



SOCIAL SECURITY

MEMORANDUM

Date: December 21, 2011

Refer To:

To: The Commissioner

From: Inspector General

Subject: State Disability Determination Services' Employee and Contractor Suitability Program (A-15-11-21180)

The attached final report presents the results of our audit. Our objectives were to determine whether the Social Security Administration (1) had a policy in place to determine suitability of disability determination services' employees and contractors; and (2) performed oversight reviews of the disability determination services' suitability processes.

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.

Patrick P. O'Carroll, Jr.

Attachment

**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**STATE DISABILITY DETERMINATION SERVICES'
EMPLOYEES AND CONTRACTOR
SUITABILITY PROGRAM**

December 2011

A-15-11-21180

AUDIT REPORT



Mission

By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.

Authority

The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.**
- Promote economy, effectiveness, and efficiency within the agency.**
- Prevent and detect fraud, waste, and abuse in agency programs and operations.**
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.**
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.**

To ensure objectivity, the IG Act empowers the IG with:

- Independence to determine what reviews to perform.**
- Access to all information necessary for the reviews.**
- Authority to publish findings and recommendations based on the reviews.**

Vision

We strive for continual improvement in SSA's programs, operations and management by proactively seeking new ways to prevent and deter fraud, waste and abuse. We commit to integrity and excellence by supporting an environment that provides a valuable public service while encouraging employee development and retention and fostering diversity and innovation.

Executive Summary

OBJECTIVE

The objectives of our review were to determine whether the Social Security Administration (1) had a policy in place to determine the suitability of disability determination services' (DDS) employees and contractors; and (2) performed oversight reviews of the DDS' suitability processes.

BACKGROUND

As part of legislation passed in 1954, Congress assigned the conditions for making disability determinations to State Vocational Rehabilitation Agencies or other appropriate State agencies.¹ The function of disability determinations has remained with the States since this legislation was enacted. All 50 States, plus the District of Columbia and Puerto Rico, have DDSs that determine initial and continuing eligibility of disability claims with respect to the case's medical aspects.

SSA has a responsibility to safeguard its records, data, systems, and personally identifiable information (PII), thereby maintaining the public trust and protecting national security interests. DDS security controls for access to claimant data on SSA and DDS systems, as well as access to DDS facilities, must include personnel suitability screening procedures. SSA expects that each DDS will maintain and administer an effective suitability program. In October 2008, SSA enhanced its guidance to require DDSs and the affected State parent agencies to conduct statewide criminal background checks on all prospective full- or part-time employees and contractors, including medical consultants.² Beyond the minimum requirements, States have broad discretion on the composition, implementation, and administration of their DDS suitability programs.

RESULTS OF REVIEW

We reviewed the State policy for employees, contractors, and other individuals working in the DDS for 14 States to determine whether they complied with SSA policy. We identified some States that had not implemented a State policy until after the October 2, 2008 effective date of SSA's policy, as well as one State that had not implemented a policy requiring criminal background checks on individuals working in the DDS. During our review, we identified a number of vulnerable areas in SSA's policy. These areas subject the Agency to a greater risk of inappropriate access to its records, data, and systems.

¹ Pub. L. No. 83-761, 68 Stat. 1052.

² POMS, DI 39567.260 Section C, *DDS Suitability Program Guidance* (10/02/2008).

CONCLUSION AND RECOMMENDATIONS

Although we found the Agency had a limited policy in place that required a statewide criminal background check, we noted a number of vulnerabilities in the policy that could pose risk to SSA's data and systems. We found that State policy regarding suitability determinations for employees, contractors, and other DDS staff varied widely from State to State. We believe additional actions are necessary to strengthen the suitability program for DDS employees, contractors, and other staff and ensure all individuals with access to SSA's records, both current and prospective, are suitable. We recommend that SSA require all individuals with access to SSA systems and data to have an appropriate suitability determination as of an established date. If an individual does not have a determination by this established date, SSA should remove his/her access to Agency systems and data.

AGENCY COMMENTS

SSA will take action to address all of our recommendations.

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OBJECTIVE

The objectives of our review were to determine whether the Social Security Administration (SSA) (1) had a policy in place to determine suitability of disability determination services' (DDS) employees and contractors; and (2) performed oversight reviews of the DDS' suitability processes.

BACKGROUND

On September 1, 1954, President Eisenhower signed into law the *Social Security Act Amendments of 1954*.¹ As part of the Amendments, the law set forth the conditions for making disability determinations. The State Vocational Rehabilitation Agencies or other appropriate State agencies, under agreements with the Secretary of Health, Education, and Welfare,² would determine whether the individual was suffering from a disability and when the disability began and ceased.

In June 1980, Congress passed additional legislation strengthening the disability program. In passing the 1980 legislation,³ Congress sought to ensure effective and uniform administration of the disability programs nationwide by strengthening Federal management of the State disability determination process. To this end, it abolished the system of individual State agreements. It also required that the Secretary promulgate regulations specifying performance standards and administrative requirements and procedures States must follow in performing disability determinations. According to the Agency, Federal regulations⁴ limit the amount of guidance federal agencies can require of DDS personnel selection. The regulations allow States to adhere to applicable State-approved personnel standards in the selection, tenure, and compensation of any individual employed in the disability program.

¹ Pub. L. No. 83-761, 68 Stat. 1052.

² Reorganization Plan No. 1 of 1953 established the Department of Health, Education, and Welfare. It was then re-designated the Department of Health and Human Services by Pub. L. No. 96-88, § 509, 93 Stat. 695, effective May 4, 1980. Effective March 31, 1995, the SSA was established as an independent agency by the *Social Security Independence and Program Improvements Act of 1994*, Pub. L. No. 103-296, § 101, 108 Stat. 1464.

³ *Social Security Disability Amendments of 1980*, Pub. L. No. 96-265, 94 Stat. 441.

⁴ 20 C.F.R. §§ 404.1621(b) and 416.1021(b).

The function of disability determinations has remained with the States since the 1954 legislation. All 50 States, plus the District of Columbia and Puerto Rico, have DDSs. Some States have multiple sites, for a total of 102 physical locations as of Fiscal Year (FY) 2010.⁵ As of May 13, 2011, the DDSs had 17,772 full- and part-time employees.

DDSs are responsible for determining initial and continuing eligibility for disability claims with respect to the case's medical aspects. Based on the medical evidence, the disability examiner will decide whether the individual is disabled, as defined by SSA. In December 2010, an individual was arrested for illegally downloading the personal information of about 15,000 people from computers belonging to private contractors working for the New York state agency that decides some initial disability claims for Social Security. Because of the breach of PII, SSA requested we conduct this review to identify the risks to the Agency's PII posed by varying suitability policies and procedures within the States.⁶

To accomplish our objectives, we reviewed 14 State DDSs. These DDSs comprised approximately 51 percent of the nationwide disability workloads, and had approximately 8,784 full- and part-time employees as of May 13, 2011.

SUITABILITY

In October 2008, the Agency enhanced its October 2005 guidance to DDSs on requirements for suitability programs. Suitability is a personnel/hiring concept that refers to whether an individual's identifiable character traits and conduct may reasonably be expected to either interfere with, or prevent, effective performance in the position for which he or she is being considered, or prevent effective performance of the duties and responsibilities of the employing agency.⁷

Suitability is distinguishable from a person's ability to fulfill job qualification requirements as measured by experience, education, knowledge, skills, and abilities. The need for suitability involves SSA's responsibility to safeguard its records, data, and systems, and thereby, protect the public trust and national security interests.⁸

⁵ For purposes of this audit, we are reporting on 52 DDSs, 1 per state plus the District of Columbia and Puerto Rico, regardless of how many multiple DDS sites a state may have.

⁶ The term State applies to the DDS and its parent agency.

⁷ POMS, DI 39567.260 *DDS Suitability Program Guidance* (10/02/2008).

⁸ *Id.*

SSA's Program Operations Manual System (POMS)⁹ outlines requirements for DDSs, and the affected State parent agencies,¹⁰ to conduct statewide criminal background checks on all prospective full- or part-time employees and contractors, including medical consultants. Beyond the minimum requirements, SSA gives States broad discretion in the composition, implementation, and administration of their DDS suitability programs. SSA recommends that the DDSs use the Agency's suitability program as a model for constructing and strengthening their suitability programs. According to the Agency, as of FY 2010, 44 DDSs followed SSA policy either fully or partially¹¹ and 8 DDSs had not implemented a policy. For these eight DDSs, SSA advised us that four were working with their parent agencies to implement a policy; three were waiting for SSA requirements through the HSPD-12 badge process; and one DDS policy prohibited a criminal background check.

⁹ *Id.*

¹⁰ The parent agency is immediately above the DDS in the State hierarchy and participates in management decisions affecting the DDS.

¹¹ For the States that partially implemented the policy, a policy was in place for employees but not medical consultants.

Results of Review

Overall, our review determined that the Agency had a limited policy in place to determine the suitability of DDS employees and contractors. The policy resulted in vulnerabilities to the Agency. In addition, we determined that SSA, including its regional offices (RO) and central office (CO), performed some oversight of the State suitability processes. Specifically, we reviewed the suitability processes of 14 States as well as the oversight role in all 10 ROs and the CO.

Agency Policy

Effective October 2, 2008, SSA enhanced its prior guidance establishing a minimum requirement for DDS suitability. The guidance stated, “We require that each DDS conduct a statewide criminal background check on all prospective full- or part-time employees and contractors, including medical consultants. These checks should be completed prior to authorization of systems access, but if necessary, access can be granted first with completion of the check to follow as soon as possible.”¹² Beyond that minimum requirement, States had broad discretion on the composition, implementation, and administration of their DDS suitability programs.

SSA guidance recommends that States use SSA’s suitability program as a model for their own State policies. The guidance further recommends that States include provisions in their programs to cover such situations as the

- emergence of information that indicates a person may not be suitable for continued employment; or
- determination of whether a person should be granted a higher level of access because he or she is promoted (for example, a DDS may consider an upgrade investigation when the DDS promotes a Disability Examiner to a Disability Claims Supervisor).¹³

State Compliance with Agency Policy

We reviewed the State policy for employees, contractors, and other individuals working in the DDSs in 14 States to determine whether the States had complied with SSA policy. During our review, we determined that (1) policy implementation dates varied among States, and (2) requirements for background checks on individuals with access to the DDSs, including employees, contractors, and other staff, varied among the States. The following tables summarize the results of our review.

¹² POMS, DI 39567.260 Section C, *DDS Suitability Program Guidance* (10/02/2008).

¹³ POMS, DI 39567.260 Section D(5), *DDS Suitability Program Guidance* (10/02/2008).

Table 1: State Suitability Policy Effective for Employees

Timeframe State Policy Became Effective for Employees	Number of States
Policy in place before issuance of SSA's 2008 policy	9
Policy implemented for 100 percent of employees at same time SSA's policy became effective	1 ¹⁴
Policy implemented several months to almost 1 year after SSA's policy became effective	3
No policy in place	1

For the three States that were unable to implement State policy until several months to almost a year after SSA's policy was effective, these States had to work with their parent agencies and other offices to receive clearance to perform these checks. These States were unable to implement SSA's policy until they received proper State approval.

Table 2: State Suitability Policy Effective for Contractors

Timeframe State Policy Became Effective for Contractors	Number of States
Policy in place before issuance of SSA's 2008 policy	4
Policy implemented several months to almost 1 year after SSA's policy became effective	2
No policy in place	5
No contractors used by the State	3

The two States that were unable to implement State policy until several months to almost 1 year after SSA's policy was effective needed to work with their parent agencies and other offices to receive clearance to perform these checks.

For the five States that did not have a policy requiring statewide criminal background checks for contractors, we found the following.

- Three did not conduct criminal background checks on their medical consultants and psychologists. These States completed a licensure check to ensure the medical consultants did not have sanctions noted on their licenses. One State's State Licensing Board did not complete a criminal background check as part of the application process.
- One did not have a policy in place for statewide criminal background checks for any contractors.
- One did not have a policy for information technology (IT) staff contracted through the State's Bureau of Contract Management, and the DDS did not review background check information if completed for these types of contractors.

¹⁴ This State had policy for a State-wide criminal background checks before this time; however, it included only a sample of new employees.

Table 3: State Suitability Policy Effective for Other DDS Staff¹⁵

Timeframe State Policy Became Effective for Other DDS Staff	Number of States
Policy in place before issuance of SSA 2008 policy for State IT staff used by the DDS	3
Policy in place before issuance of SSA 2008 Policy for volunteers used by the DDS	2
No Policy in place to review suitability documentation performed by temp agencies for temporary staff used by the DDS	1 ¹⁶
No policy in place	1
No other staff used by the State	8

For the one State that had no policy in place to review suitability documentation from temporary agencies, the DDS stated that the temporary agencies were responsible for conducting the statewide criminal background checks, but the DDS did not review the information before employing the individual. The other State did not have a policy to conduct criminal background checks on any individuals working in the DDS.

Suitability Documentation

We reviewed supporting documentation for a sample of employees, contractors, and other DDS staff (if applicable) from the 14 DDSs to determine whether each State performed suitability reviews in accordance with SSA policies. See Appendix C for our sample methodology. Tables 4 through 6 summarize the results of our review.

Table 4: Suitability Supporting Documentation for Employees

Amount of Supporting Documentation Provided for Employees	Number of States
Supporting documentation provided for entire sample	11
Supporting documentation provided for some of the sample	1
Supporting documentation not provided for any of the sample	1
No sample selected – no criminal background check policy	1

The one State that provided documentation for some of the sample of employees was unable to provide supporting documentation for one employee. This employee started working at the DDS after SSA’s policy became effective but before the State was able to implement its own policy. Therefore, this employee did not receive a criminal background check. For the one State that did not provide any supporting documentation, it was the State policy not to retain documentation of a criminal background check past the employee’s probationary period. Therefore, we were unable to verify the completion of a criminal background check on the sample of employees.

¹⁵ Other DDS Staff include temporary workers, volunteers, and State IT staff.

¹⁶ This State is also included in the three States that had a policy in place before issuance of SSA policy for State IT staff. This State had two different types of other DDS staff, State IT staff and temporary employees.

The remaining State did not perform statewide criminal background checks for employees; therefore, we did not select a sample to review.

Table 5: Suitability Supporting Documentation for Contractors

Amount of Supporting Documentation Provided for Contractors	Number of States
Supporting documentation provided for entire sample	3
Supporting documentation provided for some of the sample	3
Supporting documentation not provided for any of the sample	4
No sample selected – no criminal background check policy	1
No contractors used by the State	3

For the three States that provided some supporting documentation, one State could not locate the documentation for one contractor and the second did not review or retain the criminal background information completed by the Contracting Bureau who originally hired the individual. For the third State in this category, we originally selected our sample based on the start dates of the contractors provided by the DDS. During our site visit, the DDS informed us that two contractors actually started before 2007, and therefore, should not have been included in our sample.

For the four States that were not able to provide supporting documentation for any of our sample, three States did not complete criminal background checks on their medical consultants and psychologists. These States relied on the licensure board to identify any sanctions on the consultants' licenses. One of these three States contracted with psychologists for a 5-year contract. These individuals began with the DDS in 2007, and therefore, were not subject to a criminal background check per SSA policy. Although they were still working with the DDS, they did not have criminal background checks, and therefore, could provide no documentation. The final State did not complete checks on the contractors because the contracting manager followed outdated State contracting procedures, which did not require a criminal background check.

The remaining State with no sample selected did not perform statewide criminal background checks for contractors; therefore, we did not select a sample to review.

Table 6: Suitability Supporting Documentation for Other DDS Staff

Amount of Supporting Documentation Provided for Other DDS Staff	Number of States
Supporting documentation provided for entire sample	5
Supporting documentation not provided for any of the sample	1 ¹⁷
No sample selected – no criminal background check policy	1
No other staff used by the State	8

The one State that did not provide supporting documentation employed staff from a temporary agency. The temporary agency was responsible for conducting criminal

¹⁷ This State is also included in the five States that provided supporting documentation for the entire sample. This State had two different types of other DDS staff, State IT staff and temporary employees. Therefore, we reviewed a sample of each type.

background checks. The DDS did not verify this information before employing the temporary employee.

The remaining State with no sample selected did not perform statewide criminal background checks for other DDS staff; therefore, we did not select a sample to review.

Vulnerabilities Identified in SSA Policy

SSA has a responsibility to safeguard its records, data, systems, and PII, thereby maintaining the public trust and protecting national security interests. Although SSA expects that each DDS will maintain and administer an effective suitability program, the Agency does not perform specific checks to ensure that the background checks are completed appropriately at each State. During our review of the States' policies for the 14 DDSs, we identified a number of vulnerable areas in SSA's current policy, as discussed below.

Contractors

SSA policy states that DDSs must perform statewide criminal background checks on prospective contractors.¹⁸ Policy is not clear on the definition of prospective contractors and whether DDSs should consider a contractor prospective each time their contract is renewed. For example, during our review, we noted one State whose contracts for all psychologists began in 2007 and will end in 2012. Although these contractors were working at the DDS, they had not undergone a criminal background check because they started with the DDS in 2007, before SSA's policy was implemented.

In addition, we noted one State that renewed contracts annually. The DDS did not complete criminal background checks on these contractors at the time of renewal because they began with the DDS before policy implementation. To ensure all individuals with access to SSA's records are suitable, policy should include language to require criminal background checks for contractors with long-term contracts or at the time of contract renewal.

Other Staff Besides Employees and Contractors Employed by DDSs

SSA policy requires a statewide criminal background check for all prospective full- or part-time employees and contractors, including medical consultants. Policy does not provide guidance on the treatment of individuals outside these categories. During our review, we noted that several States used other types of staff, such as volunteers, IT staff employed by the State, and temporary agency employees. For most States, these other types of employees went through the same suitability process as employees and contractors. However, we noted that one State relied on the temporary agency to perform criminal background checks, and one State relied on the Bureau of Contract Management to supply suitable staff. Neither of the DDSs reviewed criminal

¹⁸ Op. cit. page 4.

background check information before employing these individuals. SSA policy should include language to incorporate other individuals employed by the DDSs.

Employees Transferred from Other State Agencies

We also noted that three States did not perform criminal background checks on employees who began working with another State agency before the DDS and then transferred to the DDS. These States relied on other State agencies to complete the criminal background checks and did not verify the information. To ensure all individuals with access to SSA's records are suitable, policy should include language to require criminal background checks for all staff hired by the DDSs.

Employees, Contractors, and Other Staff Not Subject to State-wide Criminal Background Checks

SSA policy's requirement for statewide criminal background checks did not include a date by which all States should have implemented the policy. According to SSA, this was intentional. The Agency was aware that States had different State labor law cycles, and it could have taken some States several months for the cycle to reach a point where they could implement this requirement. Although most States had policies in place, some States took several months to 1 year to implement policy, and some States still had not implemented a policy requiring State-wide criminal background checks.

The policy only included a requirement for prospective employees and contractors. The policy did not require that States conduct criminal background checks on current employees and contractors. During our review, one State reported that per its union contract, criminal background checks are not allowable on current employees, regardless of suspicious activity, while another State relayed that its State law only allowed criminal background checks for new hires as of the date of State policy.

SSA's policy does not contain information on how often DDSs should perform criminal background checks. During our review, we noted that this policy varied from State to State. Seven of the States reviewed, only completed background checks at the time of hire. The remaining States conducted criminal background checks at the time of hire, as well as for such events as promotion, transfer, and demotion.

Since policy does not require a statewide criminal background check on current employees or contractors, or periodic checks throughout employment, there is a large number of individuals employed at the DDSs that were never subject to a criminal background check. Tables 7 through 9 show the number of employees, contractors, and other staff from the 14 DDSs reviewed who had potentially never undergone a criminal background check while still working with the DDSs.

Table 7: Employees Not Subject to a Criminal Background Check

	Number of Employees
Employees started with the DDS after SSA's policy was effective (10/2/2008) but before the State implemented it (applies to three States)	13
Employees were hired by DDS before SSA or State policy became effective, whichever occurred first	3,125
Employees not subject to a criminal background check because State did not have a policy (applies to one State)	1,797

Table 8: Contractors Not Subject to a Criminal Background Check

	Number of Contractors
Contractors started with the DDS after SSA's policy was effective (10/2/2008) but before the State implemented it (applies to two States)	1
Contractors were contracted by DDS before SSA or State policy became effective, whichever occurred first	146
Contractors not subject to a criminal background check because State did not have a policy (applies to two States)	113
Unable to determine whether contractors would have been subject to a criminal background check	32

We could not determine whether 32 contractors were subject to criminal background checks; 25 of these contractors were brought into the DDS from other State agencies. We did not verify the policies regarding criminal background checks from other State agencies. Therefore, we cannot determine whether these contractors had criminal background checks completed. For the remaining seven contractors, based on the information provided by the State, we could not determine the date they were subject to a criminal background check. In this State, medical consultants were not subject to the background checks until October 2007; however, the remaining contractors were subject in 1999. The State did not specify which contractors on their lists were medical consultants; therefore, we were not able to determine the date they would have been subject to a criminal background check.

Table 9: Other DDS Staff Not Subject to a Criminal Background Check

	Number of Other DDS Staff
Other DDS staff employed by DDS before SSA or State policy became effective, whichever occurred first	18
Other DDS staff not subject to a criminal background check because State did not have a current policy (applies to one State)	21

All the employees, contractors, and other DDS staff outlined in Tables 7 through 9 posed a risk to SSA because they had potentially never been subject to a criminal background check. Policy should include an appropriate date when all States must meet the requirements of the suitability policy to ensure that individuals with access to SSA data are suitable.

Agency Oversight

SSA policy did not include specific requirements regarding RO and CO oversight of the State suitability programs. POMS¹⁹ requires that DDSs complete a self-review each FY. One question on this checklist asks the DDS whether it conducts a statewide criminal background check on all prospective new full- or part-time employees and contractors, including medical consultants. As required by SSA policy, the DDS must establish a Corrective Action Plan/Risk Assessment based on the results of each review to address any weaknesses. The RO is responsible for following up with the DDS to ensure the DDS addressed all weaknesses. The ROs are also responsible for completing a review of each DDS at least once every 5 years. Part of that review includes the self-review checklist the DDSs must complete. There is no requirement for the Agency to conduct tests on the States' suitability processes to ensure the checks are conducted properly.

We obtained the most recent 5-year review for each DDS completed by the RO. The report has a signature page with three lines, (1) the Center for Security and Integrity reviewer who completes the review, (2) management signature to certify that "Security controls are sufficient to warrant continuing use of SSA Systems," and (3) management signature to certify that "DDS personnel are aware of the importance of the security program." We noted that several of the reports did not contain management's signature to certify completion of the review. Additionally, we noted that one region we reviewed did not complete a review for each DDS within the 5 years. This region stated that outside auditors completed a review on one DDS the year before the scheduled review, and therefore, they did not believe another review was necessary. According to the Office of Disability Determinations (ODD), a DDS may be exempt from completing its annual review if an audit was conducted on that DDS; however, this exemption does not extend to the 5-year review completed by the RO. The Agency should ensure that all ROs are aware that audits do not exempt the RO from completing its review.

SSA policy also stated that the CO is responsible for providing oversight to the DDS security program and monitoring the review program and corrective actions. There is no requirement in the guidance specific to the oversight of suitability. The Agency should require the ROs to review a sample of suitability determinations as part of the 5-year review process.

RO Oversight

We conducted site visits at SSA's 10 ROs to gain an understanding of the oversight procedures the ROs had in place regarding suitability programs at individual DDSs. We noted that most ROs stated that they would review the questions answered by the DDSs on the self-review checklist and work with the DDS to resolve any issues. Beyond that, the ROs would leave the suitability determinations to the DDSs.

¹⁹ POMS, DI 39567.345, *DDS Security Compliance and Monitoring* (11/08/2010).

We identified three regions with a DDS that did not complete statewide criminal background checks as described in the question on the self-review checklist. We inquired whether these ROs were adhering to SSA policy by following up with the DDSs to ensure the weaknesses were addressed. In two instances, the DDSs conducted criminal background checks on employees, but not on the medical consultants. One RO replied that the DDS had no control over the issue because State personnel procedures did not provide for criminal background checks on contractors. Another RO indicated it was aware that ODD was preparing sample suitability language for inclusion in any new medical consultant contracts. ODD provided the sample language to the RO on April 27, 2011 with the intention of the RO forwarding it to the DDS to have the DDS work with its human resources and contracting departments to incorporate the language into new contracts. In another instance, the DDS did not conduct criminal background checks on any individuals working in the DDS. Their respective region stated it had discussed the issue with the DDS on several occasions, but the DDS had several barriers to allowing criminal background checks. These barriers included receiving approval from their State Personnel Board and possible issues regarding labor relations and funding.

CO Oversight

We met with ODD to discuss the CO oversight role of the DDS' suitability programs. According to ODD, the ROs conduct the day-to-day monitoring. The CO served as a coordination function and a link for the ROs to information throughout the Agency. ODD was aware of the DDSs that complied with SSA policy and which DDSs were not adhering to the policy. ODD stated that they are working to provide more guidance to the DDSs to ensure the security of SSA information. ODD also stated that Federal regulations²⁰ limit the amount of guidance they can require of DDSs.

²⁰ Op. cit. page 1.

Conclusions and Recommendations

Although the Agency had a limited policy in place that required a statewide criminal background check, we noted a number of vulnerable areas in the policy that could pose a risk to SSA data and systems. State policy regarding suitability determinations for employees, contractors, and other DDS staff varied widely from State to State. Some States had yet to implement a policy requiring statewide criminal background checks. Additionally, we found that although most States had a policy in place for prospective employees, the policy did not require criminal background checks for current employees. Therefore, we noted a large number of individuals employed at the DDSs were not subject to a criminal background check. Due to the sensitive nature of SSA's systems, it is imperative that individuals accessing sensitive information undergo some assessment of their suitability.

We also found that SSA performed some oversight of the State suitability processes. Besides reviewing the self-reviews completed by the DDSs, SSA's ROs stated they would leave the suitability determinations to the DDSs. According to ODD, the ROs are responsible for conducting the day-to-day monitoring of the DDSs. The CO served as a coordination function and a link for the ROs to information throughout the Agency. Because of the vulnerabilities identified with SSA's policy, the ROs and CO should have more of an oversight role to ensure that all DDSs are completing criminal background checks according to Agency policy.

Internal controls serve as the first line of defense in safeguarding assets and preventing and detecting errors and fraud. Internal controls help government program managers achieve desired results through effective stewardship of public resources. Although a suitability program is one type of internal control that can help mitigate the risk of inappropriate access to SSA's PII, it cannot guarantee the identification of all unsuitable individuals. Internal controls provide reasonable assurance, not absolute assurance. However, a strong and consistent suitability program will minimize the risk of unsuitable individuals accessing SSA PII.

The Agency should strengthen its policy to ensure that all individuals with access to SSA's records, both current and prospective, are suitable. Therefore, we recommend SSA:

1. Require all individuals with access to SSA systems and data to have an appropriate suitability determination consistent with the requirements of SSA's suitability program.
2. Require periodic checks on all individuals with access to SSA systems.
3. Establish a date by which States must adhere to the suitability policy.

4. Remove access to SSA data for any individual not having the appropriate suitability determination by the established date.
5. Ensure that ROs are certifying the completion of the 5-year reviews and completing the reviews in accordance with policy.

AGENCY COMMENTS

SSA will take action to address all of our recommendations. See Appendix E for the full text of the Agency's comments.

Appendices

Acronyms

C.F.R.	Code of Federal Regulations
CO	Central Office
DC	District of Columbia
DDS	Disability Determination Service
FY	Fiscal Year
IT	Information Technology
ODD	Office of Disability Determinations
OIG	Office of the Inspector General
PII	Personally Identifiable Information
POMS	Program Operations Manual System
Pub. L. No.	Public Law Number
RO	Regional Office
SSA	Social Security Administration

Scope and Methodology

The objectives of our review were to determine whether the Social Security Administration (SSA) (1) had a policy in place to determine the suitability of disability determination services' (DDS) employees and contractors, and (2) performed oversight reviews of the DDS' suitability process. To accomplish these objectives, we:

- Reviewed applicable Federal laws and regulations as well as SSA's policies and procedures pertaining to DDS suitability programs.
- Obtained employee listings from the Office of Telecommunications and Systems Operations for the 14 State DDSs as of January 10, 2011.
- Requested State suitability policy and classifications (that is, contractor, employee, other) for employee listings from each of the 14 State DDSs.
- Reviewed State suitability guidance for 14 States.
- Conducted site visits to DDSs in 14 States to gain an understanding of the suitability and self-review checklist processes.
- Conducted site visits to the 10 regional offices (RO) to gain an understanding of the oversight procedures and reviews of the DDSs.
- Selected a sample of employees, contractors, and other DDS staff from each of the 14 State DDSs who began with the DDS after SSA's policy became effective, October 2, 2008. For our samples, we verified suitability documentation to ensure a criminal background check was completed.
- Interviewed Office of Disability Determinations staff to gain an understanding of Central Office's role in the DDS' suitability process.

We determined that the computerized data used during our review were sufficiently reliable given our objectives, and the intended use of the data should not lead to incorrect or unintentional conclusions.

We performed our fieldwork in 14 State DDSs and 10 ROs in February and March 2011. We finalized our analysis at Headquarters from April through May 2011. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusion based on our audit objectives.

Sampling Methodology

Below are the steps we followed to obtain samples of employees, contractors, and other disability determination services (DDS) staff for testing from each of the 14 DDSs:

- Obtained a listing of employees for each of the 14 DDSs from the Office of Telecommunications and Systems Operations.
- Sent the listings to each State DDS administrator as part of our initial request for information. The DDS administrators were asked to note whether the individuals were employees, contractors, or other staff.
- Grouped the completed listings into three categories: employees, contractors, and other DDS staff.
- Identified all the employees, contractors, and other staff who began with the DDS on or after October 2, 2008. We selected this date because it was the date SSA's new policy became effective.
- Selected a random sample of five from each category. If there were not five in a particular category, we completed a 100-percent.

DDS Suitability Status¹

Suitability Program in Place According to POMS 39567.260 ²	Suitability Program Performed on Employees with the Exception of Medical Consultants ³	No Suitability Program in Place ⁴
41	3	8

¹ For purposes of this audit, we are reporting on 52 DDSs, 1 per state plus the District of Columbia and Puerto Rico, regardless of how many multiple DDS sites a state may have.

² The DDSs adhere to their state suitability programs, which include statewide criminal background checks.

³ For medical consultants, the DDS verifies medical licensure status in lieu of other criteria.

⁴ Four of these DDSs were working with their parent agencies to establish a program, three DDSs were waiting on SSA requirements of the Homeland Security Presidential Directive 12 (HSPD-12), and one DDS had a state policy that prohibited a criminal background check.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: November 23, 2011 **Refer To:** SIJ-3

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

From: Dean S. Landis /s/
Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, "State Disability Determination Services' Employee and Contractor Suitability Program" (A-15-11-21180)--INFORMATION

Thank you for the opportunity to review the draft report. Please see our attached comments.

Please let me know if we can be of further assistance. You may direct inquiries to Teresa Rojas, at (410) 966-7284.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,
“STATE DISABILITY DETERMINATION SERVICES’ EMPLOYEE AND
CONTRACTOR SUITABILITY PROGRAM” (A-15-11-21180)**

GENERAL COMMENTS

Protecting disability applicants’ personally identifiable information (PII) is very important to us and we take this responsibility extremely seriously. We require each Disability Determination Services (DDS) office to maintain and administer an effective suitability program. As a minimum requirement, States must conduct a criminal background check on all prospective full or part-time employees and contractors. We recommend States use our suitability program as a model, and we will continue to work with our DDS partners to minimize the risk of improper use of disability applicants’ PII.

RESPONSE TO RECOMMENDATIONS

Recommendation 1

Require all individuals with access to SSA systems and data to have an appropriate suitability determination consistent with the requirements of SSA’s suitability program.

Response

We will work closely with the State DDSs to develop a plan to implement the recommendation.

Recommendation 2

Require periodic checks on all individuals with access to SSA systems.

Response

We will require the same periodic checks from the State DDSs that we require of others with access to our systems.

Recommendation 3

Establish a date by which States must adhere to the suitability policy.

Response

We are developing an implementation plan based on State readiness.

Recommendation 4

Remove access to SSA data for any individual not having the appropriate suitability determination by the established date.

Response

We will establish a date based on resources needed for full implementation.

Recommendation 5

Ensure that Regional Offices (RO) are certifying the completion of the 5-year reviews and completing the reviews in accordance with policy.

Response

We will issue a policy reminder to the ROs.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Victoria Vetter, Director, Financial Audit Division

Acknowledgments

In addition to those named above:

Kelly Stankus, Senior Auditor

Lori Lee, Auditor

Brennan Kraje, Statistician

For additional copies of this report, please visit our Website at <http://oig.ssa.gov/> or contact the Office of the Inspector General's Public Affairs Staff at (410) 965-4518. Refer to Common Identification Number A-15-11-21180.

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

Office of Audit

OA conducts financial and performance audits of the Social Security Administration's (SSA) programs and operations and makes recommendations to ensure program objectives are achieved effectively and efficiently. Financial audits assess whether SSA's financial statements fairly present SSA's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs and operations. OA also conducts short-term management reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

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

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