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**OFFICE OF  
THE INSPECTOR GENERAL**

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**SOCIAL SECURITY ADMINISTRATION**

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**DEMONSTRATION PROJECT  
FOR NON-ATTORNEY  
REPRESENTATIVES**

**June 2006      A-12-06-16013**

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**AUDIT REPORT**

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## **Mission**

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

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- 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.**

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



# SOCIAL SECURITY

## MEMORANDUM

Date: June 5, 2006

Refer To:

To: The Commissioner

From: Inspector General

Subject: Demonstration Project for Non-Attorney Representatives (A-12-06-16013)

## OBJECTIVE

Our objective was to assess the initial stages of the Social Security Administration's (SSA) implementation of Section 303 of the Social Security Protection Act (SSPA) of 2004, *Nationwide Demonstration Project Providing for Extension of Fee Withholding Procedures to Non-Attorney Representatives*.

## BACKGROUND

In March 2004, the President signed into law the SSPA.<sup>1</sup> This Act requires SSA to develop and implement a 5-year nationwide demonstration project that extends to certain non-attorney representatives of claimants under Titles II and XVI the option to have approved representative's fees withheld and paid directly from the beneficiary's past due benefits. Non-attorney representatives who wish to participate in the demonstration project must meet the prerequisites specified in Section 303 of the SSPA, and any additional prerequisites that the Commissioner may establish. The prerequisites for participating in the project are: (1) have a bachelor's degree or equivalent; (2) pass a written examination; (3) secure professional liability insurance or equivalent insurance; (4) undergo a criminal background check; (5) complete continuing education classes in the years following eligibility; and (6) have demonstrated experience representing claimants before SSA. See Appendix B for details on these prerequisites.

In January 2005, SSA awarded a contract to a Sacramento-based firm to assist with the implementation of determining the eligibility of non-attorney representatives.<sup>2</sup> The contractor administered the first two examinations during 2005. The contract was renewed in January 2006 for an additional year.

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<sup>1</sup> Public Law No. 108-203.

<sup>2</sup> Contract Number: SS00-05-60017.

## **METHODOLOGY**

We reviewed SSA's implementation of SSPA and relevant criteria pertaining to the qualifications and testing of potential non-attorney representatives.<sup>3</sup> Additionally, we reviewed public comments from the Federal Register,<sup>4</sup> reviewed application documents submitted as part of the pilot, observed testing locations, and interviewed representatives from organizations representing non-attorney, disability evaluator and claimant representative interests. We did not perform a full review of the contract costs associated with the demonstration project. The entity audited was the Office of Disability Adjudication and Review (ODAR).<sup>5</sup> We conducted our audit in Falls Church, Virginia; Baltimore, Maryland; Atlanta, Georgia; Chicago, Illinois; Dallas, Texas; Orlando, Florida; Philadelphia, Pennsylvania; and Washington, D.C. from May 2005 to February 2006. We conducted our audit in accordance with generally accepted government auditing standards. See Appendix C for the full scope and methodology.

## **RESULTS OF REVIEW**

SSA has fully implemented the initial stages of the demonstration project, though we identified a few areas where SSA could improve the overall process. We found that the project planning stage lacked performance indicators to capture the degree of success of the pilot. In addition, the contractor lacked complete written procedures for verifying (1) educational documents and (2) liability insurance coverage. Other observed issues were being corrected during the period of our review. For example, we noticed improvements in the testing environment for the November 2005 examination after we commented on deficiencies at the earlier examination. Also, SSA agreed to clarify contract terminology after we noted it was somewhat misleading when defining a non-attorney representative. Finally, the external parties we contacted were very positive about the demonstration project, though they saw a few areas needing improvement.

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### **DEMONSTRATION RESULTS**

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SSA conducted the demonstration project testing at 10 sites across the country in June 2005<sup>6</sup> and again at 9 locations in November 2005.<sup>7</sup> A total of 242 individuals applied for the

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<sup>3</sup> Section 304 of SSPA requires the Government Accountability Office to study and evaluate the appointment and payment of claimant representatives. The study is to include a survey of certain relevant claimant representative characteristics (e.g. qualifications and experience), an assessment of the quality and effectiveness of services provided, certain interactions relating to fee withholding, and appropriate recommendations for administrative and legislative changes. Public Law No. 108-203 § 304.

<sup>4</sup> Federal Register (FR), Volume 69, Number 157 (69 FR 50431), August 16, 2004.

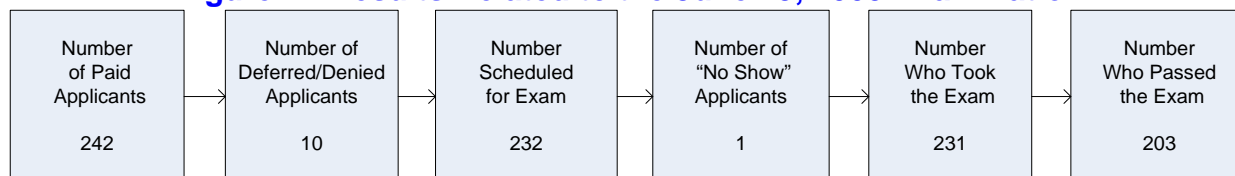
<sup>5</sup> The Office of Hearings and Appeals became ODAR on April 3, 2006.

<sup>6</sup> For the first examination, two Americans with Disabilities Act testing sites were located in Dallas and Los Angeles.

<sup>7</sup> For the second examination, an Americans with Disabilities Act testing site was located in Sacramento, California.

June 2005 examination. Some applicants<sup>8</sup> were denied entrance to the first examination<sup>9</sup> or requested a deferral, while others did not show up. As a result, 231 of the initial applicants (95 percent) took the first examination, of whom 203 passed (88 percent)—see Figure 1. Another 116 individuals took the second examination, of whom 83 passed (72 percent). See Appendix D for results related to the November 2005 examination.

**Figure 1: Results Related to the June 29, 2005 Examination**



Non-attorneys who pass the examination and meet other prerequisites are “eligible” to receive direct payment of fees and their eligibility is noted on SSA’s Intranet site. SSA employees can review the listing to check whether a non-attorney is eligible for direct payment. SSA also maintains a separate list for sanctioned representatives.<sup>10</sup>

### **PROJECT PLANNING**

We were unable to determine the extent of the participation rate in the demonstration project by non-attorneys because SSA does not have complete data showing the number of non-attorneys who represent claimants. According to SSA’s Commissioner,<sup>11</sup> approximately 63 percent of claimants who request a hearing before an Administrative Law Judge (ALJ) are represented by an attorney and 11 percent by a non-attorney. Since ODAR made approximately 518,000 decisions at the hearing level in Fiscal Year 2005, as many as 57,000 decisions may have involved a non-attorney representative. However, these non-attorneys can represent multiple clients in a given year. Furthermore, non-attorneys can also be family members who perform the service only once and would have little reason to take the examination. Hence, without more information, we could not determine the percentage of potentially eligible non-attorneys who participated in the demonstration project.

<sup>8</sup> A non-attorney applying to participate in the demonstration project, but who has not been designated as eligible to receive direct fee payment.

<sup>9</sup> Reasons for the denials included incomplete applications, insufficient liability insurance, and applicants lacking the required experience.

<sup>10</sup> Sanctioned representatives are individuals who were disqualified, suspended or not recognized to represent a claimant before SSA (see 20 Code of Federal Regulations (C.F.R.) §§ 404.1745 and 416.1545).

<sup>11</sup> Commissioner’s testimony before the House Committee on Ways and Means, Subcommittee on Social Security, and Subcommittee on Human Resources, during a *Joint Hearing on Social Security’s Proposed Improvements to the Disability Determination Process*, September 27, 2005.

During the demonstration project, applicants incurred a range of costs. Individuals participating in the demonstration project paid a non-refundable<sup>12</sup> \$1,000 application fee, obtained liability insurance,<sup>13</sup> which on average ranged from \$900 to \$1,800 for individuals,<sup>14</sup> and incurred travel expenses to the designated examination location. We reviewed a sample of 50 cases out of 232 applicants scheduled to sit for the June 2005 exam. The average mileage from the applicant's address to the test site where he or she took the exam was 318 miles (see Appendix E).

SSA's estimated contracting cost for the first year of the demonstration project was approximately \$335,000 (see Appendix F), while the actual costs associated with the contract were about \$269,000 (see Figure 2 for a breakout of these costs). Application service, including the online application website, was the highest cost associated with the contract, followed by the cost of the background checks. The final total cost was lower because the number of individuals participating in the project was fewer than expected. While the contract anticipated up to 1,000 applicants, approximately one-third of this number participated in the first year of the pilot. Therefore, the contract's first year costs<sup>15</sup> should be covered in the first year of the demonstration project since 354 applicants paid the \$1,000 application fee.

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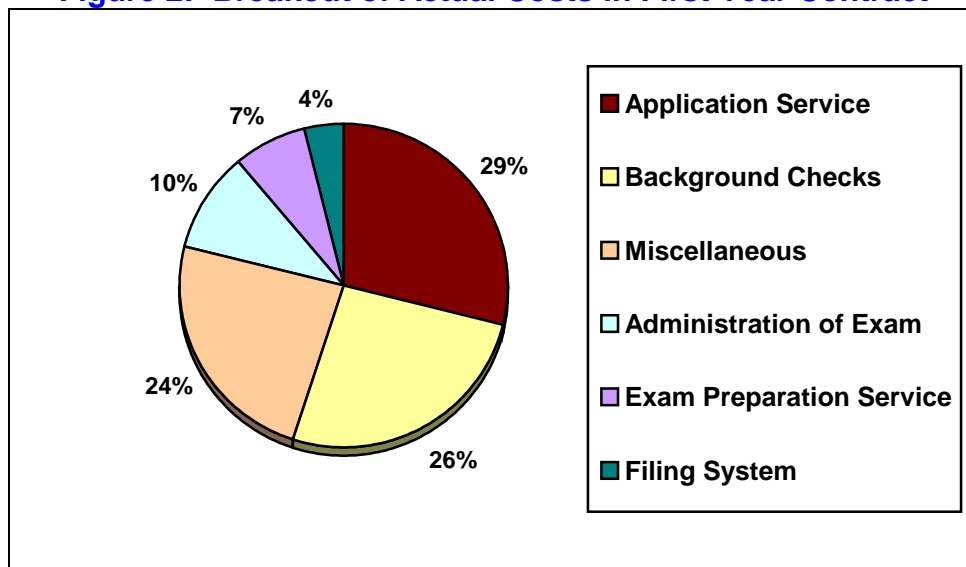
<sup>12</sup> Application fees were not refundable except in circumstances beyond the applicant's control, such as a documented illness of the applicant, or a transportation problem that could not have been reasonably anticipated and planned against. Additionally, refunds or credits may be given to applicants to whom SSA or the contractor provided erroneous information or information that is not sufficient to inform the applicant adequately regarding the rules of the demonstration project.

<sup>13</sup> Some applicants may not have incurred liability insurance costs if they had insurance prior to participating in the demonstration project, while others may be covered by their employers.

<sup>14</sup> Cost estimates provided by SSA staff. Firms' insurance premiums may be higher.

<sup>15</sup> SSA also incurred additional costs, such as staff time and contract monitoring, which are not included in the contractor costs. Additionally, some contractor costs continue after the first year of the contract (i.e. monitoring continuing professional education and verifying liability insurance).

**Figure 2: Breakout of Actual Costs in First Year Contract**



Note: We identified five major costs associated with the first year contract cost. All other costs are identified under the “miscellaneous” category. This category includes costs for collecting fees, scoring and reporting the exam, data transmission, and program management.

## **QUALIFICATIONS**

We reviewed a sample of 50 cases of the 232 applicants scheduled to sit<sup>16</sup> for the June 2005 exam to determine whether the paperwork supported the decision that applicants met the verification criteria in terms of: (1) criminal background investigations; (2) professional liability insurance (or equivalent); and (3) education and work experience. We found SSA did not have complete written procedures for reviewing documents related to the education requirement and insurance coverage.

## **Written Procedures for Verification of Educational Documents**

In reviewing the contractor’s educational document verification process, we found that SSA did not provide written procedures for reviewing high school diplomas or transcripts in accordance with the education requirement. Applicants are asked to provide evidence of a bachelor’s degree from an accredited institution of higher education, or equivalent qualifications derived from training and work experience. Applicants who do not have a bachelor’s degree must submit a high school diploma or a high school transcript. While we found appropriate documentation related to college transcripts, two high school transcripts had been altered in ink. A total of 12 applicants (24 percent) in our sample submitted either a high school diploma or high school transcript.

<sup>16</sup> This excludes the 10 applicants whose applications for the June 2005 exam were denied eligibility or deferred until a later exam.

In our analysis, we determined that none of the alterations benefited the individuals submitting the evidence. For example, in one case an applicant lowered his grade point average, class ranking, and grade. When we discussed these alterations with contractor staff, the staff stated they believed their verification procedures were sufficient since applicants who had a high school diploma or transcript may come from high schools that no longer exist or may have been destroyed by a natural disaster. While we agree that these specific incidents did not merit further follow-up, SSA could provide additional instructions to the contractor specifying when a situation requires additional verification, such as alterations to documents that benefit the applicant, since such alterations may represent a problem with the overall integrity of the document being reviewed.

### **Written Procedures for Verification of Liability Insurance**

We reviewed the contractor's procedures for verifying that each applicant met the liability insurance requirement and found that the contract was not specific as to the extent of verification. While the contract states that the contractor should verify that each applicant has sufficient liability insurance,<sup>17</sup> it is not specific as to whether the contractor should verify the existence of a physical certificate or the existence of a valid policy by contacting the insurer. During the first application period, the contractor verified about 80 percent of the liability certificates with the issuing insurer and did not find any problems. Furthermore, SSA stated they believed a 10 percent verification rate was sufficient. While we do not disagree with a 10 percent verification rate, particularly given the results of the contractor's earlier results, we believe the contract should be modified to specify the liability insurance verification steps to be performed.

### **Continuing Liability Insurance Coverage**

In our discussions with SSA staff, we learned the Agency has a process to conduct follow-up reviews for continuing liability insurance coverage. SSA monitors liability insurance policies through a database system,<sup>18</sup> which alerts SSA staff when policies are about to expire. However, it does not inform them when policies have been canceled, unless the participant notifies the contractor of the cancellation. SSA stated continuous monitoring of liability insurance would increase the contractor cost and instituting such procedures is not practical because it would consume more resources than the benefits to be derived. However, SSA stated they will include on future applications a clause which states that applicants will inform SSA when changes affecting liability status occur.

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<sup>17</sup> Contract Number: SS00-05-60017; *Addendum B-Performance Work Statement*, page 8.

<sup>18</sup> When a liability insurance policy is about to expire, SSA sends up to three letters to participants informing them of this situation: (1) a warning notice—*Potential Ineligibility* (2) a *Proposed to Suspend Notice* and (3) a *Suspension Notice*. Participants who are suspended will have to wait a minimum of one month before being reinstated. Additionally, participants who are suspended do not receive direct payment of fees while suspended.



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**TESTING  
ENVIRONMENT**

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In June 2005, we observed testing procedures at the three largest test sites in Atlanta, Chicago, and Dallas. In November 2005, we observed the second examination in Orlando and Philadelphia. We found the testing environment at the sites we visited during the first examination involved excessive noise, inadequate proctoring, and unsecured examination material. We informed SSA of our observations from the first exam prior to visiting the second test sites in November.

**Excessive Noise**

The testing environment for the first examination was noisy at all three test sites. For example, at the Chicago test site a reception outside the testing area distracted test takers. SSA is supposed to ensure that each test site would not have other meetings or activities while the examination was administered.<sup>19</sup> Otherwise, individuals may be distracted and unable to fully concentrate while taking the examination. When we reviewed sites conducting the second exam we found that one of the two sites had excessive noise. Contractor staff said they worked with testing site hosts to ensure noise was kept to a minimum.

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<sup>19</sup> Contract Number: SS00-05-60017; *Addendum B- Performance Work Statement*, page 25.

## Inadequate Proctoring

During the first examination, the Atlanta test site had two proctors who were disruptive and not attentive while the exam was being administered. In Dallas, one of the three proctors was not alert at all times; instead the proctor was reading the newspaper. SSA instructions to proctors state that one of their primary responsibilities is to ensure a quiet testing environment, which as we noted earlier was not the case at this testing site.<sup>20</sup> Moreover, the instructions lacked written procedures on the discipline of proctors by the Chief Proctor. We did not find similar issues during the second exam.

## Unsecured Examination Material

The shredding contractor in Chicago did not adequately secure open book reference material<sup>21</sup> used for the first examination. After the exam, the material was left unattended at the entrance door while the contractor went to retrieve a storage bin. SSA criteria stated the proctor is responsible for safeguarding all aspects of test security.<sup>22</sup> SSA staff stated individuals were allowed to make notations such as highlighting and writing notes inside the reference material; therefore, SSA requested the materials be shredded. Additionally, SSA used 70 percent of the exam questions from the first exam on the second exam—enough to obtain a passing score if one could determine the questions from the marking on the reference material. Due to the lack of security, examination material including examination questions could have been susceptible to theft. During the second examination, contractor personnel disposed of the examination material without incident at the two sites we visited.

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### **CONTRACT TERMINOLOGY**

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The definition of “non-attorney representative” in the contract is different and not as specific as that defined by SSA policy. The contract defined a non-attorney representative as “a person who is not a member in good standing with a State or U.S.

Commonwealth bar association.”<sup>23</sup> SSA policy states that a non-attorney representative is someone a claimant appoints who is not an attorney and has the following characteristics: (1) good character and reputation; (2) capable of giving valuable help to the claimant; (3) not disqualified or suspended from acting as a representative in dealings before SSA; and (4) not prohibited by any law from acting as a representative. The contract could more clearly define a non-attorney representative to be in congruence with the overall purpose of the demonstration project. We pointed this out to SSA staff and they agreed to clarify the definition.

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<sup>20</sup> *Social Security Administration Non-Attorney Demonstration Project Exam: Proctor’s Instructions*, page 3.

<sup>21</sup> Reference material used during the examinations included the C.F.R. and *SSA Exam Reference Material*.

<sup>22</sup> *Ibid*, page 3.

<sup>23</sup> Contract Number: SS00-05-60017; *Addendum B- Performance Work Statement*, page 7.

## **OUTSIDE ORGANIZATIONS**

We reviewed public comments<sup>24</sup> to the FR Notice dated August 16, 2004. The comments related to the general topics for the first examination, experience requirements, and the amount of insurance coverage. We also met with representatives from organizations that represent non-attorney, disability evaluator and claimant representative interests. The representatives had a number of positive comments regarding the cooperation and timeliness with which SSA and the testing contractor responded to their questions.

The representatives also made the following comments related to implementation of the demonstration project:

- Representatives from one organization noted that although SSA had a website related to the pilot, they had not received any literature or noticed any outreach efforts to non-attorneys.
- Representatives from two organizations stated they would have liked more information from SSA about the implementation of the pilot as well as the possibility of involvement in developing questions for the examination.
- Representatives from one organization noted that field offices and ALJs do not always understand the specifics of the pilot. For example, on one occasion an ALJ told a non-attorney representative that he would no longer approve her fee agreements because she did not take the exam and should have been part of the pilot. When informed of this incident by this organization, SSA investigated the issue and found that the ALJ misunderstood the Section 303 instructions and construed them to mean that a non-attorney representative must be on the list for a fee agreement to be approved. The ALJ was provided with an update on procedures to resolve the matter.

## **CONCLUSION AND RECOMMENDATIONS**

SSA has fully implemented the initial stages of the demonstration project under Section 303 of the SSPA. We found SSA made a number of improvements while we were conducting our review. We believe additional modifications could further improve the demonstration project by tracking performance indicators and providing written procedures for verifying education requirements and liability insurance.

To improve the measurement and implementation of the demonstration project, we recommend SSA:

1. Create appropriate indicators to capture the degree of success of the pilot, such as the number of non-attorneys potentially eligible to apply for the examination.


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<sup>24</sup> See Appendix G for examples of the public comments.

2. Ensure the renewed contract includes complete procedures for verification of documentation related to (1) education requirements and (2) liability insurance requirements.

## **AGENCY COMMENTS**

SSA agreed with our recommendations and has already initiated corrective action. The full text of the Agency's comments is included in Appendix H.

A handwritten signature in black ink, appearing to read "Patrick P. O'Carroll, Jr.", with a stylized flourish at the end.

Patrick P. O'Carroll, Jr.

# Appendices

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[APPENDIX A](#) – Acronyms

[APPENDIX B](#) – Prerequisites to Participate in the Demonstration Project

[APPENDIX C](#) – Scope and Methodology

[APPENDIX D](#) – Results Related to the November 15, 2005 Examination

[APPENDIX E](#) – Applicant Travel to Test Sites

[APPENDIX F](#) – Demonstration Project Initial Contract Price for First Year

[APPENDIX G](#) – Examples of Comments from the Federal Register Notice Dated August 16, 2004

[APPENDIX H](#) – Agency Comments

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

## Acronyms

|        |  |
|--------|--|
| ALJ    | Administrative Law Judge                     |
| C.F.R. | Code of Federal Regulations                  |
| FR     | Federal Register                             |
| ODAR   | Office of Disability Adjudication and Review |
| SSA    | Social Security Administration               |
| SSPA   | Social Security Protection Act               |

## Prerequisites to Participate in the Demonstration Project

- (1) The representative has been awarded a bachelor's degree from an accredited institution of higher education, or has been determined by the Social Security Administration (SSA) to have equivalent qualifications derived from training and work experience.
- (2) The representative has passed an examination, written and administered by SSA, which tests knowledge of the relevant provisions of the Social Security Act and the most recent developments in Agency and court decisions affecting Titles II and XVI of the Social Security Act.
- (3) The representative has secured professional liability or equivalent insurance which SSA has determined to be adequate to protect claimants in the event of malpractice by the representative.
- (4) The representative has undergone a criminal background check to ensure the representative's fitness to practice before SSA.
- (5) The representative demonstrates ongoing completion of qualified courses of continuing education, including ethics and professional conduct, which are designed to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under Titles II and XVI of the Social Security Act. Continuing education, and the instructors providing the education, shall meet standards SSA may prescribe.
- (6) The representative is required to have experience representing at least five claimants before SSA over a 24-month period within the 5 years from the month preceding the month before the application to participate is filed.

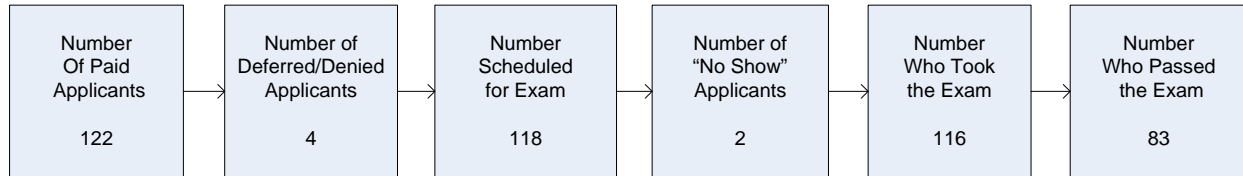
# Scope and Methodology

To meet our objective we:

- Reviewed the Social Security Administration's (SSA) implementation of Section 303 of the Social Security Protection Act of 2004 – and relevant criteria pertaining to the qualifications and testing of potential non-attorney representatives.
- Reviewed public comments solicited by SSA as part of the Federal Register announcement on the demonstration project.
- Reviewed the contract to implement the qualification and testing procedures.
- Interviewed SSA and contract employees to understand the implementation of the project, including planning, contract costs, SSA and contractor duties, and the application and testing procedures.
- Reviewed the verification responsibilities pertaining to SSA and the contractor's role. In addition, selected and reviewed a sample of 50 processed applications to determine whether the documentation supported the decision that applicants met the verification criteria in terms of: (1) criminal background investigations; (2) professional liability insurance (or equivalent); and (3) education and work experience.
- Reviewed the questions on the June 29, 2005 test, obtained documentation related to examination site procedures, and observed testing at the three largest test sites: Atlanta, Georgia; Chicago, Illinois; and Dallas, Texas.
- Reviewed documentation related to the first examination, including: (1) sign-in sheets; (2) master roster; (3) confirmation notices/protest letters; (4) exam summary statistics; and (5) test comments provided by the applicants.
- Observed the second examination administered on November 15, 2005 at the Orlando, Florida and Philadelphia, Pennsylvania test sites.
- Interviewed members of the National Association of Disability Representatives, National Association of Disability Examiners, and the National Organization of Social Security Claimant Representatives because they have an interest in non-attorneys, disability evaluation, and claimant representation.



## Results Related to the November 15, 2005 Examination



## Applicant Travel to Test Sites

| Application Number | Applicant's Address        | Exam Location | Miles Between Locations |
|--------------------|----------------------------|---------------|-------------------------|
| 1                  | Blackwood, New Jersey      | Philadelphia  | 15                      |
| 2                  | Gulfport, Mississippi      | Atlanta       | 400                     |
| 3                  | Albuquerque, New Mexico    | Denver        | 447                     |
| 4                  | Orange, California         | Los Angeles   | 32                      |
| 5                  | Burlington, New Jersey     | Philadelphia  | 23                      |
| 6                  | Sanford, North Carolina    | Atlanta       | 382                     |
| 7                  | Uniontown, Pennsylvania    | Philadelphia  | 302                     |
| 8                  | Winter Springs, Florida    | Atlanta       | 453                     |
| 9                  | Waleska, Georgia           | Atlanta       | 48                      |
| 10                 | Jacksonville, Florida      | Atlanta       | 346                     |
| 11                 | Prosperity, West Virginia  | Atlanta       | 472                     |
| 12                 | New Bern, North Carolina   | Atlanta       | 502                     |
| 13                 | Charlotte, North Carolina  | Atlanta       | 244                     |
| 14                 | Raleigh, North Carolina    | Chicago       | 862                     |
| 15                 | Suwanee, Georgia           | Atlanta       | 34                      |
| 16                 | Lakeland, Florida          | Atlanta       | 455                     |
| 17                 | Miami Lakes, Florida       | Atlanta       | 659                     |
| 18                 | Denver, Colorado           | Denver        | 0                       |
| 19                 | Cedar Creek, Texas         | Dallas        | 222                     |
| 20                 | Tinley Park, Illinois      | Chicago       | 26                      |
| 21                 | Austin, Texas              | Dallas        | 0 (no show)             |
| 22                 | Crete, Illinois            | Chicago       | 35                      |
| 23                 | Benton Harbor, Michigan    | Chicago       | 98                      |
| 24                 | Wilmington, North Carolina | Atlanta       | 416                     |

| Application Number      | Applicant's Address          | Exam Location | Miles Between Locations |
|-------------------------|------------------------------|---------------|-------------------------|
| 25                      | Auburn, Alabama              | Atlanta       | 108                     |
| 26                      | Newnan, Georgia              | Atlanta       | 38                      |
| 27                      | Newton, Alabama              | Atlanta       | 242                     |
| 28                      | Greenville, South Carolina   | Atlanta       | 142                     |
| 29                      | Tupelo, Mississippi          | St. Louis     | 329                     |
| 30                      | Sheridan, Arkansas           | St. Louis     | 434                     |
| 31                      | Shreveport, Louisiana        | Dallas        | 188                     |
| 32                      | Amarillo, Texas              | Dallas        | 362                     |
| 33                      | Enid, Oklahoma               | Dallas        | 303                     |
| 34                      | Oakland, California          | Los Angeles   | 373                     |
| 35                      | Sherman, Texas               | Dallas        | 64                      |
| 36                      | El Paso, Texas               | Dallas        | 636                     |
| 37                      | Midland, Texas               | Dallas        | 331                     |
| 38                      | El Paso, Texas               | Dallas        | 636                     |
| 39                      | Holiday, Florida             | Atlanta       | 460                     |
| 40                      | Springfield, Missouri        | St. Louis     | 218                     |
| 41                      | Topeka, Kansas               | Denver        | 540                     |
| 42                      | Trego, Montana               | Seattle       | 523                     |
| 43                      | Sherman Oaks, California     | Los Angeles   | 16                      |
| 44                      | Vallejo, California          | Los Angeles   | 386                     |
| 45                      | Pacifica, California         | Los Angeles   | 394                     |
| 46                      | Huntington Beach, California | Los Angeles   | 37                      |
| 47                      | Wichita, Kansas              | Atlanta       | 965                     |
| 48                      | El Paso, Texas               | Dallas        | 636                     |
| 49                      | Marks, Mississippi           | Atlanta       | 379                     |
| 50                      | Jackson, Mississippi         | Atlanta       | 382                     |
| <b>Average Distance</b> |                              |               | <b>318</b>              |

## Appendix F

# Demonstration Project Initial Contract Price for First Year

|   |  | Base Year Prices |                    |                     |
|---|--|------------------|--------------------|---------------------|
|   | Major Task Description   | Unit Price       | Quantity           | Total               |
| 1   | Online information and initial application service   | \$1,635.54       | 12 months          | \$19,626.48         |
| 2   | Applicant information filing system and facility   | \$540.41         | 12 months          | \$6,484.92          |
| 3   | Collect application fees and remit the fees to the Social Security Administration (SSA)  | \$27.04          | 12 months          | \$324.48            |
| 4   | Conduct adequate background and qualifications investigations-per participant  | \$191.66         | 1,000 participants | \$191,660.00        |
| 5   | Examination preparation services   | \$1,503.29       | 12 months          | \$18,039.48         |
| 6   | Administration of the examination at the contractor' examination centers-per participant   | \$68.67          | 1,000 participants | \$68,670            |
| 7   | Score all examinations, prepare a post-test analysis report to SSA, and submit examination scores and post-test analysis report to SSA       | \$398.80         | 12 months          | \$4,785.60          |
| 8   | Develop and administer a method of allowing test takers to register comments regarding the examination items during the examination period   | \$379.50         | 12 months          | \$4,554.00          |
| 9   | Report examination scores to test takers-per participant   | \$1.62           | 1,000 participants | \$1,620.00          |
| 10  | Maintain an ongoing record of and provide reports to SSA regarding applicants and participants who met/did not meet eligibility requirements | \$138.75         | 12 months          | \$1,665.00          |
| 11  | Other costs (Inclusive of Program Management)  | \$1,460.33       | 12 months          | \$17,523.96         |
| <b>Total Funded Base Year Price<sup>1</sup></b> |  |                  |                    | <b>\$334,953.92</b> |

Note 1: Background and qualifications investigations, administration of the examination at the contractor's examination centers, report examination scores to test takers and the total funded base year price were listed "Not to Exceed Price" because certain line items were based on a per participant price they used to bill at actual participant volume rather than at a flat extended price.

## Examples of Comments from the Federal Register Notice Dated August 16, 2004

| Source       | Comments  |
|--------------|---|
| Attorney     | Opposes the demonstration project, believes non-attorneys are not qualified, should test knowledge of relevant circuit case law   |
| Attorney     | Cautions against an examination that is too comprehensive; favors an online, open book exam; favors grandfather provision for experienced non-attorneys; waive liability insurance if supervised by an attorney   |
| Attorney     | Require stand-by counsel  |
| Attorney     | The Social Security Administration (SSA) should guard against non-attorneys who circumvent the law by having an attorney in their company sign the SSA-1696 and receive direct payment of the fee; believes \$500,000 to \$1 million in insurance is sufficient |
| Non-attorney | A minimum of 5 years as an SSA employee and 10 years representing claimants could substitute for bachelor's degree; attending National Organization of Social Security Claimant Representatives conference should count for continuing education requirement    |
| Non-attorney | Commends SSA's commitment to the demonstration project and believes that the requirements for special qualifications, the exam, and continuing education credits are good for the profession  |
| Non-attorney | Believes the requirements discriminate against non-attorneys; 10 years experience in lieu of bachelor's degree; \$10,000 liability insurance is sufficient  |
| Non-attorney | Supports the demonstration project and believes the exam qualification should be required for attorneys and non-attorneys   |
| Attorney     | Opposed to non-attorneys representing claimants; representative must have a bachelor's degree; \$1 million insurance  |
| Attorney     | Exam should include a written response to hypothetical cases; non-disability issue topics should seldom be on the exam; continuing education requirements should follow State bar guidelines; SSA should add conduct standards                                  |
| Non-attorney | Strongly supports exam for non-attorney representatives; recommends one essay question; 4 years of experience in disability adjudication should substitute for bachelor's degree; wants to have input in development of exam                                    |
| Unknown      | Supports the demonstration project and believes representatives should have a bachelor's degree and 3 years of relevant experience; 10 years without a bachelor's degree; at least 24 continuing education hours in 3 years                                     |
| Unknown      | Provisions will cause some SSA/Disability Determination Service employees to quit and become fee seeking representatives; SSA should prevent former SSA employees from representing a claimant in cases they previously worked on                               |

## Agency Comments



## SOCIAL SECURITY

### MEMORANDUM

Date: May 22, 2006

Refer To: S1J-3

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

From: Larry W. Dye /s/  
Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report, "Demonstration Project: Qualifications for Non-Attorney Representatives" (A-12-06-16013)--INFORMATION

We appreciate OIG's efforts in conducting this review. Our comments on the draft report content 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:  
SSA Response

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, "DEMONSTRATION PROJECT: QUALIFICATIONS FOR NON-ATTORNEY REPRESENTATIVES" (A-12-06-16013)**

Thank you for the opportunity to review and comment on the draft report.

We are proud of the innovative work that went into the timely implementation of Section 303 of the Social Security Protection Act (SSPA) of 2004. In a very short time, the Social Security Administration (SSA) modified its existing systems to allow direct payment to non-attorneys under Titles II and/or XVI, and attorneys involved with Title XVI and concurrent claims. (SSPA Section 302 required SSA to activate direct payment to attorneys in Title XVI claims when it announced its readiness to implement the demonstration project on direct payment to non-attorneys.) A contract was awarded to assist SSA with implementation of the prerequisites process; Federal Register notices were published defining and explaining the project requirements, including minimum liability insurance, continuing education and representational experience requirements; and an expert panel was created to craft the examination instruments. SSA had little or no experience with many of the activities required to implement this demonstration project. Our success is corroborated by the high degree of satisfaction reported to us by organizations that represent attorneys and non-attorney representatives.

Although we agree in principle with the recommendations in the report, we have some concerns. On page 7, the report states that, "[d]ue to the lack of security, examination material including examination questions could have been susceptible to theft" in the execution of the first examination. We feel it unlikely that the examination was in any way compromised by the Chicago shredding contractor. There are too many intervening steps to make such a scenario likely to occur. Further, the original Statement of Work allowed test takers to keep open book reference materials. The shredding of open book resource materials was the contractor's recommendation that resulted in a contract modification.

Our specific responses to the report's recommendations are provided below.

**Recommendation 1**

SSA should create appropriate indicators to capture the degree of success of the pilot, such as the number of non-attorneys potentially eligible to apply for the examination.

**Response**

We agree. Under SSPA Section 304, the Government Accountability Office has primary responsibility for evaluation of the demonstration project. Nonetheless, we recognize the need for accurate management information. Maximizing the information that is gathered and reviewed during the pilot stage of this project will help to make future decisions on the expansion and scope of the project more efficient. The Agency is exploring ways to get more reliable management information.



## **Recommendation 2**

SSA should ensure the renewed contract includes complete procedures for verification of documentation related to: 1) education requirements; and 2) liability insurance requirements.

## **Response**

We agree. The contract should provide the contractor with more guidance as to the steps that must be taken to verify education and liability insurance requirements. We are modifying the contract to provide the contractor with additional guidance. These contract modifications should be in effect by the end of September 2006.

[In addition to the comments above, SSA provided technical comments which have been addressed, where appropriate, in this report.]

## OIG Contacts and Staff Acknowledgments

### *OIG Contacts*

Walter Bayer, Director, (215) 597-4080

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### *Acknowledgments*

In addition to those named above:

Melissa McDaniel, Auditor-in-Charge

Brennan Kraje, Statistician

Annette DeRito, Writer-Editor

For additional copies of this report, please visit our web site at [www.socialsecurity.gov/oig](http://www.socialsecurity.gov/oig) or contact the Office of the Inspector General's Public Affairs Specialist at (410) 965-3218. Refer to Common Identification Number A-12-06-16013.

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# **Overview of the Office of the Inspector General**

The Office of the Inspector General (OIG) is comprised of our Office of Investigations (OI), Office of Audit (OA), Office of the Chief Counsel to the Inspector General (OCCIG), and Office of Resource Management (ORM). To ensure compliance with policies and procedures, internal controls, and professional standards, we also have a comprehensive Professional Responsibility and Quality Assurance program.

## **Office of Audit**

OA conducts and/or supervises 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 and program evaluations and projects on issues of concern to SSA, Congress, and the general public.

## **Office of Investigations**

OI conducts and coordinates investigative activity 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 OIG liaison to the Department of Justice on all matters relating to the investigations 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. Finally, OCCIG administers the Civil Monetary Penalty program.

## **Office of Resource Management**

ORM supports OIG by providing information resource management and systems security. ORM also coordinates OIG's budget, procurement, telecommunications, facilities, and human resources. In addition, ORM is the focal point for OIG's strategic planning function and the development and implementation of performance measures required by the Government Performance and Results Act of 1993.