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CEDAR RAPIDS, IA 52401-2101  
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# United States Senate

CHARLES E. GRASSLEY

PRESIDENT PRO TEMPORE

WASHINGTON, DC 20510-1501

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February 6, 2020

## VIA ELECTRONIC SUBMISSION

The Honorable Andrew Saul  
Commissioner  
Social Security Administration  
Washington, DC

The Honorable Chad Wolf  
Acting Secretary  
Department of Homeland Security  
Washington, DC

Dear Commissioner Saul and Acting Secretary Wolf:

I am writing to you regarding the Social Security Administration (SSA) Office of the Inspector General (OIG) Audit Report issued in September 2018.<sup>1</sup> I am concerned that the SSA is not providing information to the Department of Homeland Security (DHS) as required in Section 414 of the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)*. The IIRIRA requires the SSA to provide certain information to DHS regarding noncitizens working on and reporting wage earnings to non-work social security numbers (SSNs).<sup>2</sup> That information, referred to as the NWALIEN file, includes the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. I will keep the focus of this correspondence to only this one aspect of the OIG report.

Despite the statutory information sharing requirement found in Section 414 of the IIRIRA, the OIG report states that SSA has failed to comply with that requirement since 2007, when an information sharing agreement between SSA and DHS “expired.”<sup>3</sup> The lapse of an

<sup>1</sup> See U.S. Soc. Sec. Admin., Office of the Inspector Gen., Audit Report No. A-03-18-50537, *Employers Reporting Wages with Nonwork Social Security Numbers* (Sept. 2018), <https://oig.ssa.gov/sites/default/files/audit/full/pdf/A-03-18-50537.pdf> [hereinafter OIG Report].

<sup>2</sup> Pub. L. No. 104-208, Div. C, 110 Stat. 3009-546 (1996); see also 8 U.S.C. §1360(c)(2).

<sup>3</sup> OIG Report, *supra* note 1, at 2-3.

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information sharing agreement is no excuse to allow the integrity of our Social Security system to be diminished.

Furthermore, I was also disturbed to read SSA's assertion in the report that it could not provide DHS with the NWALIEN file in the absence of an information sharing agreement "because the creation of the NWALIEN file was not part of its core mission work for which the Agency received appropriations."<sup>4</sup> In the OIG report, the SSA also argued that "DHS had to reimburse SSA for the full cost it incurred in furnishing the NWALIEN file."<sup>5</sup>

I find these assertions concerning in part because, until recently, the SSA's own public-facing Program Operations Manual System (POMS) website stated that requests from DHS related to the earnings of aliens with non-work SSNs were considered to be "program-related" since that information "helps us protect the integrity of the SSN issuance program and detect SSN misuse."<sup>6</sup> It went on to state that "We do not charge fees for providing information for program-related purposes."<sup>7</sup> For reasons that are not clear, it appears that the SSA changed its POMS website on October 15, 2019, to remove any reference to NWALIEN file information being program-related or its importance to protecting the integrity of the Social Security system.<sup>8</sup>

The use of non-work SSNs to obtain employment and work illegally is not an insignificant problem. The OIG report stated that approximately 364,000 people with non-work SSNs reported billions of dollars in wages over a 3-year tax period from 2014-2016.<sup>9</sup> It is the responsibility of DHS to investigate aliens who are in violation of the laws of the United States, including those working without authorization.

The OIG report states that the SSA agreed with the OIG's recommendation that it work with DHS to develop an information sharing agreement to share the NWALIEN file as required by Section 414 of the IIRIRA.<sup>10</sup> We are now 16 months removed from the date on which the OIG report was published and on which the SSA agreed to work with DHS. I understand that Commissioner Saul was not installed as SSA Commissioner until June of last year, approximately nine months after the SSA OIG report was issued. However, this is an opportune time for SSA, under new leadership, to resolve this issue.

It is the responsibility of the SSA and DHS to come to terms on how to comply with the law. It is also imperative that the SSA and DHS renew statutorily-required information sharing in order to ensure the security and integrity of the Social Security system for all Americans and lawful residents.

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<sup>4</sup> See *id.* at 3.

<sup>5</sup> *Id.*

<sup>6</sup> See U.S. Soc. Sec. Admin., Program Operations Manual System, GN 03313.095, *Disclosure to the Department of Homeland Security (DHS)* (Apr. 26, 2019), <https://web.archive.org/web/20190513222651/https://secure.ssa.gov/poms.nsf/lnx/0203313095>.

<sup>7</sup> *Id.*

<sup>8</sup> See U.S. Soc. Sec. Admin., Program Operations Manual System, GN 03313.095, *Disclosure to the Department of Homeland Security (DHS)* (Oct. 15, 2019), <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203313095>.

<sup>9</sup> See OIG Report, *supra* note 1, at 4.

<sup>10</sup> *Id.*

Please provide written responses no later than February 20, 2020, regarding the following.

1. When will SSA once again begin to transmit NWALIEN file information to DHS as required by federal law? When will a new data exchange agreement between SSA and DHS be finalized and implemented?
2. According to the OIG report, SSA took the position that it could not provide the NWALIEN file to DHS after 2007 in the absence of an information sharing agreement and unless DHS reimbursed it for the full cost of producing and furnishing the file. If that is the case, why did SSA's own public-facing Program Operations Manual System (POMS) website state the opposite until four months ago?
3. Have DHS or its predecessor departments and agencies ever been required to reimburse SSA for the cost of producing the NWALIEN file?
4. Why were the sections of the SSA POMS website that address disclosure of non-work SSN earnings information to DHS (GN 03313.095) changed on October 15, 2019?

Moving forward, I would also like to have regular status updates on the data exchange agreement. Again, the integrity and security of our Social Security program is of utmost importance.

Thank you in advance for your prompt cooperation with this request. If you have questions, please contact my immigration counsel, Drew Robinson, at (202) 224-5225.

Sincerely,



Charles E. Grassley  
Chairman  
Senate Finance Committee