

Audit Report

Administrative Law Judges from Our
February 2012 Report Who Had the
Highest and Lowest Allowance Rates

MEMORANDUM

Date: June 22, 2017 **Refer To:**
To: The Commissioner
From: Acting Inspector General
Subject: Administrative Law Judges from Our February 2012 Report Who Had the Highest and Lowest Allowance Rates (A-12-17-50220)

The attached final report presents the results of the Office of Audit's review. The objective was to review the status of the 24 administrative law judges (ALJ) we discussed in our February 2012 Congressional Response Report in terms of allowance rates and productivity. We also identified the ALJs who had the highest and lowest allowance rates in Fiscal Year 2016 and describe the Agency's process for monitoring these ALJs.

If you wish to discuss the final report, please call me or have your staff contact Rona Lawson, Assistant Inspector General for Audit, 410-965-9700.



Gale Stallworth Stone

Attachment

Administrative Law Judges from Our February 2012 Report

Who Had the Highest and Lowest Allowance Rates

A-12-17-50220



June 2017

Office of Audit Report Summary

Objective

To review the status of the 24 administrative law judges (ALJ) we discussed in our February 2012 Congressional Response Report in terms of allowance rates and productivity. We also identified the ALJs who had the highest and lowest allowance rates in Fiscal Year (FY) 2016 and described the Agency's process for monitoring these ALJs.

Background

Our February 2012 report, *Oversight of Administrative Law Judge Workload Trends*, reported that ALJs issued between 1 and 3,620 dispositions in FY 2010, with 59 percent of ALJs meeting or exceeding the Agency's 500- to 700-disposition expectation per year. ALJ allowance rates ranged from a low of 8.6 percent to a high of 99.7 percent nationwide.

We reviewed the workload trends of 24 ALJs who had the highest and lowest allowance rates to better understand potential causes for these variances. We learned the variances in allowances can be attributed to many factors, most notably ALJ qualified decisional independence and the demographics of claimants served by the hearing office, such as their age, education, and available work. Among the 24 ALJs, we identified case rotation exceptions at hearing offices related to dismissals, on-the-record decisions, and frequency of claimant representation.

Findings

The majority of the 24 ALJs from our first review were no longer among the ALJs with the highest and lowest allowance rates in FY 2016 because their allowance rates changed or they were no longer judges. Social Security Administration (SSA) data for FY 2016 indicated

- 6 were still among the ALJs with the highest and lowest allowance rates,
- 1 had been on administrative leave since 2014 following several reviews by the Agency,
- 1 had become a senior attorney,
- 7 were no longer among the ALJs with the highest or lowest allowance rates, and
- 9 were no longer with the Agency.

Of these 24 ALJs, the Agency had conducted focused reviews on 10. Further, 7 of the 10 ALJs who had a focused review were no longer among the ALJs with the highest or lowest allowance rates or had since left the Agency. (An ALJ's workload can be selected for a focused review if SSA identifies potentially problematic patterns using a combination of factors, such as the number of dispositions, the allowance rate, etc.)

We identified the 12 ALJs who had the highest allowance rates and the 12 ALJs who had the lowest allowance rates in FY 2016. SSA had hired over half of these ALJs in the last 6 FYs and had completed focused reviews on four of these ALJs.

Recommendation

We recommend SSA determine whether focused reviews should be conducted—and if appropriate, initiate focused reviews—on the ALJs from our FY 2012 report who are still with the Agency and have not had a focused review to determine whether their decisions are legally sufficient and policy compliant.

SSA agreed with our recommendation.

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ABBREVIATIONS

ALJ	Administrative Law Judge
CPMS	Case Processing and Management System
FY	Fiscal Year
HALLEX	Hearing, Appeals and Litigation Law Manual
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
Pub. L. No.	Public Law Number
SSA	Social Security Administration
U.S.C.	United States Code

OBJECTIVE

Our objective was to review the status of the 24 administrative law judges (ALJ) we discussed in our February 2012 Congressional Response Report¹ in terms of allowance rates and productivity. We also identified the ALJs who had the highest and lowest allowance rates in Fiscal Year (FY) 2016 and described the Agency's process for monitoring these ALJs.

BACKGROUND

An ALJ independently reviews evidence related to each claimant's case and issues a written decision based on that evidence and the applicable laws, regulations, rulings, and Agency policy. However, different ALJs may have different opinions on the same set of evidence. According to the Social Security Administration's (SSA) policy,² cases are assigned to ALJs from the master docket on a rotational basis, with the oldest request for hearings receiving priority, unless there is a special situation that requires a change in the order in which a case is assigned. These standards were designed to ensure claimants are afforded a fair adjudicatory process regardless of where they are located.

SSA conducts both pre- and post-effectuation reviews of ALJ decisions. SSA's Office of Disability Adjudication and Review (ODAR) developed an early monitoring system to measure ALJ performance based on a combination of risk factors.³ A few of the factors the early monitoring system tracks are the ALJs' allowance rates, number of dispositions, number of on-the-record decisions, and frequency of hearings with the same claimant representatives.⁴ The system examines factors that, in and of themselves, would not represent an issue but might become problematic when coupled with other factors. SSA's Division of Quality in the Office of Appellate Operations conducts focused reviews on post-effectuation cases for potential issues identified in the early monitoring system to ensure the ALJ's decisions complied with established policies and procedures. The Agency uses the results of its reviews and studies to identify changes that are needed in its policies and procedures and develop training for ALJs and hearing office staff.

¹ SSA OIG, *Oversight of Administrative Law Judge Workload Trends*, A-12-11-01138 (February 2012).

² SSA, HALLEX, vol. 1 ch. I-2-1, sec. I-2-1-55 (February 12, 2009).

³ The term "risk factor" connotes a workload or performance measure that may indicate problems with the underlying process if it varies too far from Agency expectations.

⁴ The Agency does not conduct focused reviews based on an ALJ's allowance rate alone; a focused review may be conducted for ALJs with a high or low allowance rate only if an additional factor, such as those identified in our report, is present.

Our February 2012 report on *Oversight of Administrative Law Judge Workload Trends* stated that ALJs issued between 1 and 3,620 dispositions⁵ in FY 2010, with 59 percent of ALJs meeting or exceeding the Agency's 500- to 700-disposition expectations per year. Additionally, while the average decisional allowance rate for ALJs in FY 2010 was 67 percent, it ranged from a low of 8.6 percent to a high of 99.7 percent nationwide.⁶ We reviewed the workload trends of the 24 ALJs who had the highest and lowest allowance rates to better understand potential causes for these variances.⁷ We learned the variances in allowances can be attributed to many factors, most notably ALJ qualified decisional independence and the demographics of claimants served by the hearing office, such as their age, education, and available work. Among the 24 ALJs, we identified a number of case rotation exceptions at hearing offices related to dismissals, on-the-record decisions, and frequency of claimant representation. We concluded greater Agency attention was needed to ensure ALJ performance, be it high or low, was monitored and the underlying work processes were periodically reviewed.

We discussed with ODAR management the controls and ongoing oversight of ALJ workloads, including any reviews or studies of the 24 ALJs from our prior report. We also reviewed ODAR's data and management reports to identify workload trends among these ALJs over the last 6 FYs. In addition, we identified the characteristics of newly hired ALJs who had the highest and lowest allowance rates in FY 2016 and reviewed the Agency's steps to monitor their performance as well as assess the quality of their cases. Finally, we gathered information and perspectives from managers and ALJs at seven hearing offices on factors that affect ALJ allowance rates.⁸

RESULTS OF REVIEW

Most of the 24 ALJs from our 2012 review were no longer among the ALJs with the highest and lowest allowance rates during FY 2016 because their allowance rates changed or they were no longer judges. Of the 24 ALJs from our prior review,

- 6 were still among the ALJs who had the highest and lowest allowance rates,
- 1 had been on administrative leave since 2014 following several reviews by the Agency,
- 1 had become a senior attorney,
- 7 were no longer among ALJs with the highest or lowest allowance rates, and
- 9 were no longer with the Agency.

⁵ Disposition includes favorable, unfavorable, and dismissal. Our analysis of the FY 2016 dismissals showed that about 86 percent of the cases were abandoned or withdrawn by the claimant. In FY 2009, SSA started calculating allowance rates that excluded dismissals in their key workload indicators report.

⁶ ALJ decisions are favorable and unfavorable but exclude dismissals, as defined in our 2012 report. See Appendix A and Appendix B for more information on our ALJ selection methodology.

⁷ We reviewed 12 ALJs with the highest allowance rate and 12 ALJs with the lowest allowance rate.

⁸ See Appendix A for more information on our scope and methodology.

Of these 24 ALJs, the Agency had conducted focused reviews on 10. Further, 7 of the 10 ALJs who had focused reviews were no longer among the ALJs with the highest or lowest allowance rates or have since left the Agency.

Similar to our prior report, we identified the 12 ALJs who had the highest allowance rates and the 12 ALJs who had the lowest allowance rates in FY 2016. ODAR had hired over half of these ALJs in the last 6 FYs and had completed focused reviews of four of these ALJs.

Additionally, the number of ALJs who met or exceeded the 500- to 700-disposition expectation had decreased since FY 2010. In FY 2016, about 26 percent of ALJs met or exceeded this expectation, compared to 59 percent in FY 2010.⁹

ALJs from our February 2012 Review

During our 2012 review, we identified the 12 ALJs who had the highest allowance rates and the 12 ALJs who had the lowest allowance rates in FY 2010 to better understand factors related to the varying allowance rates. The 12 ALJs who had the highest allowance rates (between 96.3 and 99.7 percent) were in 12 hearing offices in 4 regions. The 12 ALJs with the lowest allowance rates (between 8.6 and 25.1 percent) were in 11 hearing offices in 6 regions.¹⁰

Of these 24 ALJs, FY 2016 data indicated 6 were still among the ALJs who had the highest and lowest allowance rates, 1 ALJ had been on administrative leave since 2014, and 1 was a senior attorney. ODAR had also completed focused reviews of 10 of these 24 ALJs (see Table 1).

Table 1: FY 2016 Status of 24 ALJs from Previous Review

Number of ALJs	Status	Number of ALJs with Focused Reviews
6	Still among the ALJs with the highest and lowest allowance rates	2
1	On administrative leave since 2014	1
1	Now a senior attorney	0
7	No longer among the ALJs with the highest or lowest allowance rates ¹¹	4
9	No longer with the Agency	3
24	Total	10

⁹ Lower productivity is expected from ALJs with administrative duties or part-time schedules, as well as new ALJs and ALJs on extended leave.

¹⁰ Two of these ALJs were in the same hearing office.

¹¹ Three of these ALJs retired in FY 2017.

FY 2010 and 2016 ALJs

Of the six ALJs who, in FY 2016, were still among the ALJs who had the highest/lowest allowance rates, four were among the highest and two were among the lowest. In addition, these ALJs continued to be the highest or lowest ALJs among all ALJs in their respective hearing offices. For instance, one ALJ's allowance rate was 22 percentage points higher than any other ALJ in the office. Another ALJ's allowance rate was 24 percentage points lower than any other ALJ in the office. Since we issued our 2012 report, SSA had completed focused reviews on two of the six ALJs—to ensure their decisions complied with established policies and procedures.

ALJ on Administrative Leave

ODAR placed 1 of the 24 ALJs on administrative leave¹² after it conducted several quality reviews of the ALJ's decisions. Since FY 2010, the Division of Quality had conducted a focused review of the ALJ's decisions, followed by a regional quality review in FY 2013. Both reviews revealed policy compliance issues with the ALJ's decisions. The ALJ returned to work after training following each review. A second Division of Quality focused review in FY 2014 revealed continued policy compliance issues. As a result, in May 2014, ODAR placed the ALJ on administrative leave and filed a request to have the ALJ removed from service. A hearing with the Merit System Protection Board¹³ was held in March 2017.¹⁴

ALJ Now a Senior Attorney

After we issued our 2012 report, the Agency granted one ALJ's request to be converted to a senior attorney advisor position.¹⁵ Two years before he changed positions, SSA reprimanded the ALJ for conduct unbecoming an ALJ; however, the Agency did not conduct a focused review before this ALJ changed positions.

¹² Administrative leave is an absence from duty without loss of pay or charge to accrued leave approved by the delegated approving official. SSA, Personnel Policy Manual, *Excused Absence and Administrative Leave*, ch. S630_9, sec. 3.1 (June 12, 2014). See also SSA OIG, *Administrative Leave Used for Extended Absences*, A-06-16-50026 (March 2017).

¹³ An agency in which the ALJ is employed may take action against an ALJ for good cause established and determined by the Merit Systems Protection Board on the record after the opportunity for a hearing before the Board. See the *Federal Administrative Procedures Act*, 5 U.S.C. § 7521(a).

¹⁴ The hearing was originally scheduled to begin in February 2017.

¹⁵ The ALJ changed position on October 2014.

No Longer Highest/Lowest ALJs

The allowance rates for seven ALJs changed so they were no longer among the ALJs with the highest or lowest allowance rates. The national average decisional allowance rate for ALJs decreased from 67 percent in our prior review to 55 percent in FY 2016. The allowance rates for these ALJs increased or decreased between 4 and 21 percent.

In addition, SSA conducted focused reviews for four of these seven ALJs to ensure the ALJ's decisions complied with Agency policies and procedures. For example, for one ALJ, SSA completed two focused reviews and ordered training. This ALJ's allowance rate dropped from 96 to 76 percent, bringing the ALJ closer to the national average in FY 2016. SSA conducted a focused review of another ALJ, assigned the ALJ a mentor, and provided training to address issues identified during the review. SSA conducted a second focused review and found his decisions to be in compliance with policy. The allowance rate for this ALJ decreased by about 10 percent since FY 2010.

FY 2016 High/Low Allowance Rate ALJs

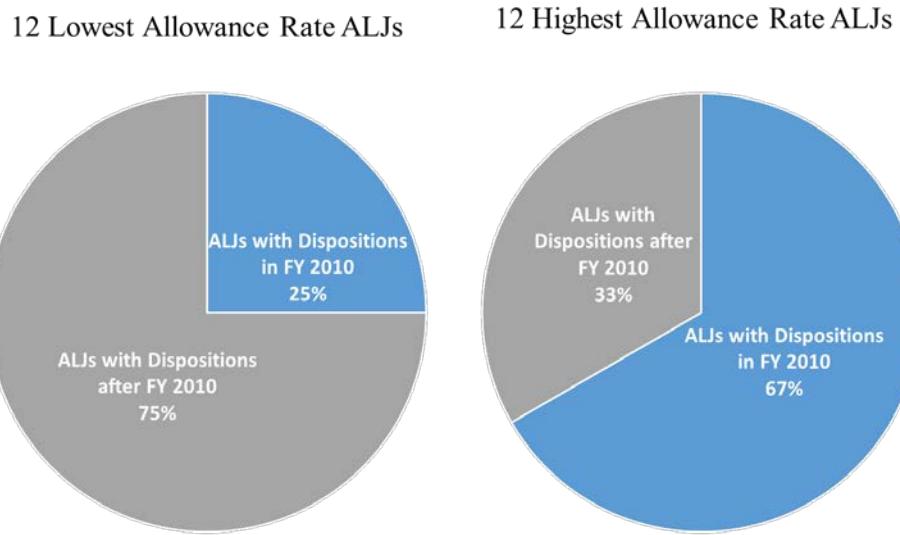
Similar to our 2012 report, we identified the 12 ALJs who had the highest allowance rates and the 12 ALJs who had the lowest allowance rates in FY 2016. The 12 ALJs who had the highest allowance rates (between 89.4 and 95.7 percent) were in 10 hearing offices in 6 regions. The 12 ALJs who had the lowest allowance rates (between 12.7 and 20.4 percent) were also located in 10 hearing offices in 6 regions. ODAR had also completed focused reviews of 4 of these 24 ALJs.

ODAR hired 13 of the 24 ALJs after FY 2010, including 4 ALJs hired at the end of FY 2015. In 2006, ODAR redesigned the ALJ training program to include a 3-phase approach for delivering core competencies all new ALJs must acquire within their first year of employment.¹⁶ In addition, SSA adjusted some training segments and production expectations in Phases 1 and 3 based on the newly hired ALJ's experience before his/her appointment. For example, during the first year, the Mentor Guide¹⁷ explains that a new ALJ without SSA experience should schedule a minimum of 15 cases the first month, 20 the second month, and so forth, adding 5 cases per month until he/she achieves full scheduling and productivity. Most of these newly hired ALJs were among the ALJs who had the lowest allowance rates—9 (75 percent) of the 12 ALJs. Among the 12 ALJs with the highest allowance rates, we identified 4 (33 percent) who were also hired since FY 2010 (see Figure 1).

¹⁶ The 3-phase training program is mandatory for all newly hired ALJs.

¹⁷ The Mentor Guide provides a list of participating lead mentors, along with information to administer and facilitate new ALJ training activities. ALJ mentors and the Hearing Office Chief ALJs track the ALJs' progress as they complete each phase of the training.

Figure 1: FY 2016 Newly Hired ALJs



In addition, 5 of the 24 ALJs were already working for SSA during our prior review but their allowance rates did not put them among the lowest or highest ALJs during FY 2010. The allowance rate for 1 of the 5 ALJs decreased over 50 percent since FY 2010. The ALJ was hired toward the end of FY 2009; hence, FY 2010 was the ALJ's first full year as an ALJ. The ALJ's allowance rate dropped about 14 percent in the second year as an ALJ. For the 13 ALJs who had been hired since FY 2010, the allowance rates decreased after the ALJ's first year of issuing dispositions.¹⁸

Factors in ALJ Decisional Rates

We interviewed 17 managers and ALJs in 6 hearing offices to determine factors that affect ALJ allowance rates and workload processing. The employees we interviewed attributed the allowance rate variances to such factors as the ALJs' backgrounds and previous work history. For example, in one hearing office, we were told ALJs' medical knowledge is different, hence, ALJs who had a medical background would notice things other ALJs might not.

During our 2012 review, the majority of the employees we interviewed attributed the variance in allowance rates to ALJ qualified decisional independence and discretion. Qualified decisional independence means that ALJs must be impartial in conducting hearings.¹⁹ Because of such qualified decisional independence, ALJs are supposed to make decisions free from Agency pressure or pressure by a party to decide a case, or a particular percentage of cases, in a particular

¹⁸ We are working on a review that discusses allowance rate trends when compared to the ALJ's length of service. SSA OIG, *Administrative Law Judge Allowance Rate, Quality, and Length of Service*, A-12-17-50247.

¹⁹ See 75 Federal Register §§ 39154, 39156, *Final Rules Setting the Time and Place for Hearing Before an Administrative Law Judge*, which discusses qualified judicial independence.

way.²⁰ However, ALJs are still expected to issue decisions that comply with Agency policy. In 1946, Congress enacted the *Administrative Procedure Act*²¹ to ensure ALJs had qualified decisional independence and ALJs would not be paid, promoted, or discharged arbitrarily.²² Hearing office staff we interviewed believed qualified decisional independence and discretion could be influenced by an ALJ's background, previous work history, political views, and predispositions.

ALJ Productivity

In a prior review, we determined that most of the high allowance ALJs were also among the highest producing ALJs in their offices.²³ The Agency estimated that drafting a legally sufficient decision, absent any special circumstances, should take about 4 hours for a fully favorable decision and 8 hours for a partially favorable or unfavorable decision. During this review, we found an alignment between productivity and allowance rates among the 12 high allowance rate ALJs but not the low allowance rate ALJs. For the 12 high allowance ALJs, 8 (67 percent) decided more cases than the average productivity of the other ALJs in the office in FY 2016. For the 12 low allowance ALJs, 5 (42 percent) decided fewer cases than the average of their peers. In our 2012 report,²⁴ we found a similar trend between productivity and allowance rates among both the high allowance and the low allowance ALJs.

The number of ALJs who met or exceeded the 500- to 700-disposition expectation decreased since FY 2010. As of 1981,²⁵ SSA established an expectation for ALJs to issue about 45 cases per month per ALJ, which is about 540 dispositions annually. Then in October 2007, ODAR issued a memorandum setting forth expectations regarding the services ALJs provide to the public. Mainly, ODAR asked ALJs to manage their dockets in such a way that would enable them to issue 500 to 700 legally sufficient decisions each year, act on a timely basis, and hold scheduled hearings unless there is a good reason to postpone or cancel.²⁶ In FY 2010, about 59 percent of ALJs met or exceeded the Agency's disposition expectation, including 2 ALJs who issued over 2,000 dispositions. Also, 17 of the 24 ALJs in our prior review met or exceeded the expectation. To ensure ALJs were not deciding an excessive number of cases, ODAR managers limited new case assignments to 1,200 annually in FY 2012 and continued to decrease the limit

²⁰ 75 Federal Register §§ 39154, 39156 (July 8, 2010).

²¹ Pub. L. No. 79-404, 60 Stat. 237 (June 11, 1946) (codified in scattered sections of 5 U.S.C.).

²² *Administrative Procedure Act*, 5 U.S.C. §§ 1305, 3105, 5372 and 7521.

²³ SSA, OIG, *Congressional Response Report: Administrative Law Judges and Hearing Office Performance*, A-07-08-28094 (August 2008).

²⁴ SSA OIG, *Oversight of Administrative Law Judge Workload Trends*, A-12-11-01138 (February 2012).

²⁵ SSA, Office of Hearings and Appeals, *A Quest for Quality, Speedy Justice: A History Of The First Fifty Years of the Administrative Law Judges of the Office Of Hearings and Appeals*, Social Security Administration, p. 27 (1991).

²⁶ SSA considered the 500- to 700-disposition range to be an expectation, not a quota. In December 2007, ODAR emphasized the importance of legally sufficient hearings and decisions. Additionally, in January 2013, ODAR emphasized that the decisions must be compliant with SSA policy and explained that ALJs are subordinate to the Agency on matters of law and policy.

each year until 2015, when the limit on case assignments was 760 per year. As a result, in FY 2016, 26 percent of all ALJs met or exceeded the 500- to 700-disposition expectation, and only 3 of the 24 ALJs in our review met or exceeded the expectation.

CONCLUSIONS

The majority of the 24 ALJs from our 2012 review were no longer among the ALJs with the highest and lowest allowance rates in FY 2016 because their allowance rates changed or they were no longer judges. Those who continued to be among the ALJs with the highest and lowest allowance rates also continued to have the highest and lowest allowance rates among their peers in their respective hearing offices. SSA monitors ALJ performance and decisional quality using a combination of risk factors such as allowance rates, number of dispositions, and frequency of hearings with the same claimant representatives. ALJs can be selected for a focused review if SSA identifies potentially problematic patterns using a combination of these factors. SSA completed focused reviews for 10 of the 24 ALJs from our prior review. This included one ALJ whom SSA placed on administrative leave in FY 2014 following several reviews. Also, the Division of Quality had completed focused reviews on 4 of the 24 ALJs who had the highest and lowest allowance rates in FY 2016.

RECOMMENDATION

We recommend SSA determine whether focused reviews should be conducted—and if appropriate, initiate focused reviews—on the ALJs from our FY 2012 report who are still with the Agency and have not had a focused review to determine whether their decisions are legally sufficient and policy compliant.

AGENCY COMMENTS

SSA agreed with our recommendation; see Appendix C.

A handwritten signature in black ink, appearing to read "Rona Lawson".

Rona Lawson
Assistant Inspector General for Audit

APPENDICES

Appendix A – SCOPE AND METHODOLOGY

To accomplish our objective, we:

- Reviewed applicable laws and Social Security Administration (SSA) policies and procedures, including the Office of Disability Adjudication and Review's (ODAR) Hearings, Appeals and Litigation Law Manual.
- Reviewed Government Accountability Office and Office of the Inspector General reports relevant to this review.
- Reviewed ODAR and SSA's Office of Quality Performance studies and reviews.
- Obtained workload statistics on administrative law judges (ALJ) from public sources and ODAR's Case Processing and Management System. We also performed reliability tests on data, calculated ALJ allowance rates for Fiscal Year (FY) 2016, and determined the average for ALJ allowance rates. We identified 24 ALJs for further review—12 with high allowance rates and 12 with low allowance rates in FY 2016. See Appendix B for more on this methodology.
- Interviewed 17 individuals at 6 hearing offices—ALJs in our sample, Hearing Office Chief ALJs, and Hearing Office Directors—regarding workload procedures and factors related to allowance rates.
- Discussed management controls over ALJ performance, management information, ALJ disciplinary actions, and other matters with ODAR management.

We determined the FY 2011 through 2016 ALJ data were sufficiently reliable to meet our objective. The entity audited was the Office of the Deputy Commissioner for Disability Adjudication and Review. We conducted this performance audit from August 2016 through March 2017 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 objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B – METHODOLOGY FOR ADMINISTRATIVE LAW JUDGE SAMPLE

We followed the same methodology as our previous review.¹ We examined the Office of Disability Adjudication and Review's (ODAR) administrative law judge (ALJ) disposition data for Fiscal Year (FY) 2016 to determine the allowance rates for ALJs. We also verified ODAR's ALJ disposition data against Case Processing and Management System (CPMS) data for FYs 2011 through 2016.

Decisional Rates

To calculate each ALJ's allowance rate, we used ODAR's published ALJ disposition data. We performed reliability tests on CPMS data and ODAR's published ALJ disposition data for FY 2016 and found both sets to be sufficiently reliable to meet our objective.

To meet our objective, we:

- Identified 1,654 ALJs who issued at least 1 disposition in FY 2016.
- Removed 245 ALJs who had fewer than 200 dispositions in FY 2016. We determined this cut-off based on our August 2008 review of *Administrative Law Judge and Hearing Office Performance* (A-07-08-28094). In this report, we identified ALJs who had administrative duties, part-time ALJs, new ALJs, and ALJs on extended leave as a factor for low productivity. More specifically, these factors were identified for ALJs who issued fewer than 200 dispositions during FY 2007.² This left us with 1,409 ALJs who issued 200 or more dispositions in FY 2016.
- Calculated the allowance rate (awards divided by decisions) for these ALJs to the second decimal point. We used ALJ decisions rather than dispositions because decisions include favorable and unfavorable decisions, but exclude dismissals.
- Calculated the average allowance rates for the 1,409 ALJs to be 54.7 percent.

¹ SSA OIG, *Oversight of Administrative Law Judge Workload Trends*, A-12-11-01138 (February 2012).

² We excluded ALJs who had fewer than 200 dispositions to exclude ALJs who may be in a situation where lower productivity is expected, such as ALJs with administrative duties or part-time schedules, as well as new ALJs and ALJs on extended leave.

Count of ALJs Deciding Cases

- ODAR's workload reports identify ALJ full-time equivalents. However, for our review, we did not use ALJ full-time equivalents. Rather, we obtained a data file from ODAR's CPMS of issued dispositions. This data file identified the number of ALJs who issued case dispositions each year. For example, the FY 2010 ODAR workload reports identified ALJ full-time equivalents as 1,154. However, the data file identified 1,398 as issuing the 683,430 case dispositions in FY 2010. These averages included dispositions issued by all ALJs each year, regardless of whether the ALJ was full-time; part-time; new; on extended leave; retired, separated, resigned; or died in FY 2010. As a result, ODAR's methodology would indicate that 74 percent of ALJs completed 500 or more disposition in FY 2010.
- Our February 2008 report on *Administrative Law Judge's Caseload Performance* (A-07-07-17072) identified ALJs as partially available if they were reasonably expected to process fewer cases than fully available ALJs or were not employed by ODAR during the entire year. We determined that about 26 percent of the ALJs in FY 2006 were partially available because of other duties (such as, Hearing Office Chief ALJ, Regional Chief ALJ, detailed elsewhere, and union positions) or because they were present at ODAR less than the entire year (such as new hires, part-time employment, extended leave, retirement, resignation, or death).

Selection of 24 ALJs

Once we had a list of ALJ allowance rates, we

- sorted the allowance rates from high to low;
- identified the top 12 ALJs in both the highest and lowest allowance rate lists;
- verified the identified ALJs were still with SSA and their locations; and
- excluded 3 ALJs from the lowest allowance rate list because they were no longer with the Agency (see Table B-1 and Table B-2).

Table B–1: 12 ALJs with the Highest Allowance Rates in FY 2016

Count	Hearing Office	Region	High Allowance Rate (Percentage)
1	Dallas (North)	Dallas	95.69
2	San Juan	New York	94.36
3	Dallas (North)	Dallas	93.36
4	South Jersey	New York	91.69
5	Tacoma	Seattle	91.55
6	Atlanta (Downtown)	Atlanta	91.06
7	Tampa	Atlanta	90.78
8	Stockton	San Francisco	90.30
9	Buffalo	New York	90.05
10	Elkins Park	Philadelphia	89.71
11	Elkins Park	Philadelphia	89.63
12	National Hearing Center Baltimore	National Hearing Center	89.42

Table B–2: 12 ALJs with the Lowest Allowance Rates in FY 2016

Count	Hearing Office	Region	Low Allowance Rate (Percentage)
1	Hattiesburg	Atlanta	12.71
2	Dallas (Downtown)	Dallas	14.38
3	San Antonio	Dallas	15.87
4	Cleveland	Chicago	17.86
5	Cleveland	Chicago	18.87
6	Charleston	Philadelphia	19.63
7	Covington	Atlanta	20.41
8	Hattiesburg	Atlanta	20.69
9	Montgomery	Atlanta	21.43
10	Seattle	Seattle	22.22
11	Billings	Denver	22.60
12	Florence	Atlanta	23.28

Appendix C – AGENCY COMMENTS



SOCIAL SECURITY

MEMORANDUM

Date: June 19, 2017 **Refer To:** S1J-3

To: Gale S. Stone
Acting Inspector General

From: Stephanie Hall /s/
Acting Deputy Chief of Staff

Subject: Office of the Inspector General Draft Report, “Administrative Law Judges from Our February 2012 Report Who Had the Highest and Lowest Allowance Rates” (A-12-17-50220) -- INFORMATION

Thank you for the opportunity to review the draft report. Please see our attached comments. We shared our technical comments with OIG at the staff level.

Please let me know if we can be of further assistance. You may direct staff inquiries to Gary S. Hatcher at (410) 965-0680.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,
“ADMINISTRATIVE LAW JUDGES FROM OUR FEBRUARY 2012 REPORT WHO
HAD THE HIGHEST AND LOWEST ALLOWANCE RATES” (A-12-17-50220)**

General Comment

We are committed to improving the quality of our hearing decisions and ensuring we issue policy compliant decisions. It is important that we award benefits to claimants who meet our disability requirements under established Social Security laws and regulations, but as stewards of the disability trust fund and other public resources, it is equally important that we do not award benefits to those who are not entitled.

Recommendation 1

Determine whether focused reviews should be conducted—and if appropriate, initiate focused reviews—on the ALJs from our FY 2012 report who are still with the Agency and have not had a focused review to determine whether their decisions are legally sufficient and policy compliant.

Response

We agree.

MISSION

By conducting independent and objective audits, evaluations, and investigations, the Office of the Inspector General (OIG) inspires public confidence in the integrity and security of the Social Security Administration's (SSA) programs and operations and protects them against fraud, waste, and abuse. We provide timely, useful, and reliable information and advice to Administration officials, Congress, and the public.

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REPORT FRAUD, WASTE, AND ABUSE

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Website: <https://oig.ssa.gov/report-fraud-waste-or-abuse>

Mail: Social Security Fraud Hotline
P. O. Box 17785
Baltimore, Maryland 21235

FAX: 410-597-0118

Telephone: 1-800-269-0271 from 10:00 a.m. to 4:00 p.m. Eastern Standard Time

TTY: 1-866-501-2101 for the deaf or hard of hearing