



## SOCIAL SECURITY

### **MEMORANDUM**

**Date:** March 30, 2005

**Refer To:**

**To:** The Commissioner

**From:** Inspector General

**Subject:** The Effects of Staffing on Hearing Office Performance (A-12-04-14098)

The attached final report presents the results of our audit. Our objective was to examine how staffing affects hearing office performance in the areas of productivity and timeliness.

Please provide within 60 days a corrective action plan that addresses each recommendation. If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.



Patrick P. O'Carroll, Jr.

Attachment

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**OFFICE OF  
THE INSPECTOR GENERAL**

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**SOCIAL SECURITY ADMINISTRATION**

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**THE EFFECTS OF STAFFING  
ON HEARING OFFICE  
PERFORMANCE**

**MARCH 2005**

**A-12-04-14098**

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**AUDIT REPORT**

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## **Mission**

**We improve SSA programs and operations and protect them against fraud, waste, and abuse by conducting independent and objective audits, evaluations, and investigations. We provide timely, useful, and reliable information and advice to Administration officials, the 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**

**By conducting independent and objective audits, investigations, and evaluations, we are agents of positive change striving for continuous improvement in the Social Security Administration's programs, operations, and management and in our own office.**

# *Executive Summary*

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## **OBJECTIVE**

Our objective was to examine how staffing affects hearing office performance in the areas of productivity and timeliness.

## **BACKGROUND**

Within the Social Security Administration (SSA), the Office of Hearings and Appeals (OHA) is responsible for holding hearings and making decisions on appealed determinations involving retirement, survivors, disability and Supplemental Security Income. At the end of Fiscal Year (FY) 2004, OHA had 6,475 full-time permanent (FTP) employees in its 140 hearing offices, which is approximately 10 percent of SSA's workforce.

OHA's key criteria for analyzing hearing office performance are (1) hearing office productivity, as measured by dispositions per day per Administrative Law Judge (ALJ) (disposition rate) and (2) hearing office average processing time (timeliness). Since FY 1999, OHA has improved its productivity; however, timeliness has worsened, from 316 days to 391 days in FY 2004.

## **RESULTS OF REVIEW**

Over the last 5 years hearing office receipts have outpaced hearing office dispositions, resulting in a large increase in pending claims and worsening timeliness. While total dispositions have not surpassed the FY 1999 level, OHA's hearing office productivity levels have improved in terms of its disposition rate. We acknowledge that many factors affect hearing office performance. Some of the factors are under OHA's control, such as the allocation of staff, and other factors are not, including increasing requests for hearings and restrictions on the hiring of new ALJs.

OHA might improve its productivity if it based its staffing allocations on hearing office staffing ratios, defined as the number of support staff per ALJ. Although the national staffing ratio has not varied greatly over the past 5 years, the staffing ratio among the various hearing offices shows much greater variance. Our review of FY 2003 data showed that while the national staff ratio was 4.7 support staff to 1 ALJ, staffing ratios at the hearing offices ranged from a low of 3 to 1 to a high of 18.5 to 1. Furthermore, our analysis revealed that hearing office staffing ratios may be a good indicator of hearing office performance, especially in hearing offices with low staffing ratios. For example, of the 76 hearing offices with staffing ratios less than the FY 2003 national staffing ratio, 63 percent had disposition rates worse than the FY 2003 national disposition rate. If SSA would define performance standards for hearing office employees, SSA could determine an ideal staffing ratio for OHA's hearing offices. For example, through its

Unified Measurement System initiative, SSA has begun to track the work expended by its operating components on ongoing workloads, tasks and projects.

We also examined OHA's hiring of file assembly contractors who were being used to augment staffing shortages in hearing offices. Despite filling this critical need in hearing offices, OHA has not measured the effect that file assembly contractors have had on staffing ratios, productivity and timeliness in hearing offices that used these contractors. We believe OHA should analyze these trends when deciding which hearing offices will receive file assembly assistance.

## **CONCLUSION AND RECOMMENDATIONS**

To improve overall staffing at the hearing offices and assist OHA in meeting its performance goals, we recommend SSA:

- Consider developing an ideal national staffing ratio to assist OHA in allocating staff to hearing offices; and
- Consider prioritizing file assembly assistance for those hearing offices that have staffing ratios below the national staffing ratio.

## **AGENCY COMMENTS**

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

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# *Introduction*

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## **OBJECTIVE**

Our objective was to examine how staffing affects hearing office performance in the areas of productivity and timeliness.

## **BACKGROUND**

Within the Social Security Administration (SSA), the Office of Hearings and Appeals (OHA) is responsible for holding hearings and making decisions on appealed determinations involving retirement, survivors, disability and Supplemental Security Income. At the end of Fiscal Year (FY) 2004, OHA had 6,475 full-time permanent (FTP) employees in its 140 hearing offices, which is approximately 10 percent of SSA's workforce.

Each hearing office is comprised of administrative law judges (ALJ), management and support staff. An ALJ's principal responsibilities are to hold a full and fair hearing and issue a legally sufficient and defensible decision. Hearing office management's main duty is to administer the workload by supervising, planning, organizing, directing and controlling operating activities. Support staff acknowledges receipt of requests for hearings, follows established controls for the orderly processing of cases, prepares and maintains hearing office files, maintains a control system for all cases in the hearing office, and writes decisions.<sup>1</sup>

According to OHA executives, hearing office dispositions<sup>2</sup> per day per ALJ (disposition rate) and hearing office average processing time<sup>3</sup> (timeliness) are OHA's key criteria for analyzing hearing office performance.<sup>4</sup> Since FY 1999, OHA has improved its disposition rate. However, timeliness has worsened. In FY 1999, OHA's disposition rate was 2.03 dispositions per day per ALJ, while in FY 2004 the disposition rate improved to 2.40. During the same time period, OHA's average processing time worsened from 316 days to 391 days.

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<sup>1</sup> For a hearing office organization chart and more discussion of the duties for hearing office personnel, see Appendix C.

<sup>2</sup> Dispositions are defined as the number of hearing requests processed, including favorable and unfavorable decisions issued, as well as requests that are dismissed.

<sup>3</sup> Processing time is defined as the average elapsed time, from the hearing request date until the date of the decision, of all hearings level cases processed during all months of the fiscal year.

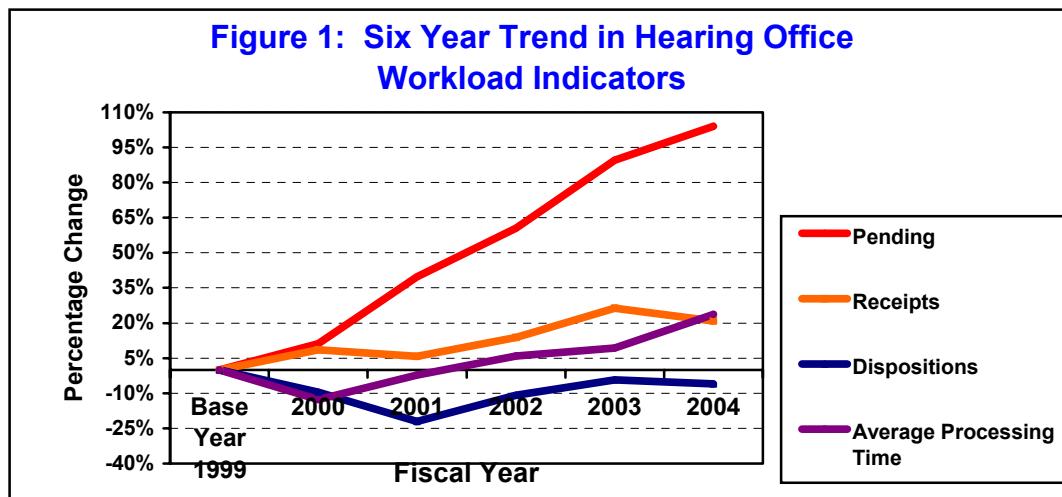
<sup>4</sup> For a discussion of the best practices used by OHA's highest producing hearing offices, see SSA Office of the Inspector General report, *Best Practices in Highest Producing Hearing Offices* (A-12-04-14020), August 2004.

# Results of Review

Over the last 5 years, hearing office receipts have outpaced hearing office dispositions every year, resulting in a large increase in pending claims and worsening timeliness. Nonetheless, OHA's hearing office productivity levels have actually increased in terms of its disposition rate, though total dispositions have not surpassed FY 1999 levels. Our analysis revealed that hearing office staffing ratios may be a good indicator of hearing office performance, especially in hearing offices with low staffing ratios. OHA might improve its productivity if it considered staffing ratios when making staffing allocations to hearing offices. Furthermore, OHA could be aided in its staffing decisions by determining an ideal staffing ratio for its hearing offices. We also found that despite the assembly contractors filling a critical need in hearing offices, OHA has not measured the effect that file assembly contractors have had on staffing ratios, dispositions and timeliness in hearing offices that used file assembly contractors.

## HEARING OFFICE DISPOSITIONS, TIMELINESS, AND STAFFING

Over the last 5 years hearing office receipts<sup>5</sup> have outpaced total dispositions every year resulting in a large increase in pending claims (up nearly 104 percent) and a worsening of average processing time (up nearly 24 percent). See Figure 1 for our trend analysis.<sup>6</sup> In an attempt to improve productivity and timeliness, SSA implemented a number of initiatives (see Appendix D). We discuss the trends in hearing office staffing levels, productivity and timeliness in the section that follows.

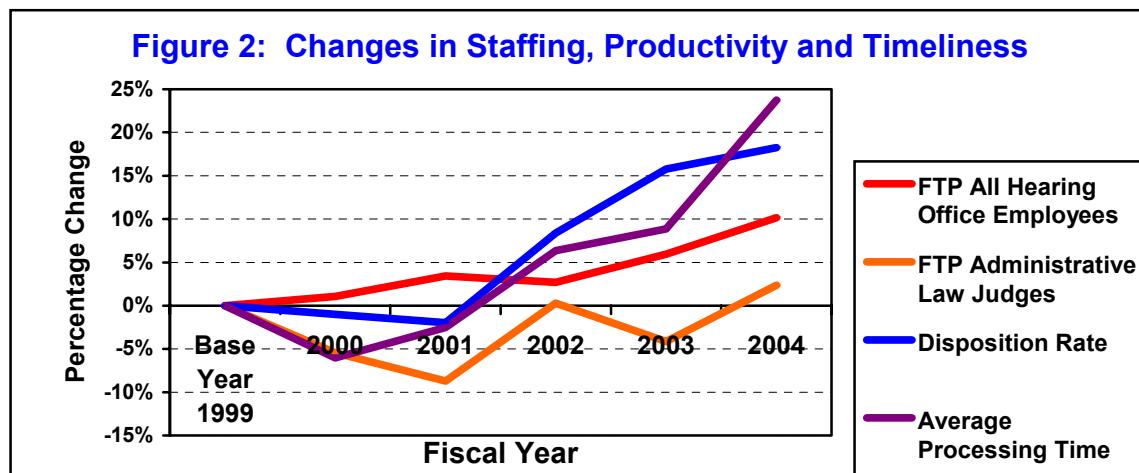


<sup>5</sup> Since Calendar Year 1999, SSA has experienced an increase in applications for disability benefits every year. The Social Security Advisory Board predicted that the growth in SSA's disability program will accelerate due to the baby boomers reaching their disability prone years. See the Board's report, *Charting the Future of Social Security's Disability Programs: The Need for Fundamental Change*, January 2001.

<sup>6</sup> Based on SSA's *Performance and Accountability Reports* and OHA's *Key Workload Indicator Reports*.

## TRENDS IN STAFFING, PRODUCTIVITY AND TIMELINESS

The number of hearing office employees<sup>7</sup> on duty has increased over 10 percent since FY 1999 (see Figure 2). The number of ALJs on duty at the end of FY 2004 was up more than 2 percent from FY 1999 levels. With increased staffing in its hearing offices, OHA's national disposition rate improved, increasing by over 18 percent since FY 1999. OHA achieved a record disposition rate of 2.40 in FY 2004. Even so, the total number of dispositions has not surpassed FY 1999 totals (see Figure 1). The disposition rate is a productivity measure that is under the control of OHA since the disposition rate depends upon hearing office employees working together efficiently and effectively in entering claims into the system, preparing claims for hearings, conducting the hearings, writing the decisions and mailing the decisions to the claimant (see Appendix C for hearing office organization chart and hearing office position descriptions).



However, even with increased staffing levels, average processing time worsened. Average processing time increased by over 24 percent since FY 1999, increasing from 316 days during FY 1999 to 391 days during FY 2004. Average processing time has been impacted by many factors.<sup>8</sup> Some of the factors influencing timeliness that are not under OHA's control are the number of new hearing receipts (close to 21 percent higher than FY 1999 levels, see Figure 1) and restrictions on ALJ hiring. With the exception of

<sup>7</sup> Throughout this report employee counts will be shown as FTP equivalents.

<sup>8</sup> According to OHA executives, some other factors that affect hearing office performance include: union activity, overtime funding, and the hearing office's implementation of OHA's Short-Term Initiatives. A discussion of OHA initiatives is found in Appendix D. We acknowledge that other factors besides staffing affect hearing office performance. However, those factors were beyond the scope of this audit.

a 1-time hiring of 126 ALJs in early FY 2002, OHA was precluded from hiring ALJs due to the Azdell litigation.<sup>9</sup> However, in FY 2004, OPM reactivated the ALJ register, and OHA was able to hire 103 ALJs in the spring and summer of FY 2004. One major factor under OHA's control that may have negatively impacted timeliness was the FY 2000 implementation of the Hearing Process Improvement (HPI) initiative.<sup>10</sup>

## HEARING OFFICE STAFFING RATIOS

OHA's staffing goal is to have adequate staffing in each hearing office to ensure an even workload. If a hearing office does not have the right mix and an adequate number of support staff for each ALJ, all of the pre-hearing and post-hearing work may not be accomplished efficiently and the hearing office's productivity and timeliness could suffer. OHA calculates support staff to ALJ ratio (staffing ratio)<sup>11</sup> for each hearing office during the budget planning cycle, and when ALJ hiring occurs. Using OHA's staffing reports, we calculated OHA's national staffing ratio at the end of FYs 1999 through 2004 (see Table 1), and found that it has fluctuated from a low of 4.1 to 1 to a high of 4.8 to 1, with an average national staffing ratio of 4.5 to 1. The main factors that affected the national support staffing ratio were OPM's restriction on hiring ALJs and OHA hiring additional support staff.

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<sup>9</sup> In 1997, two applicants for ALJ positions filed an appeal with the Merit Systems Protection Board (MSPB). This case, Azdell v. Office of Personnel Management (OPM), challenged the veterans' preference formula that OPM was using to score the ALJ examination. In April 1999, the MSPB issued an initial decision finding that the scoring system violated the Veterans Preference Act. Beginning in April 1999, SSA was not able to hire ALJs directly. This restriction was lifted in 2004.

<sup>10</sup> Government Accountability Office (GAO), *Social Security Disability – Disappointing Results From SSA's Efforts to Improve the Disability Claims Process Warrant Immediate Attention* (GAO-02-322), February 2002.

<sup>11</sup> According to OHA, any hearing office employee who processes claims is calculated into the staffing ratio. For purposes of calculating support staffing ratios, the only employees not included as "support staff" are the Hearing Office Director, the Hearing Office Systems Administrator, and the Administrative Assistant. These employees are not directly involved in processing cases and provide administrative support to the entire office.

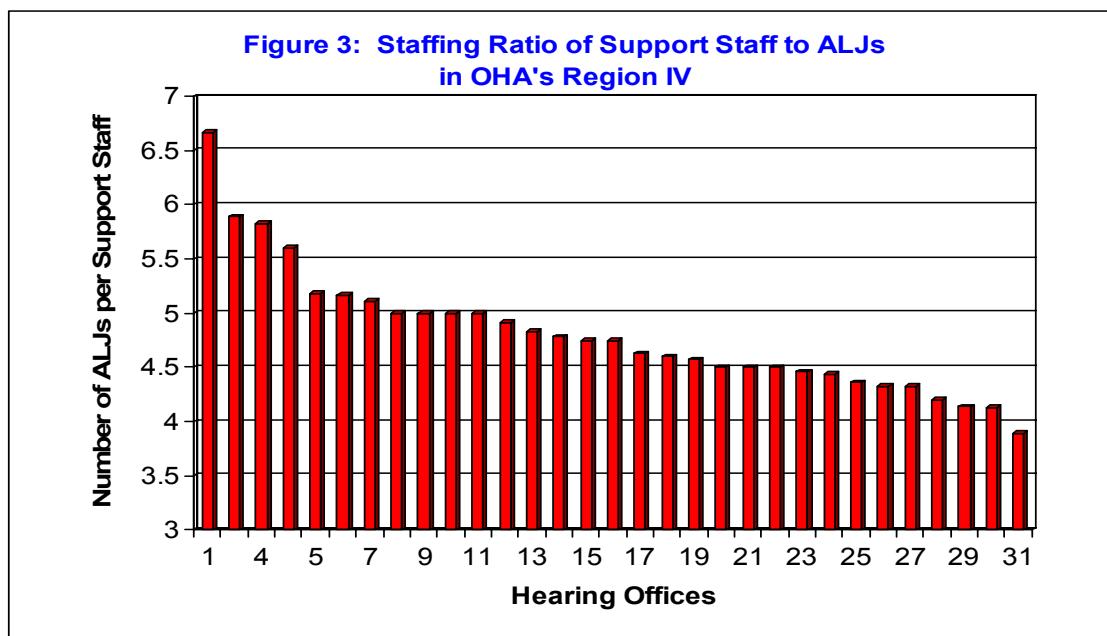
**Table 1: National Staffing Levels and Staffing Ratios  
at the End of Fiscal Years 1999 through 2004**

(1) Fiscal Year	(2) Number of Hearing Offices	(3) Total Full-Time Permanent Staff	(4) Full-Time Permanent ALJs	(5) Permanent Staff Minus Full-Time Permanent ALJs	(6) Staffing Ratio
1999	141	5,878	1,065	4,390	4.1 to 1
2000	140	5,940	1,007	4,513	4.5 to 1
2001	138	6,080	972	4,694	4.8 to 1
2002	138	6,036	1,068	4,554	4.3 to 1
2003	139	6,227	1,021	4,789	4.7 to 1
2004	140	6,475	1,090	4,965	4.6 to 1
<b>AVERAGE</b>		<b>6,106</b>	<b>1,037</b>	<b>4,651</b>	<b>4.5 to 1</b>

**Table Notes:**

1. Column 5 - To determine the actual number of permanent staff involved in processing claims, OHA removes three administrative staff per each hearing office. OHA deems these three positions as purely administrative and not involved in processing claims.
2. Column 6 - The staffing ratio is calculated by dividing column 5 by column 4.

Although the national staffing ratio has not varied greatly over the past 6 years, the staffing ratio among the various hearing offices shows much greater variance. Our review of end of FY 2003 staffing data shows that staffing ratios at the hearing offices ranged from a low of 3 to 1 to a high of 18.5 to 1. In Figure 3 we provide an example of the staffing ratio variance in the Atlanta Region (Region IV) at the end of FY 2003. The range in staffing ratios among these hearing offices was a high of 6.7 to 1 to a low of 3.9 to 1. We compared these staffing ratios to hearing office dispositions and timeliness, and found that staffing, among other factors, may be a good indicator regarding office productivity.



## Staffing Ratios and the Effect on National Dispositions

For FY 2003, OHA's national disposition rate was 2.35 dispositions per day per ALJ. The disposition rate ranged from 5.54 dispositions per day per ALJ at the hearing office with the highest disposition rate, to 1.18 at the hearing office with the lowest rate. Fifty-nine hearing offices had disposition rates equal to or better than the FY 2003 national average disposition rate, while 80 hearing offices had disposition rates worse than the national average.<sup>12</sup>

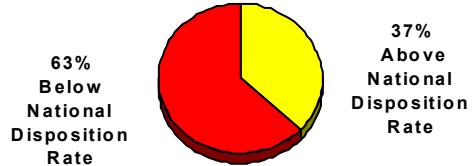
Hearing offices with lower staffing ratios had, on average, worse hearing office disposition rates. Of the 76 hearing offices with staffing ratios less than the FY 2003 national staffing ratio of 4.7 to 1, 63 percent had disposition rates worse than the FY 2003 national disposition rate (see Figure 4).

**Figure 4: FY 2003 Staffing Ratios and Dispositions**

63 Hearing Offices had Staffing Ratios Above FY 2003 National Staffing Ratio



76 Hearing Offices had Staffing Ratios Below FY 2003 National Staffing Average



## Staffing Ratios and the Effect on National Timeliness

The national average processing time was 344 days in FY 2003. There was a large range in timeliness among OHA's 139 hearing offices. Average processing time ranged from 142 days at the hearing office with the shortest processing time, to 525 days at the hearing office with the longest processing time. Seventy-two hearing offices had average processing times better than the FY 2003 national average processing time, while 67 hearing offices had average processing times worse than the FY 2003 national average.

Staffing ratios may be a good indicator for hearing office timeliness. Of the 63 hearing offices with staffing ratios above the FY 2003 national staffing ratio of 4.7 to 1, more than half (57 percent) had average processing times better than OHA's FY 2003 national average processing time of 344 days (see Figure 5). Of the 76 hearing offices with staffing ratios below 4.7 to 1, less than half (47 percent) had average processing times better than 344 days.

<sup>12</sup> OHA had 139 hearing offices in FY 2003.

Fluctuating staffing levels make it difficult for OHA to balance staffing ratios in hearing offices. OHA must wait for a hearing office with a higher-than-average support staff ratio to lose an employee before another employee can be hired in a hearing office that needs more support staff. OHA would be better able to manage hearing office staffing if it had an ideal staffing ratio for its hearing offices.

To determine an ideal staffing ratio for OHA hearing offices, SSA would need to conduct national performance standards on the work performed by hearing office support staff. Through its Unified Measurement System initiative, SSA has begun to track the work expended by its operating components on ongoing workloads, tasks and projects.

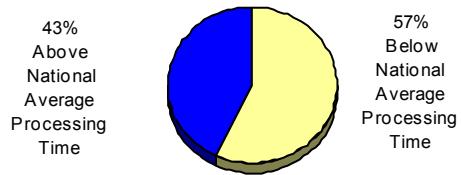
According to SSA, phase 1 of the initiative's appeals process seeks to create an operational data store (ODS) that will provide workload control and standard reports for the Agency's appeals workload and will also provide ad hoc query capabilities to the new data store for knowledge workers throughout the Agency. This first phase of the project is to conduct the detailed analysis needed to document the appeals business process and to determine where (systematically) the work is being done. Upon completion of phase 1, SSA anticipates having an ODS that will draw detailed data from a number of sources and will provide an Agency view of the appeals workload. Subsequent phases will provide detailed case listings, case level queries and management information reports. We believe that this ongoing work could assist OHA in creating an ideal staffing ratio, thereby allowing OHA managers to tie staffing decisions into the performance measures.

## **CONTRACT FILE ASSEMBLY AND THE EFFECT ON DISPOSITIONS, TIMELINESS AND STAFFING**

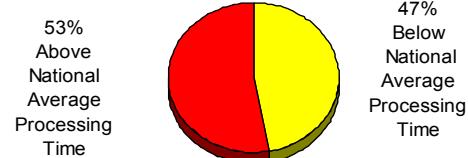
One initiative that affects hearing office staffing ratios is the Contract File Assembly initiative, implemented at the end of FY 2002. When HPI was implemented in FY 2000, a large number of hearing office case technicians (CT) were promoted into

**Figure 5: FY 2003 Staffing Ratios and Timeliness**

**63 Hearing Offices with Staffing Ratios Above FY 2003 National Staffing Average**



**76 Hearing Offices with Staffing Ratios Below FY 2003 National Staffing Average**



the senior case technician position. After the CTs were promoted, the hearing offices did not have enough staff to assemble<sup>13</sup> the claims. Without sufficient staffing, claims can not be heard by an ALJ and the number of pending claims increases. The Contract File Assembly initiative allowed the use of contractors<sup>14</sup> to assemble claims in selected hearing offices. The intent was to lessen the number of pending claims awaiting a hearing. According to OHA, contractors assembled over 40,000 files in both FY 2003 and FY 2004.

OHA headquarters allocates funding for file assembly contracts to each of the OHA regional offices. However, we could not find a clear relationship between regional workloads and contractor funding. We compared the dollar value of the file assembly contracts awarded and the number of cases assembled for each OHA regional office with FY 2002 regional pending levels (see Table 2). For instance, the Chicago Region had the second highest total number of pending claims, but received the fourth lowest amount of funding for file assembly contracts and had the fourth fewest number of cases assembled.

In another example, the Dallas Region received approximately \$83,000 more in file assembly contracts than the New York Region, but the New York Region had over 4,000 more pending claims than the Dallas Region. The San Francisco and Philadelphia Regions received contract amounts much higher than the average while their pending levels were much lower than the average. We performed similar analysis using regional disposition rates, average processing times and receipts and found no clear relationship among any of these variables with the amount of file assembly contracts awarded to the regions.

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<sup>13</sup> Assembling claims involves organizing all of the medical documents chronologically, arranging documents in appropriate sections of the case file, numbering documents, identifying duplicate documents, and ensuring all pertinent documents are appropriately labeled in a claim folder prior to holding a hearing before an ALJ.

<sup>14</sup> For a description of the duties performed by file assembly contractors, see Appendix C.

**Table 2: File Assembly Contracts Awarded to Regional Offices  
(Sorted by Pending Claims)**

OHA Regional Office	End of FY 2002 Pending Claims	File Assembly Contract Amount	Number of Cases Assembled
Denver	14,158	\$ 58,000	1,250
Seattle	16,270	\$106,123	2,319
Boston	23,550	\$ 29,994	724
Kansas City	26,012	\$ 63,469	1,537
San Francisco	32,642	\$199,519	4,951
Philadelphia	39,100	\$155,371	4,199
Dallas	63,113	\$228,000	6,863
New York	67,198	\$145,300	2,796
Chicago	75,954	\$ 79,400	1,579
Atlanta	132,912	\$248,773	5,801
<b>Average</b>	<b>49,091</b>	<b>\$131,395</b>	<b>3,202</b>

Besides not finding a clear relationship between the contract award amounts and OHA hearings key workload indicators, we also learned that OHA has not calculated what effect file assembly contracts have had on hearing office staffing ratios or hearing office performance for those hearing offices that received file assembly contracts.<sup>15</sup> It is important for OHA to measure this effect, because as we demonstrated earlier, the majority of hearing offices with lower staffing ratios had lower productivity and worse timeliness.<sup>16</sup>

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<sup>15</sup> OHA was not able to provide us with the necessary data so that we could perform an independent analysis to what effect file assembly contracts have had on hearing office staffing ratios or hearing office performance.

<sup>16</sup> All of OHA's file assembly contracts contained an expiration date of September 30, 2004. OHA established 5 centralized File Assembly Units staffed with 63 Federal employees on October 1, 2004. However, our observations are relevant to the allocation of contractor resources, regardless of the structure to deliver those resources.

# *Conclusions and Recommendations*

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Hearing office staffing levels rose more than 10 percent since FY 1999 and OHA achieved a record national disposition rate in FY 2004. However, increased staffing levels have not been as effective in decreasing national average processing time. Staffing ratios may be a good indicator for hearing office disposition rates and timeliness, especially in hearing offices with low staffing ratios. In most hearing offices with below average staffing ratios, disposition rates were below national averages and average processing times were above national averages. National performance standards for the work performed by hearing office support staff could help OHA management determine an ideal staffing ratio. Furthermore, it does not appear OHA awarded file assembly contracts based on any of the hearings key workload indicators, nor could we find any evidence OHA determined the effect that the additional human resources (file assembly contractors) have had on staffing ratios, disposition rates or average processing time for hearing offices that had received file assembly contracts.

## **RECOMMENDATIONS**

To improve overall staffing at the hearing offices and assist OHA in meeting its performance goals, we recommend SSA:

1. Consider developing an ideal national staffing ratio to assist OHA in allocating staff to hearing offices; and
2. Consider prioritizing file assembly assistance for those hearing offices that have staffing ratios below the national staffing ratio.

## **AGENCY COMMENTS**

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

# **Appendices**

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## **Appendix A**

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### **Acronyms**

AA	Attorney Advisor
ALJ	Administrative Law Judge
CHR	Contact Hearing Reporter
CIA	Case Intake Assistant
CPMS	Case Processing and Management System
CT	Case Technician
eDIB	Electronic Disability Project
FTP	Full-Time Permanent
FY	Fiscal Year
GAO	Government Accountability Office
GS	Group Supervisor
HOCALJ	Hearing Office Chief Administrative Law Judge
HOD	Hearing Office Director
HOSA	Hearing Office System Administrator
HPI	Hearing Process Improvement
LCT	Lead Case Technician
ME	Medical Expert
MSPB	Merit Systems Protection Board
ODS	Operational Data Store
OHA	Office of Hearings and Appeals
OIG	Office of the Inspector General
OPM	Office of Personnel Management
OQA	Office of Quality Assurance and Performance Assessment
OTR	On-the-Record
PA	Paralegal Analyst
SSA	Social Security Administration
SCT	Senior Case Technician
STI	Short-Term Initiative
VE	Vocational Expert

# **Scope and Methodology**

To meet the objective of this audit, we:

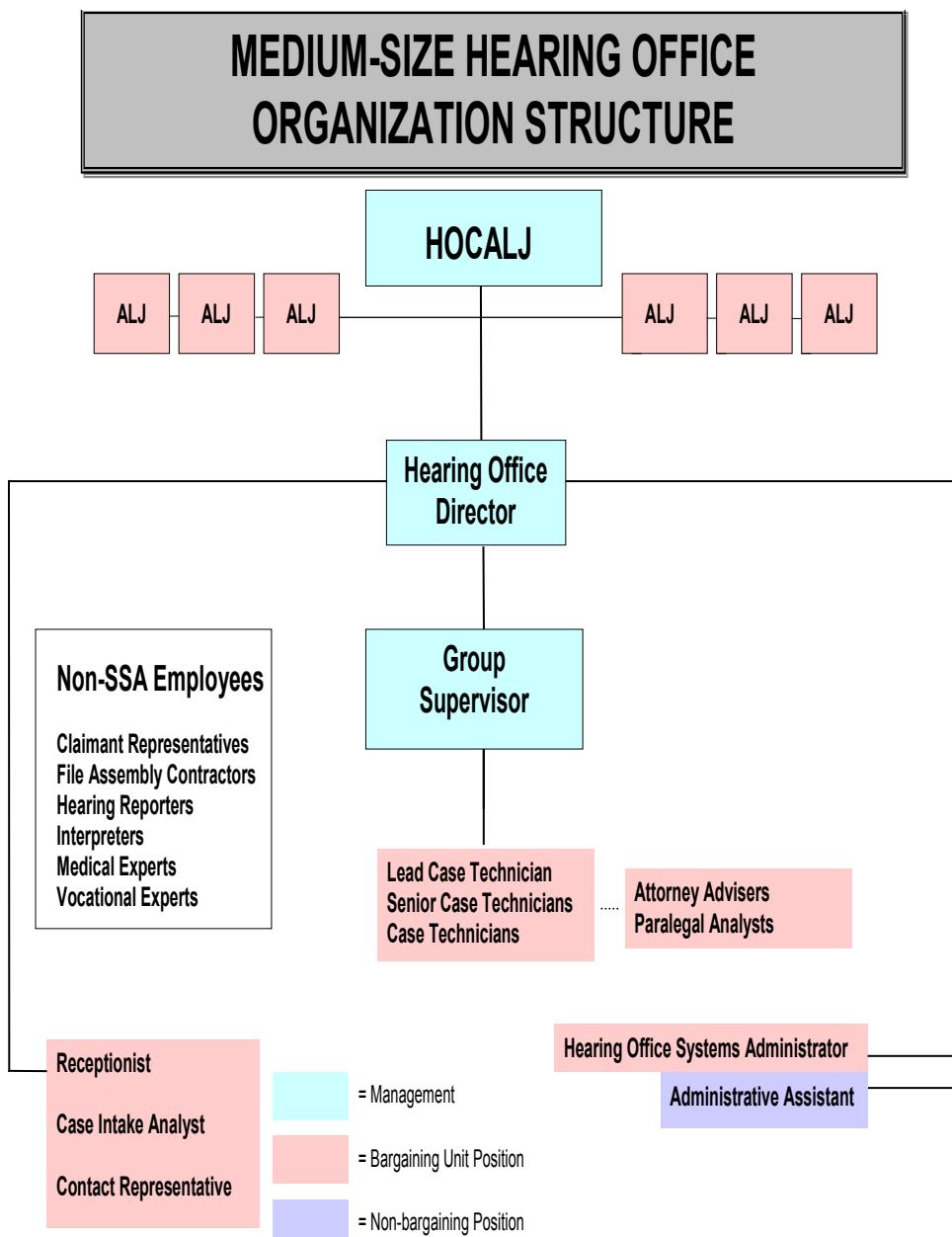
- Reviewed Office of Hearings and Appeals (OHA) policies and procedures.
- Reviewed Office of the Inspector General reports, Government Accountability Office reports and testimony, Social Security Advisory Board reports, OHA Quarterly, Annual and Key Workload Indicator reports, and the Social Security Administration's (SSA) Accountability and Performance Reports.
- Used OHA's bi-weekly staffing reports to determine hearing office staffing ratios and end of the year national staffing ratios.
- Obtained hearing office performance data from OHA's National Ranking Report<sup>1</sup> and compared hearing office productivity and timeliness measures with end of the Fiscal Year 2003 hearing office staffing ratios.
- Assembled hearing office position descriptions based on available documentation and our understanding of the hearing process.
- Examined the distribution of OHA's file assembly contracts, by comparing the contract awards with regional disposition rates, average processing times, case receipt levels, and pending case levels.
- Conducted interviews with OHA headquarter executives and staff and regional office management staff to ensure the accuracy of the information presented.
- Documented the status of OHA's other short-term initiatives that were designed to improve the hearing process.

We did not assess internal controls or the reliability of workforce data provided from OHA's systems. The entity audited was OHA within the Office of the Deputy Commissioner for Disability and Income Security Programs. We conducted our audit from March 2004 to October 2004 in accordance with generally accepted government auditing standards.

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<sup>1</sup> OHA's National Ranking Reports contain monthly and yearly performance data for every hearing office. We did not independently audit the performance data found in the National Ranking Reports.

## Hearing Office Organization Chart and Position Descriptions



## HEARING OFFICE POSITION DESCRIPTIONS

Title	Position Description
Hearing Office Chief Administrative Law Judge (HOCALJ)	The HOCALJ is directly responsible for all program and administrative matters concerning the Social Security Administration's (SSA) hearing process in the hearing office. The HOCALJ is the first line supervisor to Administrative Law Judges, the Supervisory Staff Attorney and the Hearing Office Director. The HOCALJ has full responsibility and full authority to hold hearings and issue decisions made in the course of administration of Titles II, XVI and XVIII of the Social Security Act.
Administrative Law Judge (ALJ)	The ALJ holds hearings and makes and issues decisions on appeals from determinations made in the course of administration of Titles II, XVI and XVIII of the Social Security Act.
Hearing Office Director (HOD)	The HOD serves as the principal management adviser to the HOCALJ and participates significantly with the HOCALJ in the overall management and administration of the hearing office. The HOD supervises, plans, organizes and controls operating activities in a hearing office.
Group Supervisor (GS)	The GS is the first line supervisor of the Attorney Advisor, the Paralegal Analyst, the Lead Case Technician, the Senior Case Technician, and the Case Technician. The GS directs all of the activities of employees assigned to the group to ensure the efficient, timely and legally sufficient processing of the hearing office cases.
Attorney Adviser (AA)	The AA renders advice and assistance to the ALJ in pre-hearing development and preparation of cases for hearing, post-hearing development and other post-hearing actions. The AA analyzes, researches and develops cases, and formulates and drafts comprehensive decisions for the ALJ.

Paralegal Analyst (PA)	The PA assists the ALJ in the formulation of the case decision. The PA evaluates all program, legal and medical aspects of the case including exhibits, all testimony, all pertinent laws and regulations and precedent court cases.
Lead Case Technician (LCT)	The LCT is responsible for leading the work of three or more employees engaged in developing and processing a request for hearing from its receipt in the hearing office to its completion. The LCT processes more complex hearing cases where analysis of pertinent issues and interpretation of the provisions of laws, regulations, rulings, precedents, policies, procedures and guidelines relative to the case is necessary.
Senior Case Technician (SCT)	The SCT duties consist of processing more complex hearing cases. The SCT prepares case summaries by outlining, in narrative form, information from all documents which reflect the prior medical history of the claimant and treatment undertaken, and any conflicting medical evidence.
Case Technician (CT)	The CT reviews and analyzes a wide variety of medical and legal documentation, records and evidence to ensure that case files are received and developed in accordance with legal and regulatory authorities. The CT also schedules cases for hearing in accordance with legal and regulatory requirements and coordinates time and date of the hearing with claimants, representatives, expert witnesses, and hearing reporters.
Hearing Office System Administrator (HOSA)	The HOSA installs, configures, upgrades and troubleshoots hearing office information technology hardware and software. The HOSA serves as the focal point in the ongoing support of information technology initiatives.
Administrative Assistant	The administrative assistant is responsible for providing day-to-day administrative management services essential for the operation of the hearing office. These services include aspects of budget execution and formulation, personnel administration, procurement and supply, contract administration, travel, payroll services, and reports management.

Case Intake Assistant (CIA)	This is a specialized case assistant position, in that a majority of the work involves Master Docket <sup>1</sup> duties. The CIA is responsible for developing and processing a case from its receipt in the office to its completion. The CIA reviews and analyzes the case to ensure sufficiency of evidence and to ensure that the case is ready to hear. Also, the CIA contacts the claimant to secure current evidence of record.
Receptionist	The receptionist provides information in person and/or over the telephone, in response to inquiries concerning the general responsibilities, functions, program activities and personnel of the hearing office as well as performing other general clerical activities.
Contact Representative	The contact representative is responsible for dispensing information to the public, in person or by telephone, explaining the legal provisions, regulations and procedural requirements for obtaining benefits under the Social Security program as they relate to a specific case, and explaining the application of regulatory provision and the bases for the Agency's determinations in individual cases.

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<sup>1</sup> OHA's hearing offices maintain a Master Docket system which contains all requests for hearings and remanded claims.

## HEARING OFFICE ROLES AND RESPONSIBILITIES OF NON-SSA EMPLOYEES

Title	Roles and Responsibilities
Claimant Representative	<p>A claimant representative is an individual whom the claimant appoints to act on his/her behalf in pursuing his/her claim or asserted rights before SSA. The claimant representative may, on behalf of the claimant:</p> <ul style="list-style-type: none"> <li>• Obtain information about the claim that SSA would generally provide the claimant;</li> <li>• Examine any documents to which the claimant would have access;</li> <li>• Appear at any interview or hearing, either alone or with the claimant;</li> <li>• Submit evidence;</li> <li>• Be informed of all additional evidence needed to support the claim;</li> <li>• Make statements about facts and law;</li> <li>• Make any request or give any report or notice about the proceedings before SSA; and</li> <li>• Be notified of any decision made in the claim, including, if applicable, decisions regarding auxiliary beneficiaries.</li> </ul>
Contract File Assembly	<p>SSA requires the contractor to provide folder assembly services. The contractor:</p> <ul style="list-style-type: none"> <li>• Reviews the case files to ensure all jurisdictional exhibits are in the file;</li> <li>• Organizes the documents to be included in the exhibits;</li> <li>• Rubber stamps each page of the exhibit with the word "Exhibit" in black ink; and</li> <li>• Prepares the Exhibit list on either a government computer, or by hand on a pre-printed sheet.</li> </ul>

Contract Hearing Reporters (CHR)	<p>SSA is phasing in the use of digital recording of hearings and phasing out the use of analog (audiocassette) recording. During the phase-in/phase-out process, CHRs will be expected to be able to use both analog and digital recording equipment.</p> <p>The CHR's duties are to:</p> <ul style="list-style-type: none"> <li>• Be present at the designated hearing site on the date and time specified;</li> <li>• Set up and test the recording equipment;</li> <li>• Record the proper identification information on the hearing cassette tape;</li> <li>• During the hearing, monitor the recording equipment to ensure that it is functioning properly and that a verbatim record of the hearing proceedings is made on the cassette tape;</li> <li>• Take notes of hearing testimony, ensuring that ALJ directives pertaining to additional evidence and other needed documents are noted; and</li> <li>• After the hearing, place cassette recording in cassette storage envelope and place with notes in a designated area in the hearing room.</li> </ul>
Interpreters	<p>SSA provides interpreter services at no cost to assist non-English speaking claimants who have difficulty understanding or communicating in English during any part of the hearing process. The interpreter must accurately interpret each word spoken during the hearing from English to the foreign language for the claimant and, as the claimant answers, the interpreter listens and renders the English version.</p>

Medical Experts (ME)	<p>An ALJ may need to obtain an ME's opinion, either in testimony or at a hearing or in responses to written interrogatories, when:</p> <ul style="list-style-type: none"> <li>• The ALJ is determining whether a claimant's impairment(s) meets or equals a listed impairment(s);</li> <li>• The ALJ is determining usual dosage and effect of drugs and other forms of therapy;</li> <li>• The ALJ is assessing a claimant's failure to follow prescribed treatment;</li> <li>• The ALJ is determining the degree of severity of a claimant's mental impairment;</li> <li>• The claimant or the claimant's representative has requested the presence of an ME at the hearing and the ALJ agrees that ME testimony is necessary;</li> <li>• The ALJ has doubt about the adequacy of the medical record in a case, and believes that an ME may be able to suggest additional relevant evidence;</li> <li>• The medical evidence is conflicting or confusing, and the ALJ believes an ME may be able to clarify the evidence;</li> <li>• The significance of clinical or laboratory findings in the record is not clear, and the ALJ believes an ME may be able to explain the findings and assist the ALJ in assessing their clinical significance;</li> <li>• The ALJ is determining the claimant's residual functional capacity, e.g., the ALJ may ask the ME to explain or clarify the claimant's functional limitations and abilities as established by the medical evidence of record; or</li> <li>• The ALJ desires expert medical opinion regarding the onset of an impairment.</li> </ul> <p>The ALJ must obtain an ME's opinion, either in testimony at a hearing or in responses to written interrogatories, when the Appeals Council or a court so orders. In addition, the ALJ must use an ME to evaluate and interpret background medical test data.</p>
Vocational Experts (VE)	<p>An ALJ may need to obtain a VE's opinion, either in testimony at a hearing or in written responses to interrogatories when:</p> <ul style="list-style-type: none"> <li>• The ALJ is determining whether the claimant's impairment(s) prevents the performance of past relevant work; or</li> <li>• The ALJ is determining whether the claimant's impairment(s) prevents the performance of any other work and he or she cannot decide the case.</li> </ul> <p>The ALJ must obtain a VE's opinion, either in testimony at a hearing or in responses to written interrogatories, when directed by the Appeals Council or a court.</p>

# **Other Initiatives for Improving Hearing Workloads**

### **1990's Initiatives**

In the mid 1990's, the Social Security Administration's (SSA) pending cases in its hearing offices reached crisis-levels. SSA introduced a number of temporary initiatives designed to reduce the Office of Hearings and Appeal's (OHA) pending cases. These temporary initiatives introduced new procedures and reallocated staff. Among the most long-standing of these initiatives was the Senior Attorney Program.

- *Senior Attorney Program*

Under the *Senior Attorney Program*, selected attorneys reviewed claims to identify those cases in which the evidence already in the case fully supported a fully favorable decision. Senior attorneys had the authority to approve these claims without Administrative Law Judge (ALJ) involvement. This program took effect in Fiscal Year (FY) 1995 and was phased out in 2000. During its existence, the program succeeded in reducing the backlog of pending disability cases by issuing 200,000 hearing-level decisions. However, findings on the accuracy of Senior Attorney decisions were mixed. One SSA study concluded that the quality of decisions made by Senior Attorneys generally increased over the period of the initiative, though falling short of the quality of the decisions made by the ALJs.<sup>1</sup> A second SSA study indicated that the quality of the decisions made by senior attorneys is comparable to those made by ALJs.<sup>2</sup> SSA management decided that the Senior Attorney Program was a poor allocation of resources as it diverted attorneys from processing more difficult cases to process the easier cases.

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<sup>1</sup> SSA's Office of Quality Assurance and Performance Assessment (OQA) reviewed about 1,800 Senior Attorney decisions issued from fiscal years 1995 through 2000. OQA's assessment is based on analysis conducted by ALJs who were temporarily detailed to the Disability Hearings Quality Review Process.

<sup>2</sup> This study was done by the Appeals Council, which routinely reviews unappealed decisions as part of the Pre-Effectuation Review. The Pre-Effectuation Review consists of cases OQA had identified requiring corrective action. In July 1999, the Appeals Council reported data it had collected from its review of 1,055 unappealed Senior Attorney decisions and 833 favorable on-the-record ALJ decisions issued between August 8, 1995 and July 14, 1999.

## **2000 Initiative**

The Hearing Process Improvement (HPI) initiative was implemented in 2000. It was designed to make OHA hearing offices more productive by reducing the amount of processing time for hearings.<sup>3</sup>

- *Hearing Process Improvement*

HPI included the establishment of new positions, workgroups, new and enhanced reports, and features such as development and locator calendars and benchmarks for how long cases should stay at each step of the process. A major change was the establishment of processing groups into manageable, self-contained working units. After HPI was implemented, processing time slowed and the number of pending claims increased rapidly. A Government Accountability Office study<sup>4</sup> concluded that HPI failed because SSA implemented large-scale changes too quickly without resolving known problems. The problems included process delays, poorly timed and insufficient training, and the absence of important automated functions.

## **2002 Initiatives**

OHA implemented eight Short-Term Initiatives (STI) late in FY 2002 to improve the hearing process.

The first two STIs centered on hearing office processes:

- *Contract File Assembly*<sup>5</sup>

In the *Contract File Assembly* initiative, contractors assemble case folders to assist hearing offices in preparing pending cases for Administrative Law Judges (ALJ) to schedule hearings. Contractors assembled over 40,000 files in both FY 2003 and FY 2004.

- *Ending Rotational Assignments*

OHA *Ended Rotational Assignments* among certain clerical functions that was implemented during the HPI initiative. This action allows support staff to concentrate on their case preparation duties.

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<sup>3</sup> For further information, see the SSA Office of the Inspector General (OIG) report *Assessment of the Hearing Process Improvement Plan Phase 1* (A-06-00-20051), June 2001.

<sup>4</sup> Government Accountability Office, *Social Security Disability – Disappointing Results From SSA’s Efforts to Improve the Disability Claims Process Warrant Immediate Attention* (GAO-02-322), February 2002.

<sup>5</sup> SSA OIG, *Congressional Response Report: Review of File Assembly Contracts at Office of Hearings and Appeals* (A-07-04-24076), March 2004.

These next six STIs were designed to expedite the decision-making process and reduce processing time.

- *Early Case Screening and Analysis by Administrative Law Judge*

In *Early Case Screening*, ALJs examine unassembled cases from the Master Docket<sup>6</sup> and may issue immediate on-the-record<sup>7</sup> favorable decisions. Screening helps eliminate standard delays and additional expense associated with holding a hearing. Screening also helps identify cases that need further development which helps move the cases along at an earlier stage. In FY 2003, ALJs screened about 66,000 cases and issued favorable decisions to approximately 21,600 claimants, and screened 70,781 cases resulting in over 25,000 on-the-record decisions in FY 2004.

- *Short Form Software for Fully Favorable Decisions*

OHA's hearing offices use standardized software to allow ALJs to create fully favorable decisions. In FY 2003, ALJs wrote over 23,600 decisions and 18,750 decisions in FY 2004 using the *Short Form Software for Fully Favorable Decisions*, which reduced handoffs and further delays.

- *Bench Decisions*

In *Bench Decisions*, an ALJ issues a decision as soon as the hearing is over. ALJs issued over 1,100 favorable decisions from the bench in FY 2003, and issued 3,350 decisions in FY 2004.

- *Expanding Video Hearings*

*Video Hearings* enhances OHA's ability to expeditiously schedule hearings in remote<sup>8</sup> sites. In FY 2003, OHA prepared and published final regulatory changes, which permit OHA to schedule video hearings without obtaining advance consent from the claimant. At the end of FY 2003, OHA had video hearing equipment in 35 sites. The total number of fully operational video hearing sites was 162 at the end of FY 2004.

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<sup>6</sup> OHA's hearing offices maintain a Master Docket system which contains all requests for hearings and remanded claims.

<sup>7</sup> On-the-Record (OTR) decisions are when the ALJ reviews a claim prior to a hearing and decides that there is enough evidence to render a favorable decision. Claims decided OTR eliminate the standard delays associated with holding a hearing.

<sup>8</sup> Remote sites are locations where hearings are held, other than the main hearing office. For instance, ALJs in the Charlottesville, Virginia hearing office use the video teleconference to hear cases from the Lewisburg, West Virginia remote site.

- *Dragon Naturally Speaking, Speech Recognition Software*

*Dragon Naturally Speaking, Speech Recognition Software* assists ALJs and support staff with drafting decisions. In FY 2003, OHA distributed the software to more than 1,000 decision writers and ALJs.

- *Digital Recording Hearings*

*Digital Recording Hearings* is a new method of recording hearings that replaces OHA's aging audiocassette recorders with notebook computers. The notebooks have state-of-the-art software to record hearing proceedings in a digital file that can be stored on a hard drive, a local server and in the electronic folder. The entire digital recording rollout is expected to be completed early in 2006.

## **2004 Initiatives**

- *Case Processing and Management System*

OHA implemented the *Case Processing and Management System* (CPMS) in all 10 Regions in FY 2004. CPMS is OHA's new case tracking system and a critical component of the Agency's Electronic Disability Project (eDib).<sup>9</sup> CPMS provides users in OHA hearing offices with a system to control, process and produce management information on disability hearings. CPMS includes the following functions: initiative appeals, case receipt, case development, ALJ review, scheduling features, information about hearings, case closing and management information.

- *Centralized Screening Unit*

At the beginning of the third quarter of FY 2004, OHA established an early case screening program at OHA Headquarters, which was authorized by the Commissioner during the second quarter of FY 2004. Employees in the *Centralized Screening Unit* screened cases from across the country for on-the-record decisions, with priority consideration given to hearing offices with receipts and pending levels above the national average and support staff levels below the national average. The objective of the Unit is to expedite the decision-making process and reduce the pending levels in the hearing offices. Through the end of the third quarter of FY 2004, the Centralized Screening Unit received over 2,500 cases and screened approximately 1,484 cases. Of the cases screened, 463 (29 percent) received fully favorable decisions.

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<sup>9</sup> SSA's eDIB project is the transition from paper to electronic processing for disability claims. eDIB consists of a series of interrelated projects designed to move all partners in disability claims adjudication/review to a paperless business process through the use of an electronic disability folder.

## Appendix E

### Agency Comments



## SOCIAL SECURITY

MEMORANDUM

34065-24-1216

**Date:** March 18, 2005 **Refer To:** S1J-3

**To:** Patrick P. O'Carroll, Jr.  
Acting Inspector General

**From:** Larry W. Dye /s/  
Chief of Staff

**Subject:** Office of the Inspector General (OIG) Draft Report "The Effects of Staffing on Hearing Office Performance" (A-12-04-14098)--INFORMATION

We appreciate OIG's efforts in conducting this review. Our comments on the draft report content and recommendations are attached.

Please let me know if we can be of further assistance. Staff inquiries may be directed to Candace Skurnik, Director, Audit Management and Liaison Staff, at extension 54636.

Attachment:  
SSA Response

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT “THE EFFECT OF STAFFING ON HEARING OFFICE PERFORMANCE” (A-12-04-14098)**

Thank you for the opportunity to review and comment on the draft report. We are in general agreement with the findings and conclusions presented in the report. In fact, we have already considered and implemented many of the principles presented.

Our responses to the specific recommendations as follows.

**Recommendation 1**

Consider developing an ideal national staffing ratio to assist the Office of Hearings and Appeals (OHA) in allocating staff to hearing offices.

**Response**

We agree in part with the stated recommendation. A national staffing ratio may provide a guideline for allocating staff; however, as the report acknowledges, factors other than staffing ratios also influence performance and must be considered in allocating staff. Resources should be distributed to the offices where they will be the most productive; simply distributing the resources so that all offices have a similar staffing ratio, as suggested by the audit recommendation, would not be as productive.

**Recommendation 2**

Consider prioritizing file assembly assistance for those hearing offices that have staffing ratios below the national staffing ratio.

**Response**

We agree. OHA has stopped the practice of using contractors to prepare cases for hearings. Instead, OHA has established five permanent file assembly units (in Regions 2, 4, 6, 7 and 8) staffed by 60 external new-hires that will provide support to hearing offices needing assistance with the file assembly process. These file assembly units operate independently of the hearing offices. Each Regional Office is given an allocation of cases to be sent to the file assembly units which it may allocate to its hearing offices as deemed appropriate. To date, these units have been successful, achieving their first quarter goals.

[In addition to the information listed above, SSA also provided technical comments which have been addressed, where appropriate, in this report.]

## ***Appendix F***

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# **OIG Contacts and Staff Acknowledgments**

### ***OIG Contacts***

Walter Bayer, Director (215) 597-4080

Michael Maloney, Audit Manager, (703) 578-8844

### ***Acknowledgments***

In addition to those named above:

Nicholas Milanek, Auditor-in-Charge

Brennan Kraje, Statistician

Annette DeRito, Writer/Editor

For additional copies of this report, please visit our web site at  
[www.socialsecurity.gov/oig](http://www.socialsecurity.gov/oig) or contact the Office of the Inspector General's Public Affairs Specialist at (410) 965-3218. Refer to Common Identification Number A-12-04-14098.

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Social Security Advisory Board

## **Overview of the Office of the Inspector General**

The Office of the Inspector General (OIG) is comprised of our Office of Investigations (OI), Office of Audit (OA), Office of the Chief Counsel to the Inspector General (OCCIG), and Office of Executive Operations (OEO). To ensure compliance with policies and procedures, internal controls, and professional standards, we also have a comprehensive Professional Responsibility and Quality Assurance program.

### **Office of Audit**

OA conducts and/or supervises 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 and program evaluations and projects on issues of concern to SSA, Congress, and the general public.

### **Office of Investigations**

OI conducts and coordinates investigative activity 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 OIG liaison to the Department of Justice on all matters relating to the investigations of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

### **Office of the Chief Counsel to the Inspector General**

OCCIG provides independent legal advice and counsel to the IG on various matters, including statutes, regulations, legislation, and policy directives. OCCIG 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. Finally, OCCIG administers the Civil Monetary Penalty program.

### **Office of Executive Operations**

OEO supports OIG by providing information resource management and systems security. OEO also coordinates OIG's budget, procurement, telecommunications, facilities, and human resources. In addition, OEO is the focal point for OIG's strategic planning function and the development and implementation of performance measures required by the Government Performance and Results Act of 1993.