

October 12, 2007

Beatrice M. Disman  
New York Regional Commissioner  
Social Security Administration  
Regional Public Affairs Office  
26 Federal Plaza, Room 40-120  
New York, NY 10278

Cc: Senator Schumer, Senator Clinton, Congressman Ackerman, Congressman Meeks, Congressman Crowley, Congressman Nadler, Congressman Weiner, Congressman Towns, Congresswoman Clarke, Congresswoman Velázquez, Congressman Fossella, Congresswoman Maloney, Congressman Rangel, Congressman Serrano, Congressman Engel

Dear Ms. Disman:

We the undersigned community, consumer, business, labor, immigrant rights and faith-based organizations are writing to express our serious concerns about the approximately 140,000 “no-match” letters that the Social Security Administration (SSA) plans to send to employers nationwide, of which nearly 5,700 will be sent to employers in New York.<sup>1</sup> We are gratified that a federal court has blocked SSA from sending out letters that refer to a new Department of Homeland Security (DHS) rule, as SSA had planned to do, while the rule is being challenged in court.<sup>2</sup> **We further call on SSA to not send no-match letters containing the DHS insert – regardless of the outcome of the current lawsuit – and to terminate its harmful program of sending no-match letters to employers altogether.**

As SSA has repeatedly emphasized, there are many reasons for a no-match letter – ranging from misspellings by employers to the common use of two surnames in many countries – and the receipt of a no-match letter does not mean that a person is not authorized to work. However, employers have frequently misinterpreted these letters, and in some cases used them to intimidate or fire workers. The new DHS rule, if implemented, would impose new obligations on employers and essentially sanction abusive employer behavior, by converting the SSA no-match letter into an egregiously flawed tool for immigration enforcement. These outcomes are contrary to the purpose of the no-match letter, which is to ensure that Social Security benefits are credited to the appropriate individuals, rather than to the SSA’s Earnings Suspense File (ESF).

By SSA’s own accounts, no-match letters have never been an effective tool to address mismatches or the growth in the ESF, accounting for 2% or less of total corrections.<sup>3</sup> Instead, no-match letters have had negative and unintended consequences for workers, businesses and the

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<sup>1</sup> SSA projections of no-match letters per state available at

<http://www.ssa.gov/legislation/EDCOR%20Notices%20By%20State%20TY06%20-%20080407.pdf>.

<sup>2</sup> Order Granting Motion for Preliminary Injunction, *AFL-CIO v. Chertoff*, Case No. C07-04472 CRB available at [http://www.nilc.org/immsemplmnt/SSA\\_Related\\_Info/no-match\\_PI\\_order\\_2007-10-10.pdf](http://www.nilc.org/immsemplmnt/SSA_Related_Info/no-match_PI_order_2007-10-10.pdf)

<sup>3</sup> Office of Inspector General, 2002.

economy as a whole – consequences that will only be exacerbated by the DHS rule and the confusion it has created among workers and employers alike. We expect that these letters will:

- **Increase the likelihood that businesses will pay workers “under the table” in cash, in order to avoid triggering a no-match letter.** This will lead to a drop in reported earnings and taxes, while exposing workers to greater abuse and fueling an underground economy. Some employers will attempt to avoid a no-match letter by misclassifying workers as “independent contractors,” depriving individuals of basic workplace rights and the government of revenue from social security, workers’ compensation and unemployment contributions. Such practices would also undermine the explicit policy of New York State to combat misclassification of employees.<sup>4</sup>
- **Lead to discriminatory treatment of workers,** as employers fearful of immigration enforcement will fire, harass or refuse to hire workers who are “foreign-looking” or “foreign-sounding.”
- **Result in unfair job losses by U.S. citizens and legal permanent residents.** SSA indicates that 17.8 million of its records contain discrepancies, and that the vast majority of these records belong to U.S. citizens or other people who are authorized to work.<sup>5</sup>
- **Be used by unscrupulous employers to intimidate workers, repress union organizing and silence workers who are challenging employer abuses.** A 2003 national study found that up to twenty-five percent of workers listed in no-match letters reported their employer fired them in retaliation for complaints or union activity.<sup>6</sup> The new DHS rule will undoubtedly expand these letters’ use as tools for intimidation.
- **Penalize employers who are trying to follow the rules,** by imposing substantial new compliance costs and burdens, while making them compete with companies that do not contribute payroll and Social Security taxes. The widespread opposition to the new rules by numerous business associations, including the U.S. Chamber of Commerce, underscores these concerns.
- **Harm our national economy,** which is currently suffering the effects of the housing downturn and mortgage and foreclosure crises. The new rules will create new burdens for businesses, including administrative costs to over 140,000 employers, coupled with potentially significant job losses (an estimated 8 million workers nationwide will be affected).<sup>7</sup>

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<sup>4</sup> See Executive Order # 17, September 5<sup>th</sup> 2007 at [http://www.ny.gov/governor/executive\\_orders/xeorders/17.html](http://www.ny.gov/governor/executive_orders/xeorders/17.html).

<sup>5</sup> See Office of the Inspector General in the SSA, *Congressional Response Report*, December 2006 at <http://www.socialsecurity.gov/oig/ADOBEPDF/audittxt/A-08-06-26100.htm>

<sup>6</sup> Center for Urban Economic Development, University of Illinois at Chicago. See [www.nilc.org/immsemplymnt/SSA\\_no-match\\_survey\\_final\\_report\\_11-20-03.pdf](http://www.nilc.org/immsemplymnt/SSA_no-match_survey_final_report_11-20-03.pdf)

<sup>7</sup> Complaint for Declaratory Judgment and Injunctive Relief, *AFL-CIO v. Chertoff*, Case No. C07-04472 CRB available at [http://www.nilc.org/immsemplymnt/SSA\\_Related\\_Info/suit\\_complaint.pdf](http://www.nilc.org/immsemplymnt/SSA_Related_Info/suit_complaint.pdf).

**Our organizations urgently call on SSA to immediately terminate its program of sending no-match letters to employers.** These letters have had widespread negative consequences for U.S. workers and businesses, while proving ineffective in correcting errors in SSA's database. No-match letters are now even more likely to cause harm – even without the DHS insert – as a result of heightened confusion, misinformation and fear about no-match letters and the responsibilities of employers and workers who receive them.

We are eager to meet with you to discuss our concerns in more depth. Please contact Deyanira Del Rio at NEDAP at (212) 680-5100, x209 or Javier Valdes at the New York Immigration Coalition at (212) 627-2227 x234 to set up such a meeting.

Sincerely,

Arab American Association of New York  
Asociación Tepeyac  
Chhaya Community Development Corporation  
Credit Where Credit is Due  
El Centro de Hospitalidad  
Erasmus Neighborhood Federation  
Flatbush Development Corporation  
La Fuente  
Long Island Civic Participation Project  
MFY Legal Services  
Mid-Bronx Senior Citizen Council  
Neighborhood Economic Development Advocacy Project  
New Immigrant Community Empowerment  
New York Civic Participation Project  
New York Immigration Coalition  
NY ACORN  
NYC Financial Network Action Consortium  
NYANA Business Center  
People's Center for Economic Independence  
Queens Community House  
Restaurant Opportunities Center of New York  
South Asian Health Initiative  
St. Jerome Community Center  
YKASEC-Empowering the Korean American Community