



## SOCIAL SECURITY

### MEMORANDUM

Date: August 26, 2004

Refer To:

To: The Commissioner

From: Acting Inspector General

Subject: Overpayments in the Old-Age, Survivors and Disability Insurance Program  
(A-01-04-24023)

The attached final report presents the results of our audit. Our objective was to assess the Social Security Administration's efforts to identify, prevent, and recover Old-Age, Survivors and Disability Insurance overpayments.

Please provide within 60 days a corrective action plan that addresses each recommendation. If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.

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.

Attachment

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**OFFICE OF  
THE INSPECTOR GENERAL**

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**SOCIAL SECURITY ADMINISTRATION**

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**OVERPAYMENTS IN THE  
OLD-AGE, SURVIVORS AND  
DISABILITY INSURANCE PROGRAM**

**August 2004      A-01-04-24023**

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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.**

## **Authority**

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

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

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

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

## **Vision**

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

# Executive Summary

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## OBJECTIVE

Our objective was to assess the Social Security Administration's (SSA) efforts to identify, prevent, and recover Old-Age, Survivors and Disability Insurance (OASDI) overpayments.

## BACKGROUND

SSA administers the OASDI program under Title II of the Social Security Act. The program provides monthly benefits to retired or disabled workers and their families and to survivors of deceased workers. Beneficiaries sometimes receive Social Security benefits to which they are not entitled, thus creating overpayments.

## RESULTS OF REVIEW

According to SSA, between Fiscal Years 1996 and 2002, \$14.0 billion in OASDI overpayments was subject to recovery efforts. Of this amount, SSA collected \$8.1 billion, deemed \$0.7 billion uncollectible, waived \$1.4 billion, and continued to pursue recovery of \$3.8 billion at the end of Fiscal Year 2002.

Additional tools were authorized through the Social Security Domestic Employment Reform Act of 1994 and the Debt Collection Improvement Act of 1996 that may strengthen SSA's ability to recover overpayments. The Agency is considering or developing the tools that have been authorized through legislation, but have not yet been implemented—such as Federal salary offset, charging interest, and using private collection agencies.

## CONCLUSION AND RECOMMENDATION

SSA has made significant efforts to identify, prevent, and recover OASDI overpayments over the past several years. To assist SSA in achieving its strategic objective of improving debt management, we recommend that SSA continue to evaluate the recovery tools that have not yet been implemented, but which were authorized through legislation.

## AGENCY COMMENTS

SSA agreed with our recommendation.

# Table of Contents

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	Page
<b>INTRODUCTION</b> .....	1
<b>RESULTS OF REVIEW</b> .....	2
Overpayment Identification and Prevention Activities.....	2
▪ Computer Data Matches.....	2
▪ Continuing Disability Reviews.....	3
▪ Cooperative Disability Investigations .....	3
▪ Administrative Sanctions .....	3
▪ Overpayment Identification and Prevention Pilots .....	4
Overpayment Recovery Activities .....	5
▪ Overpayment Recovery from Current Beneficiaries .....	6
▪ Overpayment Recovery from Former Beneficiaries.....	6
▪ Overpayment Recovery Tools SSA is Considering or Developing .....	8
<b>CONCLUSION AND RECOMMENDATION</b> .....	10
<b>APPENDICES</b>	
<b>APPENDIX A</b> – Acronyms	
<b>APPENDIX B</b> – Scope and Methodology	
<b>APPENDIX C</b> – Prior Reports Related to OASDI Overpayments	
<b>APPENDIX D</b> – Classification of Overpayments and Payment Accuracy	
<b>APPENDIX E</b> – Data Matches to Identify and Prevent Overpayments	
<b>APPENDIX F</b> – Legislation Impacting OASDI Overpayments	
<b>APPENDIX G</b> – Agency Comments	
<b>APPENDIX H</b> – OIG Contacts and Staff Acknowledgments	

## OBJECTIVE

Our objective was to assess the Social Security Administration's (SSA) efforts to identify, prevent, and recover Old-Age, Survivors and Disability Insurance (OASDI) overpayments.<sup>1</sup>

## BACKGROUND

SSA administers the OASDI program under Title II of the Social Security Act.<sup>2</sup> Under this program, monthly benefits are paid to retired or disabled workers and their families and to survivors of deceased workers.

Beneficiaries sometimes receive Social Security benefits to which they are not entitled, thus creating overpayments. Beneficiaries can be overpaid for a variety of reasons. For example, according to SSA, a significant portion of overpayments for Fiscal Years (FY) 1998 through 2002 resulted from disabled beneficiaries' substantial work activity.<sup>3</sup>

## SSA's RESPONSIBILITIES

In August 2001, the Office of Management and Budget (OMB) published *The President's Management Agenda* for FY 2002, which included a Governmentwide initiative for improving financial performance. In November 2002, Congress enacted the Improper Payments Information Act of 2002 which requires Federal agencies—including SSA—to report annually an estimate of certain improper payments within their programs and activities and the actions taken to reduce improper payments.<sup>4</sup> OMB issued guidance in May 2003 to assist in the implementation of this new law.<sup>5</sup> (For additional information regarding OMB's guidance, as well as information about SSA's payment accuracy rates, see Appendix D.)

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<sup>1</sup> For information regarding SSA's efforts to identify, prevent, and recover Supplemental Security Income overpayments, see our April 2004 report, *Supplemental Security Income Overpayments* (A-01-04-24022). In addition, we are currently conducting a review entitled, *Undetected Overpayments in the Social Security Administration's Disability Programs* (A-01-04-24065). We expect to issue this report in Fiscal Year 2005. (For other reports related to OASDI overpayments issued by the Office of the Inspector General and the Government Accountability Office, see Appendix C.)

<sup>2</sup> Social Security Act § 201 et seq., 42 U.S.C. § 401 et seq.

<sup>3</sup> SSA, *Fiscal Year 2002 Title II Payment Accuracy Report*. Our audit report, *Disabled Title II Beneficiaries with Earnings Reported on the Master Earnings File* (A-01-03-13019), which we issued in July 2004, contains information regarding disability overpayments resulting from substantial gainful activity.

<sup>4</sup> Pub. L. No. 107-300 §§ 2(b) and 2(c) (2002).

<sup>5</sup> OMB, *Improper Payments Information Act of 2002*, Pub. L. No. 107-300, M-03-13, May 21, 2003.

# Results of Review

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SSA has made significant efforts over the past several years to identify, prevent, and recover OASDI overpayments. In addition, the Agency is considering or developing collection tools that were authorized through legislation, but have not yet been implemented. These additional collection tools may assist SSA in recovering overpayments in the OASDI program.

According to SSA, between FYs 1996 and 2002, \$14.0 billion in OASDI overpayments was subject to recovery efforts. Of this amount, the Agency collected \$8.1 billion, deemed \$0.7 billion uncollectible, waived \$1.4 billion, and continued to pursue recovery of \$3.8 billion at the end of FY 2002.

## OVERPAYMENT IDENTIFICATION AND PREVENTION ACTIVITIES

SSA has several initiatives to better identify and prevent overpayments in the OASDI program that should assist the Agency in achieving its strategic objective of preventing fraudulent and erroneous payments and improving debt management.<sup>6</sup> Specifically, SSA

- made agreements with other agencies to conduct various computer matches;
- became current with overdue continuing disability reviews (CDR);
- formed cooperative disability investigations (CDI) units; and
- imposed administrative sanctions in some situations.

In addition, SSA is testing additional tools to assist in identifying and preventing overpayments in the OASDI program.

## COMPUTER DATA MATCHES

SSA matches information electronically with other Governmental agencies and organizations to help identify and prevent erroneous payments in the OASDI program. For example, SSA conducts a match with Federal, State, and Local correctional institutions to identify and suspend OASDI benefits to prisoners. SSA estimated the annual savings for this computer match to be \$112.4 million—with a benefit-to-cost ratio of \$43-to-\$1. SSA also conducts a match with Federal and State Agencies to detect unreported deaths. SSA estimated that this match saves the Agency \$212.7 million annually—with a benefit-to-cost ratio of \$44-to-\$1. (For a list of additional computer matches conducted by SSA, see Appendix E.)

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<sup>6</sup> SSA, *Strategic Plan, 2003-2008*, pages 22-24.

## CONTINUING DISABILITY REVIEWS

SSA conducts CDRs to determine whether individuals remain medically eligible for disability benefits. The frequency of medical CDRs is dependent upon SSA's assessment of the likelihood of medical improvement. Specifically, individuals with a significant potential for medical improvement are selected for review every 6 to 18 months. Individuals with a lower probability of medical improvement are reviewed every 3 years. Finally, individuals with no expectation of medical improvement are scheduled for review every 5 to 7 years.<sup>7</sup>

SSA established a 7-year plan, covering FYs 1996 through 2002, to process its entire backlog of CDRs. Congress provided special funding to SSA to process the 7-year plan workload.<sup>8</sup> According to SSA, the Agency performed 894,098 CDRs in FY 2002 and became current with all overdue CDRs in the OASDI program.<sup>9</sup> In addition, the Agency reported to have completed all CDRs that were scheduled in FY 2003. SSA estimated the ratio of program savings to administrative costs for the CDRs performed in FY 2002 was approximately \$9.50-to-\$1.00.<sup>10</sup>

## COOPERATIVE DISABILITY INVESTIGATIONS

CDI units provide investigative support to prevent payments on disability claims involving fraud. CDI units are composed of special agents from the Office of the Inspector General's (OIG) Office of Investigations, personnel from SSA's Office of Operations, State Disability Determination Services staff, and State or local law enforcement officers. Evidence gathered by CDI units may be used in disability determinations and in the criminal prosecutions of individuals who commit fraud. As of September 2003, 18 CDI units were established and plans were underway to add more on an annual basis, depending on availability of funds. In FY 2003, the CDI project resulted in estimated savings of approximately \$100 million to SSA programs and \$59 million to non-SSA programs.<sup>11</sup>

## ADMINISTRATIVE SANCTIONS

Section 207 of the Foster Care Independence Act of 1999 (FCIA) authorized SSA, under certain circumstances, to impose administrative sanctions—nonpayment of OASDI benefits for 6, 12, or 24 months—against any person who makes, or causes to

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<sup>7</sup> 20 C.F.R. § 404.1590(d).

<sup>8</sup> Pub. L. No. 104-121 §103 (1996).

<sup>9</sup> This includes both full medical reviews and CDR mailers.

<sup>10</sup> The ratio of program savings to administrative costs was for all SSA programs, not solely OASDI. In addition, it includes estimated savings to the Medicare and Medicaid programs. (SSA, *Annual Report of Continuing Disability Reviews* for FY 2002 (November 13, 2003).)

<sup>11</sup> SSA OIG, *Semiannual Report to Congress, April 1, 2003 thru September 30, 2003*, page 8 (November 2003). Examples of non-SSA programs include Medicaid and workers' compensation.

be made, a statement or representation of a material fact, which he or she knows or should know was false or misleading or knows or should know omits a material fact or makes with knowing disregard of the truth, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under Title II.<sup>12</sup> For example, SSA may impose a sanction if an OASDI beneficiary alleges non-receipt of a benefit check, but later cashes both the original and the replacement check. According to SSA's policy instructions issued to field offices in October 2002, administrative sanctions were imposed less frequently than expected and imposed inconsistently among regions.<sup>13</sup> These instructions reminded field office staff to use administrative sanctions as appropriate.

## OVERPAYMENT IDENTIFICATION AND PREVENTION PILOTS

In addition to the current tools used by SSA, the Agency is also pursuing implementation of additional resources to help identify and prevent OASDI overpayments. Examples of some pilots (or testing) conducted by SSA are discussed below.

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### ***Proof of Identity***

In June 2003, the Agency began a pilot which requires claimants filing for disability benefits in certain field offices to allow SSA staff to copy photographic identification for the claims file.

According to SSA, "This process will strengthen the integrity of the disability claims process by helping to ensure that the individual presenting himself or herself for examination is the same individual who filed the original disability application."<sup>14</sup> Failure to comply with the photograph requirement could result in a denial of benefits.

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### ***Electronic Death Registration***

In September 1999, SSA contracted with the National Association for Public Health Statistics and Information Systems, an association of State vital records directors and registrars, to develop standards and guidelines for a proposed nationwide

system of electronic death registration. This system would enable SSA to receive death reports within 5 days of death and 24 hours of receipt in the State Bureau of Vital Statistics. As of April 2004, this project was still in the development stage, in addition, it is one of several OMB e-Government initiatives.<sup>15</sup>

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<sup>12</sup> FCIA, Pub. L. No. 106-169 § 207 (1999), Social Security Act § 1129A, 42 U.S.C. § 1320a-8a.

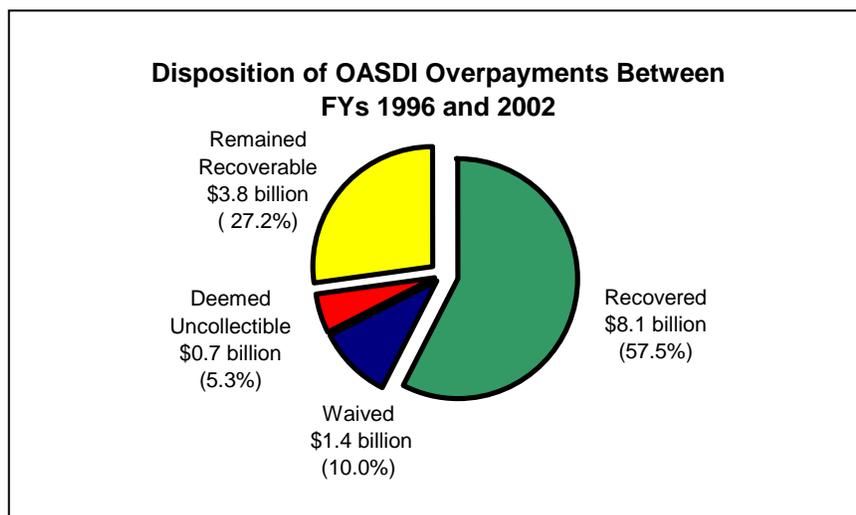
<sup>13</sup> SSA, Policy Instruction EM-02118, October 2002.

<sup>14</sup> SSA, Policy Instruction EM-03053, section A, June 2003.

<sup>15</sup> In August 2001, OMB published *The President's Management Agenda* for FY 2002, which included a Governmentwide initiative for improving electronic Government (or e-Government). E-Government is expected to improve the use of the internet to make it easier for citizens and businesses to interact with the Government.

## OVERPAYMENT RECOVERY ACTIVITIES

SSA has made significant efforts over the past several years to recover OASDI overpayments. Specifically, SSA implemented several new collection tools and expects to implement additional tools in the near future. Between FYs 1996 and 2002, \$14.0 billion in OASDI overpayments was subject to recovery efforts.<sup>16</sup> The disposition of these overpayments at the end of FY 2002 is depicted in the chart below.



SSA acknowledges its stewardship responsibilities, which require the Agency to recover as much of its outstanding debt as possible.<sup>17</sup> The Agency could realize additional savings to the OASDI program if the Agency were to decrease the amounts of overpayments it waived or deemed uncollectible.<sup>18</sup> For example, if the Agency had waived 10 percent fewer overpayments between FYs 1996 and 2002, SSA might have been able to recover approximately \$140 million.<sup>19</sup> In addition, SSA could save approximately \$70 million if the Agency were to recover 10 percent of the \$700 million it deemed uncollectible between FYs 1996 and 2002.<sup>20</sup>

<sup>16</sup> The \$14.0 billion represents \$11.9 billion in OASDI overpayments identified between FYs 1996 and 2002 (net of reestablished debt and adjustments), plus FY 1995 OASDI overpayments totaling \$2.1 billion brought forward to FY 1996.

<sup>17</sup> SSA, *Performance and Accountability Report*, FY 2003, page 45.

<sup>18</sup> Not all OASDI overpayments are subject to SSA's recovery tools. Generally, SSA must not attempt to recover OASDI overpayments if the Agency finds that the individuals were not at fault in causing the overpayments and certain criteria are met (20 C.F.R. § 404.506). Between FYs 1996 and 2002, SSA waived approximately \$1.4 billion dollars in OASDI overpayments.

<sup>19</sup> We expect to issue our audit report—*The Social Security Administration's Controls Over the Title XVI Waiver Process* (A-06-03-13077)—in FY 2004. In this audit, we found that not all waiver decisions for SSI overpayments are made in accordance with SSA's policies and procedures. We plan to begin a similar audit of overpayment waivers in the OASDI program in FY 2005.

<sup>20</sup> An overpayment that was waived is not subject to further recovery efforts, but an overpayment deemed uncollectible remains recoverable—e.g., from future benefit payments to the individual (SSA, Program Operations Manual System (POMS), section GN 02215.250.A). In FY 2005, we plan to conduct an audit of OASDI overpayments for which SSA terminated recovery efforts.

## OVERPAYMENT RECOVERY FROM CURRENT BENEFICIARIES

SSA policy requires that, when an overpayment is discovered, the amount and liability for repayment be communicated as soon as possible to the overpaid individual. SSA is also required to issue a written notice to the individual, which includes—among other things—the overpayment amount, how and when it occurred, as well as the individual’s right to request a reconsideration of the overpayment determination and a waiver of recovery.<sup>21</sup>

Full and immediate refund is the preferred method of recovery of an overpayment, regardless of whether benefit adjustment is available.<sup>22</sup> If the individual fails to make a full refund, SSA can recover the overpayment by withholding benefits payable to the overpaid individual, a representative payee who received an overpayment on behalf of a beneficiary, and/or any other individuals receiving benefits on the same earnings record on which the overpayment occurred.<sup>23</sup>

## OVERPAYMENT RECOVERY FROM FORMER BENEFICIARIES

If an overpaid individual is financially unable or unwilling to make a full refund and is not currently receiving benefits from which recovery can be pursued, then installment payments are acceptable.<sup>24</sup> If individuals do not make their scheduled installment payments, then SSA has the ability to attempt recovery of the overpayments through the tools listed below.

### *Tax Refund Offset and Administrative Offset*

SSA began recovering delinquent OASDI overpayments from former beneficiaries by offsetting their Federal tax refunds in 1992.<sup>25</sup> In 1998, the Agency began using administrative offset—reduction or withholding of a Federal payment other than a tax refund—to recover OASDI overpayments.<sup>26</sup> According to SSA, the Agency had cumulatively collected over \$790 million from tax refunds and other Federal payments through September 2003.<sup>27</sup>

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<sup>21</sup> SSA, POMS, sections GN 02201.009.A. and GN 02201.009.B.1.

<sup>22</sup> SSA, POMS, section GN 02210.150.A.

<sup>23</sup> SSA, POMS, section GN 02210.001.1. A representative payee is an individual or organization who manages a beneficiary’s OASDI payments. SSA appoints representative payees when individuals are incapable of managing their own payments.

<sup>24</sup> SSA, POMS, section GN 02210.180.A.

<sup>25</sup> Section 204(a)(1) of the Social Security Act, 42 U.S.C. § 404(a)(1), allows SSA to recover delinquent OASDI overpayments from former beneficiaries by offsetting their Federal income tax refunds.

<sup>26</sup> The Social Security Domestic Employment Reform Act of 1994 § 5, Pub. L. No. 103-387, authorized SSA to collect certain OASDI overpayments by administrative offset. Social Security Act § 204(f)(1) and (2), 42 U.S.C. § 404(f)(1) and (2).

<sup>27</sup> SSA, *Performance and Accountability Report*, FY 2003, page 200.

### ***Referral of Overpayments to Credit Bureaus***

The Social Security Domestic Employment Reform Act of 1994 (DERA) authorized SSA to report certain delinquent OASDI overpayments to credit bureaus.<sup>28</sup> In 1998, SSA began reporting these overpayments to credit bureaus as a way of influencing individuals to repay their debts.

### ***Recovery from Representative Payees***

Section 201 of the FCIA gave SSA the authority to hold representative payees liable for OASDI overpayments caused by payments made after the deaths of beneficiaries.<sup>29</sup> Also, the FCIA requires SSA to establish overpayment control records under the representative payees' Social Security numbers.<sup>30</sup> SSA is evaluating a project to establish overpayments on the Agency's records to account for and collect representative payee overpayments.

### ***Recovery from Supplemental Security Income Payments***

In March 2004, the Social Security Protection Act of 2004 was enacted and it allows SSA, subject to certain limitations, to collect an OASDI overpayment from an individual's Supplemental Security Income payment.<sup>31</sup> This process is known as cross-program recovery.

### ***Recovery by Compromise Settlements***

SSA policy allows for recovery of an overpayment through a compromise settlement when, among other things, the individual is unable or unwilling to repay the full amount of the overpayment within a reasonable time, either by refund or adjustment.<sup>32</sup> A compromise settlement is an offer to repay the Government a lesser amount than owed if the individual is relieved of further responsibility of the debt.

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<sup>28</sup> Pub. L. No. 103-387 § 5(a) (1994), Social Security Act § 204(f)(1), 42 U.S.C. § 404 (f)(1).

<sup>29</sup> FCIA, Pub. L. No. 106-169 § 201(a) (1999), Social Security Act § 204(a)(2), 42 U.S.C. § 404(a)(2).

<sup>30</sup> *Id.*

<sup>31</sup> Pub. L. No. 108-203 §210 (2004), 42 U.S.C. § 1320b-17.

<sup>32</sup> SSA, POMS, section GN 02215.100.

## OVERPAYMENT RECOVERY TOOLS SSA IS CONSIDERING OR DEVELOPING

In FY 2004, one of SSA's objectives is to increase the percent of outstanding debt that is in a collection arrangement.<sup>33</sup> To accomplish this objective, the Agency will continue to use the debt collection tools available. In addition to the current tools used by SSA to recover delinquent OASDI overpayments, SSA is also evaluating the use of additional tools to improve the recovery of overpayments owed by former beneficiaries, including

- administrative wage garnishment;
- Federal salary offset;
- private collection agencies; and
- charging interest.

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### **Administrative Wage Garnishment**

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The Debt Collection Improvement Act of 1996 (DCIA) authorized the Agency to collect delinquent OASDI overpayments by garnishing the wages of private and public sector employees.<sup>34</sup> SSA established new regulations to recover delinquent OASDI overpayments by administrative wage garnishment in December 2003.<sup>35</sup> These regulations, effective January 22, 2004, allow SSA to garnish up to 15 percent of employees' wages until overpayments are fully recovered. Based on a recent analysis conducted by SSA, the Agency estimated that administrative wage garnishment will yield approximately \$55 million to \$99 million in voluntary repayments alone by individuals hoping to avoid garnishment.<sup>36</sup>

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### **Federal Salary Offset**

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The DCIA authorized the use of Federal salary offset.<sup>37</sup> Federal salary offset is the direct collection of delinquent overpayments owed by Federal workers from their salaries. According to the Agency, the number of Federal employees subject to this collection tool is expected to be very small (less than 5,000).<sup>38</sup>

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### **Private Collection Agencies**

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Section 5 of the DERA authorized SSA to use private collection agencies for OASDI overpayments.<sup>39</sup> The Agency intends to use the Department of the Treasury's cross-servicing program to act as a debt collector for SSA. In June 2000, SSA testified before Congress that the Agency had been working with the

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<sup>33</sup> SSA, *Performance and Accountability Report*, FY 2003, page 45.

<sup>34</sup> Pub. L. No. 104-134 § 31001(o)(1) (1996).

<sup>35</sup> 20 C.F.R. §§ 422.401 to 422.445.

<sup>36</sup> SSA, Key Initiative Plan and Schedule, January 22, 2002, page 96.

<sup>37</sup> Pub. L. No. 104-134 § 31001(z)(2)(A) (1996).

<sup>38</sup> SSA, Key Initiative Plan and Schedule, January 22, 2002, page 100.

<sup>39</sup> Pub. L. No. 103-387 § 5 (1994), Social Security Act § 204(f)(1) and (2), 42 U.S.C. § 404 (f)(1) and (2).

Department of the Treasury on the program.<sup>40</sup> According to SSA, the Department of the Treasury is developing software for the cross-servicing program and expects the earliest the replacement software will be available is sometime in FY 2006, with further delays possible.

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***Charging  
Interest***

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The DCIA gave SSA the authority to charge interest on delinquent OASDI overpayments.<sup>41</sup> Charging interest should result in voluntary repayments by overpaid individuals to avoid the interest. As of October 2003, no specific implementation date had been set by SSA.

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<sup>40</sup> On June 8, 2000, the Deputy Commissioner for Finance, Assessment and Management testified before Congress, House Committee on Government Reform, Subcommittee on Government Management, Information and Technology on implementation of the DCIA.

<sup>41</sup> Pub. L. No. 104-134 § 31001 (z)(2)(A) (1996).

# Conclusion and Recommendation

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Overall, SSA has made significant efforts to identify, prevent, and recover OASDI overpayments over the past several years. In addition, the Agency is considering or developing collection tools that were authorized through legislation but have not yet been implemented. These additional collection tools may assist SSA in recovering a significant portion of overpayments in the OASDI program and could improve the long-range solvency of the Social Security Trust Funds.

To assist SSA in achieving its strategic objective of improving debt management, we recommend that SSA continue to evaluate the recovery tools that have not yet been implemented but which were authorized by the DERA and DCIA (such as, Federal salary offset, charging interest, and using private collection agencies).

## AGENCY COMMENTS

SSA agreed with our recommendation. Specifically, the Agency is developing functional requirements for Administrative Wage Garnishment and drafting regulations for Federal Salary Offset. SSA will also continue to evaluate, prioritize, and implement additional recovery tools where appropriate.

Additionally, SSA took exception with our position that the Agency could realize additional savings if it decreased the amount of overpayments waived or deemed uncollectible. (See Appendix G for SSA's comments.)

## OIG RESPONSE

We stand by our discussion in the report that SSA could realize additional savings if it decreased the amount of overpayments waived or deemed uncollectible. We understand that SSA's decisions regarding waivers are not arbitrary, but, instead, are based on established rules and regulations. Also, our report notes that overpayments deemed uncollectible may still be subject to recovery efforts.

The amount of dollars waived and deemed uncollectible by SSA—as shown in the chart on page 5 of this report—is significant. Further, on-going OIG work shows that not all waiver decisions for Supplemental Security Income overpayments were made in accordance with SSA's policies and procedures. In FY 2005, we plan to begin a review of overpayment waivers in the OASDI program. Where appropriate, we modified the report to address specific comments from the Agency.

# *Appendices*

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## **Acronyms**

CDI	Cooperative Disability Investigations
CDR	Continuing Disability Review
C.F.R.	Code of Federal Regulations
DCIA	Debt Collection Improvement Act of 1996
DERA	Domestic Employment Reform Act of 1994
FCIA	Foster Care Independence Act of 1999
FY	Fiscal Year
GAO	Government Accountability Office
OASDI	Old-Age, Survivors and Disability Insurance
OIG	Office of the Inspector General
OMB	Office of Management and Budget
POMS	Program Operations Manual System
SSA	Social Security Administration
U.S.C.	United States Code

### Scope and Methodology

To accomplish our objective, we:

- Researched the Social Security Act and the Social Security Administration's (SSA) regulations, policies and procedures related to Old-Age, Survivors and Disability Insurance (OASDI) program overpayments.
- Obtained, from SSA, OASDI overpayment statistics for Fiscal Years 1996 through 2002.
- Researched and reviewed prior Office of the Inspector General and Government Accountability Office audit reports related to OASDI overpayments.
- Researched the different tools and techniques available to SSA to identify, prevent, and recover OASDI overpayments.
- Researched the different causes of overpayments, including those inherent to the design of the OASDI program and those that cannot be changed without legislation.

We conducted our review between September 2003 and January 2004 in Boston, Massachusetts. We relied on overpayment statistical data obtained from SSA to meet our audit objective. We did not independently test or verify this information. Accordingly, we do not express an opinion or any other degree of assurance as to its validity. The principal entities audited were the Office of Income Security Programs and the Office of Disability Programs under the Deputy Commissioner for Disability and Income Security Programs and SSA field offices and program service centers under the Deputy Commissioner for Operations. We conducted our audit in accordance with generally accepted government auditing standards.

## Prior Reports Related to OASDI Overpayments

The Office of the Inspector General (OIG) and the Government Accountability Office (GAO) have issued several reports relating to overpayments in the Old-Age, Survivors and Disability Insurance (OASDI) program. Some of these reports included recommendations the Social Security Administration (SSA) either fully or partially agreed to implement. These reports are presented in the table below.<sup>1</sup>

Report Title	Fully Agreed or No Recommendations	Partially Agreed
OIG, Issue Paper: <i>Detecting, Preventing, and Eliminating Unidentified Overpayments in the Social Security Administration's Disability Programs</i> (Limited Distribution) (A-09-02-22067), September 2003	✓	
OIG, <i>Follow-up on Prior Office of the Inspector General Prisoner Audits</i> (A-01-02-12018), July 2003	✓	
OIG, <i>Follow-up Review of Old-Age, Survivors and Disability Insurance Benefits Paid to Deceased Auxiliary Beneficiaries</i> (A-01-03-13037), June 2003	✓	
OIG, <i>Use of State Bureaus of Vital Statistics Records to Detect Unreported Marriages and Divorces</i> (A-09-00-30059), June 2003	✓	
OIG, <i>Pending Workers' Compensation: The Social Security Administration Can Prevent Millions in Title II Disability Overpayments</i> (A-08-02-12064), June 2003		✓
OIG, <i>Old-Age, Survivors and Disability Insurance and Supplemental Security Income Payments to Deceased Beneficiaries and Recipients</i> (A-06-02-12012), October 2002	✓	
OIG, <i>Impact on the Social Security Administration's Programs When Auxiliary Beneficiaries Do Not Have Their Own Social Security Numbers</i> (A-01-02-22006), September 2002		✓
OIG, <i>Effectiveness of the Social Security Administration's Death Termination Process</i> (A-09-02-22023), September 2002		✓
GAO, <i>SSA Disability: Enhanced Procedures and Guidance Could Improve Service and Reduce Overpayments to Concurrent Beneficiaries</i> (GAO-02-802), September 2002	✓	
OIG, <i>Controls Over the Social Security Administration's Processing of Death Records from the Department of Veterans Affairs</i> (A-01-01-21038), February 2002	✓	
OIG, <i>Payments Made to Selected Representative Payees after the Deaths of Social Security Beneficiaries</i> (A-13-01-21028), September 2001	✓	

<sup>1</sup> Copies of these reports can be found on our website at <http://www.socialsecurity.gov/oig> and GAO's website at <http://www.gao.gov>.

Report Title	Fully Agreed or No Recommendations	Partially Agreed
OIG, <i>Unresolved Death Alerts Over 120 Days Old</i> (A-09-00-10001), August 2001		✓
OIG, <i>Old-Age, Survivors and Disability Insurance Benefits Paid to Deceased Auxiliary Beneficiaries</i> (A-01-00-20043), June 2001	✓	
GAO, <i>Workers' Compensation: Action Needed to Reduce Payment Errors in SSA Disability and Other Programs</i> (GAO-01-367), May 2001		✓
OIG, <i>Payments to Young Spouses and Surviving Spouses Without Child In-Care</i> (A-09-00-10002), March 2001	✓	
OIG, <i>Payments to Child Beneficiaries Age 18 or Over Who Were Neither Students Nor Disabled</i> (A-09-99-63008), May 2000	✓	
OIG, <i>Workers' Compensation Unreported by Social Security Beneficiaries</i> (A-04-98-64002), December 1999	✓	
OIG, <i>School Attendance by Child Beneficiaries Over Age 18</i> (A-09-97-61007), September 1999	✓	
OIG, <i>Waivers Granted for Title II Overpayments Exceeding \$500</i> (A-09-97-61005), September 1999		✓
OIG, <i>Social Security Administration's Controls over Retirement, Survivors and Disability Insurance Installments Payments</i> (A-01-96-61038), September 1998		✓
OIG, <i>Effects of State Awarded Workers' Compensation Payments on Social Security Benefits</i> (A-04-96-61013), September 1998		✓
GAO, <i>Social Security: Better Payment Controls for Benefit Reduction Provisions Could Save Millions</i> (GAO/HEHS-98-76), April 1998	✓	
OIG, <i>Payment of Benefits to Individuals Who Do Not Have Their Own Social Security Number</i> (A-04-96-42000), February 1998		✓
OIG, <i>Effectiveness of the Social Security Administration's Procedures to Process Prisoner Information, Suspend Payments and Collect Overpayments</i> (A-01-96-61083), June 1997	✓	
OIG, <i>Overpayments Incurred by Representative Payees</i> (A-02-96-61202), June 1997		✓
GAO, <i>SSA Overpayment Recovery</i> (GAO/HEHS-96-104R), April 1996	✓	
<b>TOTAL</b>	<b>16</b>	<b>10</b>

## **Classification of Overpayments and Payment Accuracy**

In August 2003, the Office of Management and Budget (OMB) responded to a request from the Social Security Administration (SSA) and the Office of the Inspector General to provide additional guidance on the definition of an erroneous payment. OMB classified the payments into two groups—avoidable and unavoidable.

- **Avoidable:** Payments that should be reflected in the erroneous payment estimate because they could be reduced through changes in administrative actions.
- **Unavoidable:** Payments resulting from legal or policy requirements. These payments should not be considered erroneous.

### **AVOIDABLE OVERPAYMENTS**

SSA defines an overpayment as “...the total amount an individual received for any period which exceeds the total amount which should have been paid for that period.”<sup>1</sup> Certain overpayments in the Old-Age, Survivors and Disability Insurance (OASDI) program are avoidable and may be reduced by the Agency.

According to SSA, the leading causes for OASDI overpayments for Fiscal Years 1998 through 2002 had to do with errors related to substantial gainful activity.<sup>2</sup> To detect unreported work activity, the Agency compares earnings reported to SSA with its benefit rolls.

### **UNAVOIDABLE OVERPAYMENTS**

Certain OASDI overpayments are unavoidable due to the design of the program or existing legislation. Presented below is a list of OASDI overpayments classified as unavoidable.

1. Payments issued after a beneficiary’s death.<sup>3</sup>
2. Payments made based on existing legislation that are later determined to be overpayments. For example, when a beneficiary is no longer considered to be disabled, SSA is required by law to continue to pay them during the appeals process.

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<sup>1</sup> SSA, Program Operations Manual System, section GN 02201.001.

<sup>2</sup> SSA, *Fiscal Year 2002 Title II Payment Accuracy Report*, page 7.

<sup>3</sup> Classified as unavoidable, except for fraud or misuse.

3. Payments made incorrectly due to the design of the OASDI program. For example, SSA is required to make OASDI payments based on estimated earnings.
4. Payments despite medical ineligibility. For example, payments for which a beneficiary would not have been eligible had the law permitted retroactive ineligibility.
5. Payments made in error, but not identified by SSA.<sup>4</sup>
6. Payments made to a beneficiary who alleges non-receipt of a benefit check, but who then cashes both the original and replacement checks.<sup>5</sup>

## OASDI PAYMENT ACCURACY RATES

Each year, SSA reports payment accuracy rates for its OASDI program as well as the amount of actual overpayments identified. For each program, SSA calculates payment accuracy rates based on a detailed analysis of sample cases. Below is a chart showing SSA's payment accuracy rates for the OASDI program.<sup>6</sup>

Fiscal Year	Old-Age and Survivors Insurance	Disability Insurance
1998	99.90%	99.10%
1999	99.80%	99.30%
2000	99.96%	99.62%
2001	99.98%	98.94%
2002	99.89%	99.74%

<sup>4</sup> We are currently conducting an audit entitled, *Undetected Overpayments in the Social Security Administration's Disability Programs (A-01-04-24065)*. We expect to issue this report in Fiscal Year 2005.

<sup>5</sup> Classified as unavoidable, except for fraud or misuse.

<sup>6</sup> The accuracy rates do not include all types of overpayments, as discussed above.

## Data Matches to Identify and Prevent Overpayments

The table below presents some of the computer matches the Social Security Administration (SSA) performs to identify and prevent overpayments in the Old-Age, Survivors and Disability Insurance (OASDI) program.

<b>Source</b>	<b>Description of Match</b>
Federal, State and Local Correctional Institutions	Identifies and suspends OASDI benefits to individuals convicted of a crime and confined for more than 30 continuous days in an institution.
State and Federal Agencies	Detects unreported deaths by matching State and Federal agency death records against OASDI benefit records.
Department of Labor	Detects and prevents disability overpayments. Also, verifies workers' compensation offset amounts for OASDI cases.
Office of Personnel Management	Identifies OASDI disability beneficiaries with Civil Service disability benefits and enables SSA to identify auxiliary OASDI beneficiaries who are also receiving Federal Government pension benefits as retired civil service employees.
Centers for Medicare and Medicaid Services	Enables SSA to determine whether OASDI beneficiaries who have not used Medicare for a year are deceased.
Employers Reporting Employee Wages to SSA	Allows SSA to post employee wages to its Master Earnings File and identify which beneficiaries appear to be working based on those wages.

## Legislation Impacting OASDI Overpayments

Several laws have been passed that authorized the Social Security Administration (SSA) to use new overpayment collection tools to improve the recovery of Old-Age, Survivors and Disability Insurance (OASDI) overpayments. The following table describes these collection tools as well as the time period between the year the Agency was authorized to use the tool and the year the tool was actually implemented.

OASDI Overpayment Collection Activities			
Legislation	Collection Tool	Effective	Implemented
Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101-508, enacted November 5, 1990)	Tax Refund Offset (31 U.S.C. § 3720A and 42 U.S.C. § 404(a)(1))	January 1991	January 1992
Social Security Domestic Employment Reform Act of 1994 (Pub. L. No. 103-387, enacted October 22, 1994)	Administrative Offset (42 U.S.C. § 404(f)(1) and 31 U.S.C. § 3716)	October 1994	January 1998
	Private Collection Agencies (Treasury's cross servicing program) (42 U.S.C. § 404(f)(1) and 31 U.S.C. § 3718)	October 1994	Not in Use <sup>1</sup>
	Report Delinquent Overpayments to Credit Bureaus (42 U.S.C. § 404(f)(1) and 31 U.S.C. § 3711(e))	October 1994	January 1998

<sup>1</sup> Although this collection tool is currently not in use, SSA plans to evaluate and possibly implement this tool in the future.

<b>OASDI Overpayment Collection Activities</b>			
<b>Legislation</b>	<b>Collection Tool</b>	<b>Effective</b>	<b>Implemented</b>
Debt Collection Improvement Act of 1996 (Pub. L. No. 104-134, enacted April 26, 1996)	Administrative Wage Garnishment (31 U.S.C. § 3720D)	April 1996	Planned <sup>2</sup>
	Federal Salary Offset (42 U.S.C. § 404(f)(1) and 5 U.S.C. § 5514)	April 1996	Not in Use <sup>1</sup>
	Levy Interest (42 U.S.C. § 404(f)(1) and 31 U.S.C. § 3717)	April 1996	Not in Use <sup>1</sup>
Foster Care Independence Act of 1999 (Pub. L. No. 106-169, enacted December 14, 1999)	Representative Payee Liability (42 U.S.C. § 404(a)(2))	December 2000	December 2000
Social Security Protection Act of 2004 (Pub. L. No. 108-203 § 210, enacted March 2, 2004)	Cross Program Recovery (42 U.S.C. § 1320b-17)	March 2004	Not in Use <sup>3</sup>

<sup>2</sup> SSA issued final rules on December 23, 2003 in the *Federal Register* establishing new regulations to collect delinquent OASDI overpayments by garnishing the wages of public and private sector employees. These regulations, effective January 22, 2004, allow SSA to garnish up to 15 percent of employees' wages until overpayments are fully recovered (20 C.F.R. §§ 422.401 to 422.445).

<sup>3</sup> Prior to the enactment of the Social Security Protection Act of 2004, the Agency could collect OASDI overpayments from an individual's Supplemental Security Income payments at the individual's request. The Social Security Protection Act of 2004 eliminates the requirement to obtain the individual's consent.

## Agency Comments



## SOCIAL SECURITY

MEMORANDUM

33234-24-1132

Date: July 30, 2004

Refer To: S1J-3

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

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

Subject: Office of the Inspector General (OIG) Draft Report "Overpayments in the Old-Age, Survivors, Disability Insurance Program" (A-01-04-24023)--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 you have any questions. Staff inquiries may be directed to 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, "OVERPAYMENTS IN THE OLD-AGE, SURVIVORS, DISABILITY INSURANCE PROGRAM" (OASDI) (A-01-04-24023)**

Thank you for the opportunity to review and comment on the subject draft report. We appreciate the report's acknowledgment of the significant efforts we have made over the past several years to identify, prevent and recover OASDI overpayments. As previously reported, we have been fully engaged in implementing numerous debt collection and cash management improvements since the implementation of tax refund offset in 1992.

On page 5, we agree with the overpayment statistic that shows that, between fiscal years (FY) 1996 and 2002, \$14.0 billion in OASDI overpayments were subject to recovery. We are pleased that the report notes that over half of that amount has already been recovered (\$8.1 billion) and that we were pursuing collection of an additional \$3.8 billion at the end of FY 2002. If all funds identified as recoverable are collected (\$11.9 billion), we will have achieved an 85 percent collection rate for these overpayments.

Also on page 5, regarding the statement that we could realize additional savings if we decreased the amount of overpayments waived or deemed uncollectible, our position regarding waivers is that under due process, and in accordance with sections 204(b) and 1631(b)(1)(B) of the Social Security Act, debtors have a right to request waiver of an overpayment. If the debt meets the tiered waiver criteria, it must be deemed "waived" and may no longer be pursued from the individual requesting the waiver. This is our position for all waivers under both Titles II and XVI. Furthermore, we take exception with the projection that we could realize an additional \$140 million in program savings if we reduced the number of waivers by 10 percent, as neither this, nor any other review, found that we incorrectly approved 10 percent or any other percentage of waiver requests.

Regarding uncollectible debt, the government wide Federal Claims Collection Standards (FCCS) (on which pertinent sections of our overpayment regulations are based), provide for deeming overpayments as uncollectible by conditional termination of collection efforts when debts reach certain statuses. In accordance with FCCS, we conditionally write off debts when the debtor can no longer be located, when the cost of collection exceeds the recoverable amount, and when the person is unable or unwilling to repay. The report should note that these write offs are conditional and that we still reserve the right to collect the debt if circumstances change (for example, the person becomes re-entitled). When a debt is conditionally written off, it is thus removed from the Agency's accounts receivable balance. However, we continue recovery efforts of qualified written-off debts via the Treasury Offset Program, credit bureau reporting and mandatory cross program recovery. If these efforts result in a collection or the individual becomes reentitled to benefits, SSA will reestablish the debt.

To address the leading cause of Title II overpayments (substantial gainful activity), we are currently pursuing the possibility of using earnings posted to the Master Earnings File as a basis to immediately withhold a disabled beneficiary's benefits. Currently, we have to wait for extensive development (which can take several months) to be done before we withhold benefits

based on earnings. By withholding benefit payments up front, we anticipate additional savings to our programs as many overpayments will be avoided.

As part of our ongoing stewardship responsibilities, our 2003 Performance and Accountability Report includes information on the strategy we implemented for improving the management of debt, including: 1) the identification of debtors whose debts have been determined to be uncollectible and are now receiving benefits; 2) the development of a scoring system that prioritizes unresolved debts to bring debt workloads into balance with operational resources and to ensure that resources are expended on the debt with the best potential for recovery; and 3) a connection between Agency level performance goals related to debt resolution and Payment Service Center, Field Office and Teleservice Center performance measures. Operating components now have tools such as the “Overpayment Wizard” that organizes debt information more efficiently for individual case processing and better workload management.

Regarding the narrative on Administrative Sanctions (page 3 of the draft report), we would like to emphasize that SSA was instrumental in the legislation that provided this new tool and we fully support the expansion of its use. In recent months, our efforts have included the following:

1) Incorporating Administrative Sanctions into the Cooperative Disability Investigations (CDI) Program - Effective February 2004, procedures were introduced in POMS DI 11006.035 for CDI units to refer potential administrative sanction cases to the local Field Office (FO) for further consideration and appropriate development. Cases sent to the CDI units contain potential fraud or similar fault issues, and are subject to criminal/civil prosecution or civil monetary penalty. Effective with the above procedures, these cases should now also be considered for administrative sanctions.

2) Electronically Identifying Cases Upon Referral to OIG as Potential Administrative Sanction Cases to Help Expedite the Decision Process - Effective June 14, 2004, a new indicator was added to the electronic e-8551 programmatic referral form to help earmark it as a potential administrative sanction case, and

3) Identifying Specific Situations Where Administrative Sanctions Should Be Considered – SSA issued a national message in June 2004, highlighting the use of administrative sanctions in double check negotiation situations.

We believe that our past performance, current efforts, and our proactive efforts to identify opportunities to enhance internal processes to prevent overpayments, demonstrates our commitment to ensuring that debt collection efforts are administered efficiently. Our response to the recommendation and some technical comments are provided below.

### **Recommendation 1**

SSA should continue to evaluate the recovery tools that have not yet been implemented, but which were authorized by the Domestic Employment Reform Act and the Debt Collection Improvement Act (such as Federal salary offset, charging interest, and using private collection agencies).

### **Response**

We agree. We are currently developing functional requirements for Administrative Wage Garnishment and drafting regulations for Federal Salary Offset. We will continue to evaluate, prioritize, and implement additional recovery tools where appropriate.

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

## **OIG Contacts and Staff Acknowledgments**

### ***OIG Contacts***

Judith Oliveira, Director, (617) 565-1765

### ***Acknowledgments***

In addition to those named above:

Jeffrey Brown, Auditor

Frank Salamone, Auditor

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-01-04-24023.

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Social Security Advisory Board

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

The Office of the Inspector General (OIG) is comprised of our Office of Investigations (OI), Office of Audit (OA), Office of the Chief Counsel to the Inspector General (OCCIG), and Office of Executive Operations (OEO). 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 Executive Operations**

OEO supports OIG by providing information resource management and systems security. OEO also coordinates OIG's budget, procurement, telecommunications, facilities, and human resources. In addition, OEO 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.