
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**H-1B WORKERS'
USE OF SOCIAL SECURITY
NUMBERS**

September 2011

A-08-11-11114

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.



SOCIAL SECURITY

MEMORANDUM

Date: September 7, 2011

Refer To:

To: The Commissioner

From: Inspector General

Subject: H-1B Workers' Use of Social Security Numbers (A-08-11-11114)

OBJECTIVE

Our objective was to assess H-1B workers' use of Social Security numbers (SSN).

BACKGROUND

Each year, the Department of State (State) issues thousands of H-1B visas for temporary workers. Employers use the H-1B visa program to employ foreign workers in jobs that require theoretical or technical expertise in a specialized field. Specialty occupations include, but are not limited to, architect, engineer, computer programmer, accountant, doctor, and college professor. An individual in H-1B status may only work for his/her sponsoring employer after approval by the Departments of Labor and Homeland Security (DHS). The original period of admission for an H-1B nonimmigrant is 3 years, with optional extensions that cannot exceed 3 additional years. Appendix B includes additional background information.

Under the *Social Security Act*, the Social Security Administration (SSA) assigns SSNs to all nonimmigrants, including H-1B workers, who enter the United States with work authorization.¹ To obtain an SSN, H-1B workers must provide SSA acceptable proof of age, identity, and lawful alien status/current authority to work.² Wages and compensation paid to H-1B workers for services performed are generally taxable and reportable on a *Wage and Tax Statement* (Form W-2).³ SSA posts reported earnings to its Master Earnings File.⁴

¹ *Social Security Act* § 205(c)(2)(B)(i)(I), 42 U.S.C. § 405(c)(2)(B)(i)(I).

² SSA, POMS, RM 10210.020(B) (effective March 3, 2011).

³ Internal Revenue Service, Publication 519, *U.S. Tax Guide for Aliens*, Chapter 2 and SSA, POMS, RM 01105.003C.2 (effective January 17, 1997).

⁴ SSA, POMS, RS 01404.003A.1 (effective April 1, 2010).

To accomplish our objective, we identified a population of 38,546 nonimmigrants to whom SSA had assigned original SSNs based on evidence they were H-1B workers from January 1 through December 31, 2007. From this population, we randomly selected a sample of 200 records to assess H-1B workers' use of SSNs. Appendix C includes a detailed description of our scope and methodology, and Appendix D includes our sample results.

A recent DHS study⁵ reported that about 21 percent of the H-1B petitions it examined involved fraud or technical violations. The types of fraud identified included counterfeit or forged documents, storefront or shell businesses, no bona fide job offer, and misrepresentation of H-1B status. As such, DHS clarified field guidance and instituted employer site visits to reduce fraud and abuse in the H-1B visa program.⁶ Additionally, the Department of Justice pursued criminal charges in multiple H-1B fraud cases. In one case, six individuals pled guilty to participating in a criminal conspiracy with the owner of a consulting firm to defraud the United States by obtaining H-1B visas for ineligible or unqualified individuals. All six individuals admitted they had secured cash-paying jobs from unapproved employers instead of working for the consulting firm. In another case, U.S. Immigration and Customs Enforcement agents arrested 11 individuals accused of H-1B visa fraud. This investigation involved companies that did not always have jobs available for H-1B workers, which placed the workers in non-pay status after they arrived in the United States. These companies and workers also allegedly submitted false statements and documents to support their H-1B visa petitions. Because the subject of this report involves immigration enforcement and visa-related issues, we plan to share our report with the DHS and State Offices of Inspector General.

RESULTS OF REVIEW

Based on the results of our review, we estimate about 7,131 (18 percent) of the 38,546 H-1B workers to whom SSA assigned an SSN in 2007 may have used their SSNs for purposes other than to work for their approved employer. This estimate includes about 4,433 (11 percent) H-1B workers who had posted wages during our audit period from an employer other than their DHS-approved employer. This estimate also includes about 2,698 (7 percent) H-1B workers who had no posted wages from 2007 through 2009. To enhance SSN integrity, we believe SSA should contact DHS to offer to establish a data match agreement to assist DHS' efforts to identify and reduce the number of H-1B workers who may use their SSNs for purposes other than to work for their approved employer.

⁵ U.S. Citizenship and Immigration Services, Office of Fraud Detection and National Security, *H-1B Benefit Fraud & Compliance Assessment*, p. 15, September 2008.

⁶ *H-1B Visas: Designing a Program to Meet the Needs of the U.S. Economy and U.S. Workers: Hearing Before The House Committee on the Judiciary, Subcommittee on Immigration Policy and Enforcement*, 112th Cong. (2011) (written testimony of Donald Neufeld, Associate Director, Service Center Operations Directorate, U.S. Citizenship and Immigration Services).

SOME H-1B WORKERS MAY HAVE USED SSNs FOR PURPOSES OTHER THAN TO WORK FOR THEIR APPROVED EMPLOYERS

Of the 38,546 H-1B workers to whom SSA assigned an SSN from January 1 through December 31, 2007, we estimate SSA assigned about 7,131 (18 percent) to H-1B workers who may have used their SSNs for purposes other than to work for their approved employer. This estimate includes H-1B workers who had posted wages during our audit period from an employer other than their DHS-approved employer (unapproved employer), and those who had no posted wages from 2007 through 2009.

We identified 23 instances in which H-1B workers had posted wages from unapproved employers during our audit period. Based on these findings, we estimate about 4,433 (11 percent) of the 38,546 H-1B workers to whom SSA had assigned an SSN in 2007 had posted wages from unapproved employers. Although we acknowledge that an H-1B worker can change employers, the new employer must file a petition with DHS to change previously approved employment. However, DHS had no record that the new employers had filed petitions on behalf of these H-1B workers. As such, some of these H-1B workers may have violated their H-1B status. Although most H-1B workers had posted wages from employers that appeared to be in fields associated with technical or specialty occupations, we identified one H-1B worker who had earnings from a restaurant and janitorial service.

We also identified 14 instances in which H-1 B workers had no posted wages from 2007 through 2009. Based on these findings, we estimate about 2,698 (7 percent) of the 38,546 H-1B workers to whom SSA assigned an SSN in 2007 had no posted wages from 2007 through 2009. To determine why some H-1B workers did not have wages posted to their earnings record, we attempted to contact their employers. Six employers we contacted told us the H-1B worker never worked for their organization, although they acknowledged they were the sponsoring employer. For example, one employer told us his company decided not to employ the H-1B worker after finding the individual did not meet the position requirements during orientation. In addition, three employers told us they had no record of the H-1B workers, although DHS records indicated they were the sponsoring employers. Despite numerous attempts, we were unable to contact five employers. These scenarios help explain why some H-1B workers in our sample had no earnings posted to their SSA records.

We also contacted personnel at the four field offices that were among the top offices in processing H-1B worker SSN applications to learn about their experiences with H-1B workers. Field office personnel told us H-1B workers should have wages posted to their earnings records because they are coming to the United States to work. However, one field office manager told us that some H-1B workers acknowledged they would not receive wages in the United States, because their employers would pay them in their home countries. This scenario raises the question of whether all H-1B workers need SSNs if their employers do not report wages. The field office manager also told us her office had concerns about some H-1B workers who admitted they planned to work for an employer other than the authorized employer listed on their visa.

OPPORTUNITY TO REDUCE SSA'S RISK FROM H-1B WORKERS WHO MAY USE THEIR SSNs FOR PURPOSES OTHER THAN TO WORK FOR THEIR APPROVED EMPLOYERS

Unauthorized work by H-1B workers weakens SSN integrity and may require that the Agency pay future benefits to individuals who misuse an SSN to work in the United States. In addition, H-1B workers who do not work for their approved employers could pose a risk to homeland security because they may obtain employment in sensitive areas.

SSA has an opportunity to enhance SSN integrity and reduce its risk from H-1B workers who misuse their SSNs. We believe SSA should contact DHS to offer to establish a data match agreement to assist DHS' efforts to identify and reduce the number of H-1B workers who may use their SSNs for purposes other than to work for their approved employer. In today's environment, it is increasingly important that agencies share information to prevent abuses of government programs.

CONCLUSION AND RECOMMENDATION

Based on the results of this audit, we estimate that thousands of H-1B workers may have used their SSNs for purposes other than to work for their approved employers. While we recognize SSA is not responsible for immigration enforcement, unauthorized work by nonimmigrants impacts the Agency by weakening SSN integrity. We recognize there is no easy way to fix this problem. However, we believe SSA has an opportunity to help address unauthorized work by nonimmigrants. Accordingly, we recommend that SSA contact DHS to offer to establish a data match agreement to assist DHS' efforts to identify and reduce the number of H-1B workers who may use their SSNs for purposes other than to work for their approved employer.

AGENCY COMMENTS

SSA agreed with our recommendation. The Agency's comments are included in Appendix E.



Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Background

APPENDIX C – Scope and Methodology

APPENDIX D – Sample Results

APPENDIX E – Agency Comments

APPENDIX F – OIG Contacts and Staff Acknowledgments

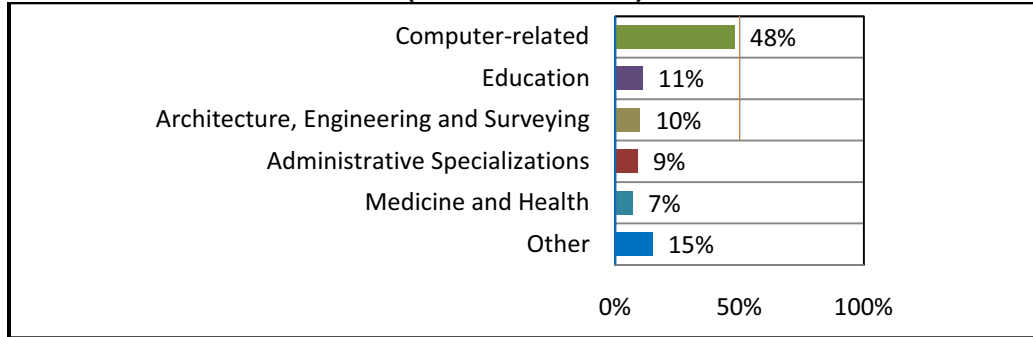
Acronyms

| | |
|--------|--|
| DHS | Department of Homeland Security |
| FY | Fiscal Year |
| H-1B | Classification for a Nonimmigrant Temporary Worker |
| POMS | Program Operations Manual System |
| SSA | Social Security Administration |
| SSN | Social Security Number |
| State | Department of State |
| U.S.C. | United States Code |
| USCIS | United States Citizenship and Immigration Service |

Background

The computer-related occupation group had the largest number of H-1B petitions from Fiscal Years (FY) 2007 through 2009, as shown in Figure B-1.

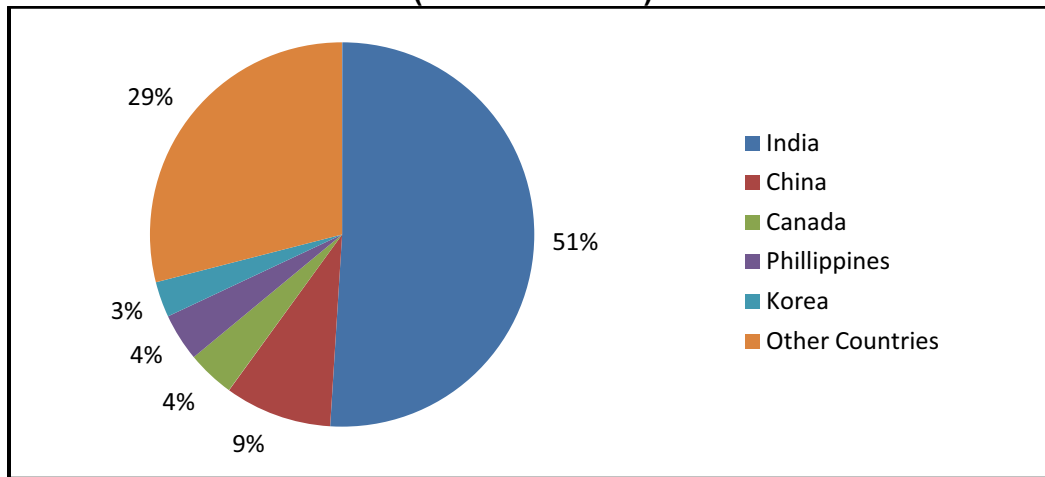
Figure B-1: H-1B Petitions Approved by Major Occupation Group (FYs 2007-2009)



Source: U.S. Citizenship and Immigration Services (USCIS)¹

As shown in Figure B-2, the largest percentages of approved petitions for H-1B workers for FYs 2007 through 2009 were born in India and China.

Figure B-2: H-1B Petitions Approved by Country of Birth (FYs 2007-2009)



Source: USCIS²

¹ USCIS, *Characteristics of Specialty Occupation Workers (H-1B), Fiscal Year 2008, Annual Report, October 1, 2007-September 30, 2008*, p. 11, May 1, 2009 and USCIS, *Characteristics of H-1B Specialty Occupation Workers, Fiscal Year 2009 Annual Report, October 1, 2008-September 30, 2009*, p. 11, April 15, 2010.

² Id. at p. 6.

Scope and Methodology

To accomplish our objective, we

- reviewed pertinent sections of the Social Security Administration's (SSA) policies and procedures, applicable laws, and regulations;
- reviewed prior reports issued by the Department of Homeland Security and Government Accountability Office;
- obtained a data extract of 38,546 original Social Security numbers assigned to individuals with H-1B visas in the Modernized Enumeration System Transaction History File's evidence field (based on evidence recorded by field office staff during the Social Security number application process) from January 1 through December 31, 2007 and randomly selected a sample of 200 records from our data extract;
- reviewed Numident records and analyzed Detailed Earnings Queries for 2007 through 2009;
- contacted the Departments of Homeland Security and State to obtain information on the approved employer and status of selected H-1B workers in our sample. We did not assess the accuracy of their records;
- contacted selected SSA field offices to discuss H-1B enumeration issues; and
- attempted to contact employers to determine why some H-1B workers did not have wages posted to their SSA earnings record.

Our review of internal controls was limited to gaining an understanding of wages posted in the Master Earnings File. We performed our audit at the Office of Audit in Birmingham, Alabama. The data were sufficiently reliable to meet our objective.

The SSA entity audited was the Office of the Deputy Commissioner for Retirement and Disability Policy. We conducted this performance audit from February through May 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Sample Results

Table D-1: Sample Results and Projection of H-1B Workers' Posted Wages/Earnings for 2007 Through 2009

| Sample Attribute Appraisal | |
|--|--------|
| Total Population of Original Social Security numbers (SSN) Assigned to H-1B Workers from January 1 Through December 31, 2007 | 38,546 |
| Sample Size | 200 |
| Number of Instances in Sample Where H-1B Workers May Have Used Their SSN for Purposes Other Than Working for Their Approved Employer | 37 |
| Attribute Projections | |
| Number of Instances in Sample Where H-1B Workers Had Posted Wages from Unapproved Employers | 23 |
| Estimate of Instances in Population Where H-1B Workers Had Posted Wages from Unapproved Employers | 4,433 |
| Projection-Lower Limit | 3,083 |
| Projection-Upper Limit | 6,123 |
| Attribute Projections | |
| Number of Instances in Sample Where H-1B Workers Did Not Have Posted Wages for 2007 Through 2009 | 14 |
| Estimate of Instances in Population Where H-1B Workers Did Not Have Posted Wages for 2007 Through 2009 | 2,698 |
| Projection-Lower Limit | 1,653 |
| Projection-Upper Limit | 4,131 |

Projections made at the 90-percent confidence level.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: September 7, 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, "H-1B Workers' Use of Social Security Numbers"
(A-08-11-11114)--INFORMATION

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

Please let me know if we can be of further assistance. You may direct staff inquiries to Frances Cord at (410) 966-5787.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT
REPORT, "H-1B WORKERS' USE OF SOCIAL SECURITY NUMBERS"
(A-08-11-11114)**

Recommendation 1

Contact DHS to offer to establish a data match agreement to assist DHS' efforts to identify and reduce the number of H-1B workers who may use their Social Security number (SSN) for purposes other than to work for their approved employer.

Response

We agree. We maintain a close working relationship with the Department of Homeland Security (DHS) and collaborate on a number of projects. We will contact DHS to offer our support in DHS's enforcement of its H-1B visa program.

However, we reject the contention that unauthorized work by nonimmigrants weakens SSN integrity. As required by the law, we follow rigorous evidentiary and verification policies and procedures before assigning SSNs and issuing Social Security cards to nonimmigrants.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Kimberly A. Byrd, Director

Jeff Pounds, Audit Manager

Acknowledgments

In addition to those named above:

Kathy Yawn, Senior Auditor

Joseph Cross, IT Specialist

For additional copies of this report, please visit our Website at www.socialsecurity.gov/oig or contact the Office of the Inspector General's Public Affairs Staff Assistant at (410) 965-4518. Refer to Common Identification Number A-08-11-11114.

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

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Chairman and Ranking Minority Member, Committee on Finance

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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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OI conducts investigations related to fraud, waste, abuse, and mismanagement in SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, third parties, or SSA employees performing their official duties. This office serves as liaison to the Department of Justice on all matters relating to the investigation of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

Office of the Counsel to the Inspector General

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.

Office of External Relations

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