



Office of the Inspector General
SOCIAL SECURITY ADMINISTRATION

Management Advisory Report

Social Security Administration's
Policies Related to Outside
Employment

022314 June 2024



Office of the Inspector General

SOCIAL SECURITY ADMINISTRATION

MEMORANDUM

Date: June 3, 2024

Refer to: 022314

To: Martin O'Malley
Commissioner

From: Gail S. Ennis *Gail S. Ennis*
Inspector General

Subject: Social Security Administration's Policies Related to Outside Employment

The attached final report presents the results of the Office of Audit's review. Our objective was to determine whether the Social Security Administration (SSA) oversees its employees' outside employment to mitigate the risk of conflicts of interest and employee misconduct.

This report does not include formal recommendations for corrective action, but it does address risk related to the outside employment of SSA employees we believe warrants the Agency's attention. If you wish to discuss the final report, please call me or have your staff contact Michelle L. Anderson, Assistant Inspector General for Audit.

Attachment

ABBREVIATIONS

C.F.R.	Code of Federal Regulations
OGE	Office of Government Ethics
OIG	Office of the Inspector General
SSA	Social Security Administration
Form SSA-520	<i>Request for Approval of Outside Activity</i>

OBJECTIVE

Our objective was to determine whether the Social Security Administration (SSA) oversees its employees' outside employment to mitigate the risk of conflicts of interest and employee misconduct.

BACKGROUND

Outside Employment

For Federal employees, outside employment includes any form of employment, business relationship, or activity that involves paid or unpaid personal services. While outside employment is generally allowable, certain employees or types of outside employment could be prohibited by law or regulation; present a conflict of interest; or raise a question of impartiality in the performance of Government duties.¹ The *Ethics in Government Act*² requires that senior Federal executives and certain other Federal employees submit annual financial disclosure reports, which includes reporting on any outside employment they have.

Federal agencies can require that employees not covered by the *Act* report outside activities, including employment. Per 5 C.F.R. § 2635.803, "Where it is determined to be necessary or desirable for the purpose of administering its ethics program, the agency shall, by supplemental regulation, require employees or any category of employees to obtain prior approval before engaging in specific types of outside activities, including outside employment."³

SSA employees not covered by the *Ethics in Government Act* do not have to report outside employment, though SSA's policy and annual personnel reminder encourages its employees to do so, and SSA created a form to support such requests.⁴

All of SSA's employees are also required to adhere to the following personnel and limited-use policies:

- Employees must use official duty time to perform official duties.⁵ It would generally be an unlawful and/or unethical conflict of interest for SSA employees to simultaneously work for SSA and a private company during official work hours.
- Employees may not use Government equipment to maintain or support a personal private business, engage in commercial activities, outside employment, business activities (that is,

¹ 18 U.S.C. 203(a). 18 U.S.C. 205. 18 U.S.C. 209. 5 C.F.R. § 2635.101.

² Ethics in Government Act of 1978, Pub. L. No. 95-521 §101, 92 Stat. 1824-1867, p. 57.

³ 5 C.F.R. § 2635.803.

⁴ SSA, Annual Personnel Reminders, Subpart 1.6 (March 2024).

⁵ 5 C.F.R. § 2635.705(a) and SSA, PPM, Telework, ch. S650_1, sec. 5.8 (March 4, 2024).

consulting for pay, sales or administration of business transactions, sale of goods or services) or "for-profit" activities.⁶

Offices of the Inspectors General Reports

Other Offices of the Inspectors General (OIG) have completed investigations that found employees with conflicts related to their outside employment. For example, a Department of Justice OIG investigation concluded that an employee held a full-time outside employment position, while still employed full-time with the OIG and certified having worked full-time in OIG timesheets.⁷ Similarly, a Baltimore City OIG investigation concluded that a Baltimore City employee was simultaneously working for the City and another employer during the same hours.⁸

In addition, a Treasury Inspector General for Tax Administration (TIGTA) investigation identified more systemic concerns when it concluded the Internal Revenue Service did not have processes in place to adequately reduce the risks associated with outside employment. TIGTA identified 167 employees who were potentially engaged in a prohibited employment activity and an additional 2,196 employees who held positions that had a high risk of an actual or perceived conflict of interest as a result of their outside employment. None of these employees had approved outside employment requests.⁹

SCOPE AND METHODOLOGY

We reviewed SSA's outside employment-related policies and procedures. We also reviewed the records of 14 SSA employees investigated by SSA and/or the OIG's Office of Investigations from Fiscal Years 2019 through 2022.¹⁰ These employees had outside employment that created real or apparent conflicts of interest or was performed during the same hours they were working for SSA.

RESULTS OF REVIEW

SSA follows Federal regulations to ensure required employees submit their annual financial disclosure forms (including sections to report outside employment), and those disclosures are reviewed for any conflicts of interest. SSA's guidance on outside employment recommends that

⁶ 5 C.F.R. § 2635.704 and SSA, Policy on Limited Use of Government Office Equipment Including Information Technology (February 26, 2024).

⁷ DOJ, OIG, *Findings of Misconduct by a then OIG Supervisory Employee for Time and Attendance Fraud, Investigative Summary 23-116*, (September 28, 2023).

⁸ City of Baltimore, OIG, *Allegation of simultaneous telework employment, Investigative Report, OIG Case # 21-0049-I*, p.3, (August 24, 2021).

⁹ Treasury Inspector General for Tax Administration, TIGTA, *Processes do not Adequately Reduce the Risk that Outside Employment Activities will Conflict with Employees' Official Duties*. Reference Number: 2019-10-080, p. 3 (September 2019).

¹⁰ OIG employees were excluded from our review.

employees who are not required to submit annual financial disclosures submit outside employment requests, and that they do so before they begin outside employment.

Outside Employment Reporting

Approximately 6 percent of SSA employees filed Forms OGE-278 (*Executive Branch Personnel Public Financial Disclosure Report*), or OGE-450 (*Confidential Financial Disclosure Report*), based on their position. Both Forms include sections that require employees to disclose outside employment and activities.¹¹ Employees submit the Forms annually. Ethics attorneys in SSA's Office of General Counsel review the Forms for any conflicts of interests, including conflicts related to the employee's official duties and any outside employment and activities they have. The remaining approximate 94 percent of SSA's employees did not file these financial disclosure forms.

SSA recommends—but does not require—that employees complete Form SSA-520 (*Request for Approval of Outside Activity*) before they start any outside employment. These employees may choose to complete and submit a Form SSA-520 to their first-line supervisor for review and their second-line supervisor for approval. Supervisors are directed to store and retain approved or denied forms in accordance with the appropriate retention schedule.

We asked SSA why it did not require all employees to report their outside employment. SSA stated it would be inefficient to require that all employees report outside employment because many positions do not create any ethical risks to the Agency. When we asked SSA to share with us the risk assessment it used to support its determination, SSA replied that it had not conducted a formal risk assessment.

Employee Conflicts and Misconduct Related to Outside Employment

To help quantify the risks associated with employees with outside employment, we requested from SSA and the OIG's Office of Investigations any known cases of employees who were found to have conflicts or who had engaged in misconduct based on their outside employment. They provided us 14 cases that covered investigations from Fiscal Year's 2019 through 2022.¹² These investigations covered SSA employees who were not required to report their outside employment and who had conflicts or misconduct related to it. Some examples of the cases follow:

- An employee accessed an SSA database for records that had no identifiable connection to the employee's assigned work. SSA determined the employee was accessing SSA systems

¹¹ 5 C.F.R. § 2634.104(a) Title I of the Act requires that high-level Federal officials disclose publicly their personal financial interests. Title I also authorizes the Office of Government Ethics to establish a confidential (nonpublic) financial disclosure system for less senior executive branch personnel in certain designated positions, to facilitate internal agency conflict-of-interest review.

¹² SSA provided us with 10 cases involving outside employment activities between Fiscal Years 2019 and 2022. Our Office of Investigations provided us with an additional 4 cases involving outside employment activities between Fiscal Years 2018 through 2022.

over a 3-year period to provide personally identifiable and Federal tax information to his outside employer for monetary gain.¹³

- A third party reported to the OIG's Office of Investigations that an employee engaged in outside employment during SSA duty time. While the employee submitted a Form SSA-520, our investigators found evidence that the employee's outside employment appeared to be a conflict of interest, and that the employee inappropriately used Government equipment for outside employment.¹⁴
- An employee was found to have used multiple leave categories for more than 2 years to manage a personal business. According to SSA, the employee used Family and Medical Leave, which should be used to attend to, or assist, sick family members with medical appointments, not to work on personal business.¹⁵ In addition, the employee inappropriately used their Government laptop and email address for their business.

In 8 of the 10 cases SSA provided and 3 of the 4 cases the OIG's Office of Investigations provided, the employees did not report their outside employment to SSA before they engaged in it.

Conclusion

While SSA follows Federal regulations to review the financial disclosure forms of employees who are required to file them, it has not calculated the risks associated with its voluntary reporting process of outside employment for the approximate 94 percent of its workforce. SSA and the OIG Office of Investigations identified a relatively small number of SSA employees with conflicts or misconduct related to outside employment. Having not completed a risk assessment or focused analysis of employees with outside employment, SSA cannot be certain whether those cases represent the totality of conflicts and misconduct associated with employees or if it has adequately mitigated the risks associated with employees with outside employment.



Michelle L. Anderson
Assistant Inspector General for Audit

¹³ The investigation substantiated the allegation that the employee improperly accessed information in the SSA database and found the employee disclosed the information for personal gain. Prior to the employee's resignation, our Office of Investigation initiated legal action where the employee entered a guilty plea for bribery of a public official. The court sentenced the employee to 2 years' probation and imposed a \$500 fine.

¹⁴ SSA took administrative action against the employee for systems access violations in support of outside employment. As a result, the employee resigned after they were notified of SSA's proposal of removal.

¹⁵ The multiple leave categories included Family and Medical Leave, Family and Medical Leave -Leave Without Pay, emergency paid sick leave, and emergency Federal leave.



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