places on prevention and detection of SSN misuse and how successful it is in obtaining assistance and support from the IRS and the INS.

RECOMMENDATIONS

We believe the actions recommended in previous reports and those in this report will assist SSA in combating SSN misuse and reducing the growth and size of the ESF. Accordingly, we recommend that SSA:

1. Expedite implementation of the initiative to improve communication of name/SSN errors to employers and employees.
2. Seek legislative authority to provide SSA with the tools to require chronic problem employers to use EVS.
3. Collaborate with the INS to develop a better understanding of the extent that immigration issues contribute to SSN misuse and growth of the ESF. Additionally, reevaluate its application of existing disclosure laws or seek legislative authority to remove barriers that would allow the Agency to share information regarding chronic problem employers with the INS.
4. Establish performance goals and measures in accordance with Government and Performance Results Act of 1993 that track SSA's success in reducing the growth and size of the ESF.

AGENCY COMMENTS

In its response, SSA agreed with our first recommendation and stated it has already begun implementing the corrective action. For Tax Year (TY) 2000, which begins January 29, 2001, SSA plans to accelerate the return of name/SSN error information to employers. Additionally, SSA has developed a stronger notice communicating name/SSN error information to employers. Further, on its resubmittal notices (which return the entire report to the employer), SSA plans to include counts of the number of zero SSNs (000-00-0000), invalid SSNs (SSNs that could not be compared to SSA's Numident), and name/SSN mismatches.

As a part of its response to our first recommendation, SSA also described further changes it plans to implement to the TY 2000 Annual Wage Reporting (AWR) edits. Specifically, SSA plans to (1) eliminate the current 50-percent tolerance rate for acceptance of name/SSN mismatches; (2) apply a 95-percent format edit for SSN and name fields in reports with 50 or more W-2s; and (3) eliminate the threshold of 5,000 or more name/SSN mismatches (failure of edit requires a resubmission). For TYs 2001 and beyond, SSA plans to modify the AWR process so all good name/SSN items are processed to the Master Earnings File, incorrect items go into the ESF, and a request for corrective action is sent to the employer as soon as possible.

SSA disagreed with our second recommendation. SSA stated the IRS already has the authority to penalize employers who do not comply with wage reporting requirements. Furthermore, the Agency stated it identified the top chronic ESF offenders for TYs 1996 through 1998 and shared this information with the IRS.

SSA also disagreed with our third recommendation concerning collaboration and the sharing of information with the INS. In its response, SSA stated its interpretation of privacy and disclosure issues is accurately applied and continues to provide appropriate disclosure guidance with existing authority. SSA stated current regulations provide sufficient authority to share information with other agencies, including the INS, in situations that are consistent with the purpose of the Social Security program and SSA's disclosure policies. The Agency does not see a need to reevaluate its disclosure policies or seek legislation in this area.

To address recommendation four, SSA agreed that a performance measure related to the steps it is taking to limit the growth of the ESF may be appropriate and plans to evaluate how it can establish such goals and measures.

OFFICE OF THE INSPECTOR GENERAL RESPONSE

We acknowledge the steps SSA has taken and contemplated to combat SSN misuse and the growth of the ESF. We believe the Agency's response and planned actions adequately address recommendations 1 and 4.

Regarding SSA's response to recommendation 1, however, we do have concerns whether applying the new 5-percent acceptance threshold and eliminating the 5,000 threshold will improve wage-reporting accuracy. This new policy will allow up to 95 percent of a wage report to be in error, and SSA will still process the wage information without requiring an employer to review and correct the wage report at least once. An employer would receive an educational correspondence notice with up to 500 of the incorrect SSNs listed. However, if the employer chooses not to review or correct the W-2s reported, there is no further contact from SSA. Therefore, employers have no incentive to improve their wage reporting accuracy. We encourage SSA to reconsider implementation of the new AWR policies until it conducts further analysis to determine the possible effect on the ESF.

SSA's responses to recommendations 2 and 3, do not effectively respond to our goal of combating SSN misuse and reducing the growth and size of the ESF.

Regarding recommendation 2, the IRS has been reluctant to impose existing civil penalties against employers who submit inaccurate wage reports, as discussed in this report. IRS senior staff expressed concern with the application of penalties because they believe it is difficult to determine whether an employer exercised appropriate diligence in obtaining the necessary information from employees. We continue to believe it is important that SSA seek legislative authority to require employers who submit inaccurate wage reports to use EVS. By doing so, SSA could assist the IRS in its efforts to apply penalties (by providing them with sufficient evidence to show an employer knew, or should have known, its employees' SSNs were incorrect). We acknowledge SSA's efforts in working with the IRS to improve employer wage reporting. However, until SSA requires chronic problem employers to use EVS and holds them accountable for their actions, we do not believe employer wage reporting will significantly improve. Accordingly, we ask the Agency to reconsider its response to this recommendation.

We also do not agree with SSA's response to recommendation 3. We did not intend to suggest that SSA is not in compliance with current law and regulations. Rather, our intent was to urge the Agency to explore all potential options under current law and regulations first before seeking new legislative authority. We acknowledge SSA's efforts to combat SSN misuse and reduce the ESF's growth. However, given the magnitude of SSN misuse by unauthorized noncitizens, we continue to believe SSA should take preemptive and preventive measures to ensure the SSN's integrity. We believe that seeking legislative authority to remove barriers that would allow the Agency to share information with the INS, as it currently does with the IRS, is imperative. In fact, an INS senior staff member stated the INS would be interested in receiving

information on chronic problem employers from SSA. Without SSA action, we do not believe the Agency will make significant progress in addressing SSN misuse and the ESF's growth. We also point out that SSA's response did not address the part of our recommendation about collaborating with the INS to develop a better understanding of the extent immigration issues contribute to SSN misuse and the ESF's growth. As discussed in this report, unauthorized noncitizens contribute greatly to SSN misuse and the ESF's growth. As such, we continue to believe SSA should collaborate with the INS to determine the extent to which unauthorized noncitizens contribute to these problems. Therefore, we also ask that SSA reconsider its response to this recommendation.

SSA also provided technical comments that we considered and incorporated, where appropriate. The full text of SSA's comments is included in Appendix B.

Appendices

Prior Office of the Inspector General Recommendations

<i>Recommendations Made To The Social Security Administration To Curtail The Growth and Size of The Earnings Suspense File</i>	
<i>Patterns of Reporting Errors and Irregularities by 100 Employers with the Most Suspended Wage Items (A-03-98-31009, issued September 1999)</i>	<i>The Social Security Administration's Earnings Suspense File Tactical Plan and Efforts to Reduce the File's Growth and Size (A-03-97-31003, issued February 2000)</i>
1. Develop and implement a corrective action plan for 100 employers and continue its current efforts to contact those employers who are responsible for large numbers of suspended wage items.	1. Implement an Earnings Suspense File (ESF) Tactical Plan that places a high priority on key ESF reduction initiatives to include utilizing the Office of the Inspector General information to refine the Social Security Administration's data base of chronic problem employers and to key in on those with a multi-year history of submitting large numbers of erroneous wage items.
2. Establish preventive controls to detect wage reporting errors and irregularities.	2. Assign a higher priority to work with the Internal Revenue Service (IRS) to prepare a legislative proposal to clarify employers' right to see the Social Security card before hiring.
3. Identify those employers who continually submit annual wage reports with large numbers and/or percentages of unassigned, identical, and/or consecutively numbered Social Security numbers.	3. Pursue with the IRS penalties on chronic problem employers.
4. Run address standardization software as soon as practical after employers submit their annual wage reports to identify employers that report the same address for many employees.	4. Seek sanctioning (penalty) authority if the IRS fails to impose penalties against chronic problem employers.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

November 14, 2000

Refer To: SIJ-3

James G. Huse, Jr.
Inspector General

From: William A. Halter *waH*
Deputy Commissioner of Social Security

Subject: Office of the Inspector General (OIG) Draft Report, "Obstacles to Reducing Social Security Number Misuse in the Agriculture Industry" (A-08-99-41004)--INFORMATION

Thank you for the opportunity to review and comment on this report. We appreciate OIG's efforts in conducting this review and OIG's acknowledgement of the Agency's efforts to reduce Social Security number misuse and to improve employer reporting. The attached comments detail additional actions we are taking to improve the accuracy of the reporting process for employers. Additionally, we provide technical comments that we believe will improve the accuracy and presentation of the report.

Please let us know if we may be of further assistance. Staff questions may be referred to Dan Sweeney on extension 51957.

Attachment:
SSA Response

COMMENTS ON THE OFFICE OF INSPECTOR GENERAL (OIG) DRAFT REPORT,
"OBSTACLES TO REDUCING SOCIAL SECURITY NUMBER MISUSE IN THE
AGRICULTURE INDUSTRY" (A-08-99-41004)

Recommendation 1

Expedite implementation of the initiative to improve communication of name/Social Security number (SSN) errors to employers and employees.

Comment

We agree. The Agency has already begun implementing this recommendation. For tax year (TY) (TY 2000 processing begins January 29, 2001), SSA will accelerate the return of name/SSN error information to employers. SSA has developed a stronger notice communicating name/SSN errors to employers which requests that the employer take corrective action. This clear, simple notice provides the employer with detailed instructions on correcting current mismatches and preventing future mismatches, thus reducing the risk of possible penalties. In addition, the notices urge the employer to have the employee work with the Social Security Administration to resolve any problems and cautions the employer that the simple fact of a failure of the data to match SSA records is not in and of itself a reason for taking action against an employee. In an effort to ensure that the notice does not result in workers being deprived of their rights, the notice also informs the employer that actions taken on the basis of the failure of the data to match SSA records may be a violation of state or federal law. The Agency also sends similar notices to the employees in an effort to resolve failures to match. Similarly, to ensure that workers are not deprived of their rights, the employee notices contain information on what to do if the employee believes any adverse action taken is related to union activity or to race, sex, color, religion or national origin. The employee notices are sent directly to the employees if SSA has the home address, otherwise the notices are sent to the employee in the care of the employer. The notice to employers will contain up to 500 individual error items (rather than the current 250). Also, for TY 2000, resubmittal notices (which return the entire report to the employer) will include counts of the number of zero SSNs (000-00-0000), invalid SSNs (SSNs that could not be compared to SSA's Numident) and name/SSN mismatches.

The following changes to the TY 2000 Annual Wage Reporting (AWR) edits have been approved to accelerate the return of employers' name/SSN error information: 1) Eliminate current 50 percent tolerance for acceptance of name/SSN mismatches; 2) apply 95 percent format edit for SSN and name fields in reports with 50+ W-2s; and 3) eliminate threshold of 5000+ name/SSN mismatches (failure of edit requires a resubmission).

For TYs 2001 and beyond, SSA plans on modifying the AWR process so that all good name/SSN items are processed to the Master Earnings File, incorrect items go into the Suspense File and a request for corrective action is sent to the employer as soon as possible. To improve communication of name/SSN errors to employers, SSA has incorporated several projects into the Electronic Wage Reporting (EWR) Transition Plan. For example, we are exploring online error

information capability via the internet that will include online error reference material for name/SSN mismatches.

Recommendation 2

Introduce legislation that would provide SSA the authority to require chronic problem employers to use Enumeration Verification System (EVS).

Comment

We disagree. The Internal Revenue Service (IRS) already has the authority to penalize employers who do not comply with wage reporting requirements. Earlier this year, SSA identified the top chronic Earnings Suspense File (ESF) offenders for TYs 1996 through 1998 and shared this information with IRS. We asked IRS to make use of this data to improve the name/SSN reporting for these employers. In addition, SSA will continue working with employers and employer groups to assist in correctly reporting earnings.

Recommendation 3

Collaborate with the INS to develop a better understanding of the extent that immigration issues contribute to SSN misuse and growth of the ESF. Additionally, reevaluate application of existing disclosure laws or seek legislative authority to remove barriers that would allow the Agency to share information regarding chronic problem employers with the INS.

Comment

We disagree. SSA's interpretation of privacy and disclosure issues (including the impact of Section 6103 and IRS's interpretation thereof on SSA's ability to share data) is accurately applied and continues to provide appropriate disclosure guidance within existing authority.

SSA and its predecessor organizations have a long history of protecting the confidentiality of records in our care. Following the enactment of the Social Security Act (the Act) in 1935, the Social Security Board, a predecessor of SSA, pledged to the public that information provided to it by individuals and employers would be regarded as confidential. This broad pledge of confidentiality was translated into official binding rules when the Board published its first regulation under the authority of the Act in 1937. The original Regulation No. 1 established that information obtained in administering the Act was confidential and no information would be disclosed except pursuant to the authorization of the individual or as authorized by the Board or by regulation and that primarily, information would be disclosed only for administration of the Act. A specific statutory provision relating to disclosure of Social Security records was enacted in 1939 as section 1106 of the Act. The section reflected the policy on disclosure established under Regulation 1.

Disclosure rules developed after 1939 added exceptions to the general prohibition against disclosure in response to increased program responsibilities – Medicare and the Supplemental Security Income (SSI) program – and other programs serving the same clients and having

informational needs that were identical or similar to those of SSA. However, SSA general policy on disclosure did not change, and SSA did not authorize disclosure for general law enforcement purposes and disclosure demanded by court orders and compulsory legal process.

The enactment of the Privacy Act of 1974, Pub. L. 93-579, re-enforced SSA's fundamental views regarding confidentiality of its program records about individuals. As a result of the passage of the Privacy Act, SSA revised its regulations. The revisions acknowledged SSA's obligation under several statutes other than section 1106(a) of the Act to either disclose or withhold personal information. However, much of SSA's traditional philosophy was preserved in the new regulations, which continued to allow disclosure of certain types of information for administration of governmentally funded income and health maintenance programs serving the same clients as those served by programs administered by SSA; as well as disclosure for enforcement of laws governing programs administered by SSA.

Currently, SSA's regulation authorized SSA to disclose information for law enforcement purposes: 1) When the individual to whom the requested information pertains has been indicted or convicted of a violent crime; or 2) for investigation or prosecution of criminal activity involving a Social Security program or another governmental health or income maintenance program.

SSA's current regulations provide sufficient authority to share information with other agencies, including the INS, in situations that are consistent with the purposes of the Social Security program and SSA's disclosure policies. There is no need for SSA to reevaluate its disclosure policies or to seek legislation in this area.

Recommendation 4

Establish performance goals and measures in accordance with Government Performance and Results Act that track SSA's success in reducing the growth and size of the ESF.

Comment

We agree. While the main factor contributing to the size of the ESF is external to SSA, we do agree that a performance measure related to the steps we are taking to limit the growth of the ESF may be appropriate. In recent years SSA has done a number of things aimed at reducing the growth and size of the ESF including improving the quality of our name/SSN validation process by using name recognition software, and reducing the threshold for rejecting magnetic media/EWR (Electronic Wage Report) files to bad name/SSN. We will evaluate how we can establish performance measures related to our efforts.

OIG Contacts and Staff Acknowledgments

OIG Contacts

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(205) 801-1605

Acknowledgments

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Treasurer, National Council of Social Security Management Associations, Incorporated	1
Social Security Advisory Board	1
AFGE General Committee	9
President, Federal Managers Association	1
Regional Public Affairs Officer	<u>1</u>
Total	97

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Office of Audit

The Office of Audit (OA) conducts comprehensive financial and performance audits of the Social Security Administration's (SSA) programs and makes recommendations to ensure that program objectives are achieved effectively and efficiently. Financial audits, required by the Chief Financial Officers Act of 1990, assess whether SSA's financial statements fairly present the Agency's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs. OA also conducts short-term management and program evaluations focused on issues of concern to SSA, Congress, and the general public. Evaluations often focus on identifying and recommending ways to prevent and minimize program fraud and inefficiency.

Office of Executive Operations

The Office of Executive Operations (OEO) supports the Office of the Inspector General (OIG) by providing information resource management; systems security; and the coordination of budget, procurement, telecommunications, facilities and equipment, and human resources. In addition, this office is the focal point for the OIG's strategic planning function and the development and implementation of performance measures required by the Government Performance and Results Act. OEO is also responsible for performing internal reviews to ensure that OIG offices nationwide hold themselves to the same rigorous standards that we expect from the Agency, as well as conducting employee investigations within OIG. Finally, OEO administers OIG's public affairs, media, and interagency activities and also communicates OIG's planned and current activities and their results to the Commissioner and Congress.

Office of Investigations

The Office of Investigations (OI) conducts and coordinates investigative activity related to fraud, waste, abuse, and mismanagement of SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, physicians, interpreters, representative payees, third parties, and by SSA employees in the performance of their duties. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

Counsel to the Inspector General

The Counsel to the Inspector General provides legal advice and counsel to the Inspector General on various matters, including: 1) statutes, regulations, legislation, and policy directives governing the administration of SSA's programs; 2) investigative procedures and techniques; and 3) legal implications and conclusions to be drawn from audit and investigative material produced by the OIG. The Counsel's office also administers the civil monetary penalty program.