



SOCIAL SECURITY

Office of the Inspector General

MEMORANDUM

AUG - 8 2001

ICN 31220-23-195
Refer To:

To: Larry G. Massanari
Acting Commissioner
of Social Security

Inspector General

Subject: Internal Controls Over the Office of Hearings and Appeals Interpreter Services
(A-12-00-10023)

The attached final report presents the results of our audit. Our objective was to assess the effectiveness of significant internal controls over the administration of interpreter services at the Office of Hearings and Appeals.

Please comment within 60 days from the date of this memorandum on corrective action taken or planned on 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.

A handwritten signature in black ink that reads "James E. Vays" over "James G. Huse, Jr." A small "for" is written above the signature.

Attachment

OFFICE OF
THE INSPECTOR GENERAL

SOCIAL SECURITY ADMINISTRATION

INTERNAL CONTROLS OVER THE
OFFICE OF HEARINGS AND APPEALS
INTERPRETER SERVICES

August 2001

A-12-00-10023

AUDIT REPORT



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

OBJECTIVE

Our objective was to assess the effectiveness of significant internal controls over the administration of interpreter services at the Office of Hearings and Appeals (OHA).

BACKGROUND

State Disability Determination Services make disability determinations under the Disability Insurance and Supplemental Security Income programs. Claimants may appeal the decision to Administrative Law Judges (ALJ) located at hearing offices (HO) throughout the nation. The ALJ has the responsibility of considering any new evidence, providing an opportunity for a hearing, applying the Social Security Administration (SSA) disability standards, and providing a new decision, which affirms or reverses the lower administrative disability decision. OHA administers the hearings and appeals program for SSA.

OHA provides interpreter services at no cost to assist non-English speaking (NES) claimants during the hearing process. HOs can obtain interpreter services from a number of sources including: SSA employees, contracted interpreters, interpreters paid by the claimant, community and advocacy groups, family members, or friends of the claimant. Most of the interpreters OHA employs are hired from commercial vendors and are paid by the HO. Most vendors provide a fee agreement to the HO, establishing the rate charged for each language. OHA spent \$1.9 million for interpreter services in Fiscal Year (FY) 1999. This report discusses the interpreters hired by HOs.

In 1994, as a result of investigations and congressional hearings, legislation was enacted to prevent recipients from improperly gaining access to program benefits through "middlemen." This legislation applied particularly to interpreters and medical providers who provided inaccurate information through translations and/or coached applicants on how to feign disabilities. SSA has taken several actions, both on its own and in response to legislation, to improve controls over interpreter services. These actions were intended to improve service to NES claimants and to substantially reduce the potential for interpreter fraud.

OHA also has procedures to minimize the risk of conflict of interest, reduce fraud, and ensure impartiality between the claimant and interpreter during a hearing. These procedures require the ALJ to verify the interpreter's identity and relationship to the person testifying, and to instruct the interpreter to accurately translate the response of the claimant during the hearing.

Interpreters hired by HOs also translate foreign language documents that are admitted into evidence for consideration in the disability decision. OHA's Hearings, Appeals and

Litigation Law Manual (HALLEX) requires that all admitted foreign language documents be translated. Further, translators may only translate from original or certified copies of documents—and must personally attest in writing—as to the accuracy of their translation.

RESULTS OF REVIEW

OHA has adopted procedures to safeguard the integrity of interpreter services. However, we determined that many of these procedures have not been effectively implemented, resulting in inaccurate payments to interpreters and other control weaknesses.

We reviewed a sample of payments to interpreters and the timesheets supporting those payments from 8 of the 21 HOs with the greatest amount of expenditures for interpreters. Numerous payments to commercial vendors were inadequately supported due to missing information on timesheets. A timesheet serves as the key document that HOs rely on to substantiate and issue payment. We identified the following six attributes on a timesheet necessary to substantiate payment: (1) a record of the foreign language in which the interpreter's service was rendered; (2) the claimant's name; (3) the claimant's Social Security number (SSN); (4) the interpreter's signature; (5) a record of the hours worked or date and time the hearing was held; and (6) a signature from a presiding OHA official who authorized the hours worked.

In reviewing 64 sampled payments to interpreters, we found 37 payments made that were based on improperly authorized timesheets. Projecting our results to the 21 HOs in our sample population, we estimate that the dollar value of interpreter payments containing at least one incorrect invoice is \$451,000. We also determined that:

- three of the eight HOs reviewed did not have adequate internal controls over payments authorized for interpreter services;
- two HOs did not have written fee agreements from any of the vendors they employed;
- none of the eight HOs adequately reviewed the qualifications of interpreters before they were hired;
- none of the eight HOs formally monitored the performance of interpreters;
- ALJs in the eight HOs did not fully administer an oath to interpreters, which obligates interpreters to accurately translate the hearing under penalty of perjury; and
- six of eight foreign language documents, containing mostly medical information submitted as evidence in the claimant's file, were not translated or lacked the certifying signature attesting to the accuracy of the translation.

CONCLUSIONS AND RECOMMENDATIONS

OHA needs to improve its oversight of foreign language interpreters. HOs have made payments to vendors which are unsupported due to inadequate control over vendor timesheets and invoices. Also, procedures for selecting and monitoring interpreters need improvement and ALJs do not completely execute the oath to interpreters as required. In addition, documents submitted as evidence by the claimant are not translated and some translations are not certified attesting to their accuracy and authenticity.

To strengthen the controls over interpreter services, we recommend that SSA:

- Standardize HO procedures to ensure that all payments are fully supported by adequate documentation to include: (a) a record of the foreign language in which the interpreter's service was rendered; (b) the claimant's name; (c) the claimant's SSN; (d) the interpreter's signature; (e) a record of the hours worked and/or date and time the hearing was held; and (f) a signature from a presiding OHA official who authorized the hours worked.
- Instruct HOs to require current and comprehensive fee agreements from each vendor to validate the accuracy of invoices before payments are made.
- Establish procedures in HALLEX similar to SSA's existing procedures for screening interpreters, confirming their identities, and assessing their background and qualifications prior to hiring and assigning interpreters.
- Expand the Office of Quality Assurance and Performance Assessment's (OQA) Disability Hearings Quality Review Process to include an assessment of the accuracy of the interpreter's performance.
- Remind all ALJs to fully administer the oath to interpreters.
- Instruct HOs to ensure that interpreters translate and certify all foreign language documents submitted as evidence for the claimant's appeal.

AGENCY COMMENTS

In response to our draft report, SSA agreed with all but one of our recommendations. Also, SSA established a workgroup to address improvements in services to individuals with limited English language skills. This workgroup will address our recommendations and expects to submit an implementation plan by October 2001. With regard to our fourth recommendation, SSA noted that current program priorities and resources preclude an additional workload in OQA. However, its workgroup will explore how OHA might devise a program to evaluate interpreter services. (See Appendix C for SSA's comments.)

OIG RESPONSE

Although SSA disagreed with our recommendation to expand OQA's review process to include an assessment of the accuracy of interpreter performance, SSA assigned its workgroup the task of exploring how OHA can evaluate interpreter services. We await the results of the workgroup and will reassess SSA's actions after the workgroup has made its recommendations.

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Acronyms

ALJ	Administrative Law Judge
CTS	Central Translation Service
DDS	Disability Determination Services
DHQRP	Disability Hearing Quality Review Process
FO	Field Office
FY	Fiscal Year
HALLEX	Hearings, Appeals and Litigation Law Manual
HO	Hearing Office
HOD	Hearing Office Director
NES	non-English speaking
OHA	Office of Hearings and Appeals
OQA	Office of Quality Assurance and Performance Assessment
PO	Purchase Order
RO	Regional Office
SSA	Social Security Administration
SSI	Supplemental Security Income
SSN	Social Security number

Introduction

OBJECTIVE

Our objective was to assess the effectiveness of significant internal controls over the administration of interpreter services at the Office of Hearings and Appeals (OHA).

BACKGROUND

State Disability Determination Services (DDS) make disability determinations under the Disability Insurance and Supplemental Security Income (SSI) programs. Claimants may appeal the DDS decision to Administrative Law Judges (ALJ) located at hearing offices (HO) throughout the nation. An ALJ's responsibilities include considering any new evidence, providing an opportunity for a hearing, applying the Social Security Administration's (SSA) disability standards, and providing a new decision, which affirms or reverses the DDS' determination. OHA administers the hearings and appeals program for SSA.

OHA provides interpreter services at no cost to assist non-English speaking (NES) claimants who have difficulty understanding or communicating in English during any part of the hearing process. HOs obtain interpreter services from a number of sources including: SSA employees, contracted interpreters, interpreters paid by the claimant, community and advocacy groups, family members, or friends of the claimant. Most of the interpreters OHA employs are hired from commercial interpreting vendors and are paid by each HO. Most vendors provide a fee agreement to the HO establishing the rate charged for each language. This report discusses the interpreters hired by HOs.¹

***Steps to Reduce
Fraud and Abuse by
Interpreters***

During a hearing, the claimant, witnesses (may include a medical expert and/or a vocational expert) and the interpreter give testimony under oath. The claimant's representative, usually an attorney, presents the basis for the claimant's appeal. 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. The interpretation is included in the official record of the hearing and may serve as evidence for any further appeal of the ALJ's decision.

¹ OHA does not collect data on interpreter services. We were able to get data on commercial interpreter services paid by SSA by taking a sample of invoices retained by SSA's Office of Finance. The number of hearings involving the use of unpaid interpreters is not known.

In 1994—following investigations and congressional hearings²—the Social Security Independence and Program Improvements Act of 1994³ was enacted to prevent recipients from improperly gaining access to program benefits through “middlemen.” This law applied to interpreters and medical providers who provided inaccurate information through translations and/or coached applicants on how to feign disabilities. SSA has taken several actions, both on its own and in response to legislation, to improve controls over interpreter services. These actions were intended to improve service to NES claimants and to substantially reduce the potential for interpreter fraud.

CONTROLS OVER INTERPRETER SERVICES

Since 1993, SSA has hired over 2,300⁴ bilingual employees to provide better service for NES claimants across program lines. Commercial interpreters hired by SSA are certified through an extensive authorization process, which requires verification of the interpreter’s identity and a thorough review of his/her qualifications. After the authorization process, non-SSA interpreters are placed on SSA’s official translation rosters and only those who are on the roster can be hired. In addition to these policies, SSA implemented extensive changes to verify the identity and professional background of the interpreter. The policies are described in Appendix A.

OHA also has procedures to minimize the risk of conflict of interest, reduce fraud, and ensure impartiality between the claimant and interpreter during a hearing. These procedures require the ALJ to swear in the interpreter, affirm the interpreter’s identity, affirm the interpreter’s relationship to the person testifying, and instruct the interpreter to accurately translate the response of the claimant during the hearing. If the interpreter refuses to provide the required certification, or the ALJ doubts the interpreter’s qualifications or suspects fraudulent activity, the ALJ must adjourn or postpone the hearing until the services of an acceptable interpreter are obtained. Interpreters hired by HOs also translate foreign language documents that are admitted into evidence for consideration in the disability decision. OHA’s procedures require that all admitted foreign language documents be translated. To ensure authenticity, interpreters may only translate from original or certified copies of documents, and the interpreters must personally attest in writing, as to the accuracy of their translation.

PAYMENTS TO INTERPRETERS

OHA spent \$1.9 million for interpreter services in Fiscal Year (FY) 1999. A designated official in each HO has authority to issue payments to interpreters. SSA’s payment procedures require that an original invoice, and/or an equivalent supporting document

² On February 24, 1994, the Subcommittee on Oversight and the Subcommittee on Human Resources, House Committee on Ways and Means, held a joint hearing to review the problem of middleman fraud in the SSI program and to consider possible legislative and administrative solutions.

³ Public Law No. 103-296

⁴ These employees are located in field offices and teleservice centers.

itemizing the services purchased, support each payment. HOs rely on timesheets, or invoices summarizing timesheets, to support payments.

HOURLY FEES AND TIMESHEETS

OHA does not have a uniform method for paying interpreters, but rather lets each HO determine its own payment method. HOs pay interpreters either an hourly rate or a flat fee for their service. The fees vary among HOs due to different geographic areas, market conditions, and the language spoken. The amount paid for the use of an interpreter at a HO can vary depending upon which interpreter service is used. Fees are set by the interpreter service and agreed to by the HO. The fee agreement ensures that the HO is not arbitrarily overcharged for interpreter services and is used to substantiate the rate of payment for any given service.

SCOPE AND METHODOLOGY

To accomplish our objective, we:

- Randomly selected 8 HOs from the 21 HOs with the highest expenditures for interpreter services in FY 1999 (see Appendix B, for details of our sampling methodology). The expenditures for interpreter services in the 21 HOs were \$1,158,466, which comprises 60 percent of OHA expenditures for interpreter services for that year. From the 8 HOs, we reviewed a random sample of 64 payments containing 296 timesheets (totaling \$42,646) that were issued to interpreters. These timesheets contain the underlying information that substantiates payments. The eight HOs selected were: Bronx, New York; Detroit, Michigan; Fresno, California; Los Angeles (Downtown), California; Los Angeles (West), California; Miami, Florida; Newark, New Jersey; and Queens, New York.
- Reviewed all the timesheets for the following attributes that should be recorded in order to provide a reliable record of the interpreter's assignment in the HO, and to adequately substantiate payment:
 - a record of the foreign language in which the interpreter's service was rendered so that the correct rate for the language can be charged after a hearing;
 - the claimant's name to substantiate for whom the service was provided;
 - the claimant's Social Security number (SSN) to substantiate for whom the service was provided;
 - the interpreter's signature so that OHA has a record and certification of who performed the service;
 - the recording of time in and out, if necessary, or the start time of a hearing for those HOs that pay per hearing to ensure correct payment; and

a signature from a presiding OHA official who attests to the presence and, if required, the length of time the interpreter worked that day in the HO.

- Created a data base of 330 claimants from the timesheets indicating an interpreter was present at an OHA hearing during FY 1999. We then reviewed the first 30 case files we received of the 100 randomly sampled cases from the data base. We reviewed the tape recording of the hearing and any foreign language documents submitted as evidence in the claims folder.

Listened to audio cassettes of 30 hearings from the 30 claimants selected in the random sample to ensure that the ALJ: (a) verified the interpreter's identity; (b) certified the interpreter's relationship to the claimant; and (c) told the interpreter that they must accurately translate all questions and answers.

Reviewed the 30 claimants' case folders to ensure that: (a) all documents were translated, (b) the translation in the file was of the original or a certified copy; and (c) the translation was signed by the interpreter.

- Interviewed OHA staff in eight HOs and OHA Headquarters on policies and procedures for interpreter services.
- Reviewed SSA's Program Operations Manual System and OHA's Hearings, Appeals and Litigation Law Manual (HALLEX)⁵ policies relevant to interpreters.

We conducted our field work between November 1999 and December 2000 in Falls Church, Virginia and Baltimore, Maryland. The entity audited was OHA under the Deputy Commissioner for Disability and Income Security Programs. We conducted our audit in accordance with generally accepted government auditing standards.

⁵ HALLEX communicates OHA guiding principles and procedures to ALJs, Administrative Appeals Judges and OHA support staff.

Results of Review

OHA has procedures that are intended to minimize the risk of conflict of interest, reduce fraud, ensure the reliability of translations, and confirm the accuracy of vendor payments. However, many of the internal controls to safeguard interpreter services have not been effectively implemented. Timesheets which support payments to vendors for interpreter services were missing key information such as hours worked and certification of hours. As a result of these and other problems, we estimate that \$451,000 in payments to interpreters were not fully supported (see Appendix B). Controls over the original timesheets reviewed were inadequate in three of the eight HOs. OHA did not have uniform procedures for the selection of interpreters, for monitoring interpreter performance or for administering the oath. Translation and certification of foreign language documents were not always done as required by HALLEX.

INTERPRETER TIMESHEETS

***Timesheet
Information Needed
to Ensure Accurate
Payment***

Numerous timesheets supporting vendor payments lacked fundamental information. Timesheets either record the interpreter's individual hours worked in a "time in or out" section, or the "start time" of a hearing is recorded. In either case it is essential that an OHA employee certify the interpreter's recorded hours or start time by signing each

timesheet once the service has been performed. This confirms the accuracy of the hours charged and ensures that the vendors, who base their invoice on the timesheet, do not overcharge for services.

The process for approving vendor invoices varied among the eight HOs that we reviewed. Five of the eight HOs paid the vendor based on an invoice received from the vendor with the original timesheets or copies attached. Two HOs paid the vendor directly without being billed, based on timesheets that the HO retained. The final HO did not have a policy that vendors use timesheets, instead it tracked payments to vendors with Purchase Order (PO) numbers.

When using interpreters paid by the hour, five of the eight HOs documented their time using the "time in and time out" section of the timesheet. These timesheets were supporting documents that HOs relied on to substantiate payments to vendors. The timesheets were not standardized and OHA had no established guidelines as to the type of information to be recorded on them.

For HOs that paid a flat fee per hearing, the start time of the hearing was recorded and then certified on the timesheets by a HO staff member. Whether the hours were recorded on the timesheets by a HO employee or the interpreter, a HO staff member was required to certify the accuracy of the recorded hours or start time in seven of the eight HOs.

Hours Worked

For the eight HOs in our sample, 35.9 percent of the HOs' payments had at least one timesheet that did not show the actual hours worked or were missing HO employee certification of the hours worked. These payments were valued at \$8,061. Timesheets valued at \$1,570 were missing both the "time in or out" and certification of the hours worked.

Despite the absence of the hours worked or certification of hours, the HOs paid the full amount contained on the invoice submitted by the vendor. The HOs provided varying reasons as to why they process payments for the full value of the invoice despite missing information on the timesheets.

Two of the eight HOs reviewed do not require certification of "time in and out" or start time and believe it is not necessary to do so. At another HO, the manager said that he was unaware of missing information on timesheets. Three HOs stated that when information is missing they review the case folder before making payment to verify the invoice against the time recorded in the folder, but do not correct the timesheets. Two HOs had all of the hours worked and certification information recorded accurately. The potential for errors exist in processing timesheets when there is no record of the service performed or no oversight of hours claimed. Certification by an OHA employee who can verify that the service occurred as recorded serves as a basic control, and if consistently applied, ensures hours claimed are accurate before payments are issued.

Language Interpreted

The language in which the service was performed was identified on the majority of the timesheets. However, we found that two HOs do not have any written fee agreements for the rates of pay per language per hour, and three HOs do not have fee agreements from all the vendors they employ. When written fee agreements from the vendor are missing, the HO cannot substantiate language rates per hour once an invoice has been submitted. Compensation rates should be explained and established before service is rendered and each vendor should provide the HO with written fee agreements. The amount of dollars spent on interpreter services in the two HOs where there was no fee agreement was \$196,786. When we spoke to those HO representatives that had incomplete fee agreements (or none at all) regarding this matter, we were told that they had an "understanding" of the accepted translation rate for each language and, therefore, did not require fee agreements. However, one Hearing Office Director (HOD) stated that she was currently updating the incomplete fee agreement because some interpreters had arbitrarily raised the amount charged after the service had been rendered. As a result, the HOD had no choice but to pay the higher price since there was no written agreement.

Interpretation Rates

We also found discrepancies between the rates charged by the vendors and the rates contained in the written fee agreements. For example, a HO paid \$375 to a vendor for three hours of Spanish translation—a rate of \$125 per hour. Yet the rate for Spanish translations contained in the fee agreement was only \$95 an hour, resulting in a \$90 overpayment to the vendor. Reviewing the accuracy of the hourly translation rates against the written fee agreement would prevent payment errors of this type.

Claim Identification

We also found that some HOs processed payments to vendors that lacked both the name and SSN of the claimant on whose behalf the interpreter served. Fourteen percent of the payments sampled had at least one timesheet that was missing the claimant name and SSN—which are important identifying information for use by the HO in confirming the authenticity of the charges. Due to this lack of information, we were unable to confirm the accuracy of \$1,990 in payments to interpreters.

INTERNAL CONTROLS IN HEARING OFFICES

Internal controls over interpreter payments in three of the eight HOs were inadequate. Timesheets were not reconciled to records retained in the HO, creating a situation where there was a lack of authorization and oversight over the information contained in them. The General Accounting Office's "Standards for Internal Controls in the Federal Government"⁶ require that all transactions need to be clearly documented from initiation to authorization to ensure accountability and to help reduce the risk of errors, misuse or unauthorized alteration.

HO's Control over Original Timesheets

In the first HO, once a hearing was completed the interpreter left with the original timesheet and the HO retained a copy. The interpreter gave the original timesheet to the vendor for whom they worked and the vendor sent an invoice based on the timesheet requesting payment. However, the HO did not match the original timesheet submitted with the invoice to the copy the HO retained prior to making payment.

Since the original timesheet was taken out of the HO, and, in some cases not returned for a number of weeks, timesheets could be altered to the detriment of the HO. If this HO retained the original timesheet and gave the interpreter a copy, it could compare the original to the copy once it was submitted with the invoice. This would guard against incorrect adjustments and help reduce the risk of unauthorized alteration. This HO spent \$128,474 in 1999 on interpreter services.

In the second HO, the HO personnel verbally instructed interpreters to give the receptionist the original timesheet before leaving. This procedure was in place so that a

⁶ GAO/AIMD-00-21.3.1, November 1999

copy could be made for the interpreter to give to the vendor, while the original was retained in the HO. However, the HOD stated that there were many instances when the interpreter left with the original timesheet before the HO could make a copy. Without a copy or an original timesheet retained, the HO had no control over key aspects of the service performed. The timesheets are the principal means of assuring the validity of the transaction for payment. The HO needs to have control over timesheets and develop procedures to ensure that the original is maintained in the HO for comparison to the vendor's invoice before payment is made.

In the third HO, procedures did not require a presiding OHA employee to validate the hours that the interpreter worked. Timesheets were not required and hours worked were not certified. Instead, at the time an interpreter service was requested, a cashier assigned a PO number to the interpreter's future assignment and this PO number was given to the vendor to record on their request for payment. Once the PO number was assigned, the cashier input an estimate of the cost of the future service into a data base management system that records estimated and actual expenditures in the HO for financial tracking and reporting purposes. This HO did not have a complete fee agreement, so they relied on the vendor to set the fee and tell the HO the rate per language.

Once an interpreter arrived for an assignment in this HO, the HO had no control over the transactions performed except to have assigned a PO number to track the invoice. If there was a difference between the estimated charges recorded earlier in the data base and the actual charges submitted several weeks later on the invoice, the HO cashier adjusted the difference to coincide with the charges on the invoice submitted by the vendor. The HO had no internal controls over the accuracy of the charges or oversight of the service performed. Using timesheets and requiring that they be certified would allow the HO to maintain oversight of the service performed.

SELECTING AND MONITORING INTERPRETER SERVICES

To qualify as an interpreter, both SSA's and OHA's written procedures require that individuals demonstrate fluency in English and the foreign language of the claimant and have some familiarity with basic SSA terminology. Further, the interpreter must agree to comply with SSA's disclosure and confidentiality of information requirements, act in the best interest of both the claimant and the public-at-large, and provide an exact translation of the claimant's responses.

***SSA's Procedures
for Field Staff Hiring
of Interpreters***

In addition to these basic procedures, SSA's Division of Eligibility and Enumeration Policy under the Office of Disability and Income Security Programs developed procedures for field staff when hiring interpreters. Non-SSA interpreters go through an extensive authorization process

and the field office (FO) must contact the employer or previous employer or other sources in the community with knowledge of the candidate's ability to verify their experience. The regional office (RO) conducts an additional level of review of the

candidate's background, and if the RO approves the candidate, official translator signature cards are issued which must be presented as a form of identification and compared with a copy that the FO retains before each assignment. However, these procedures used by the ROs and FOs have not been adopted by OHA.

At OHA, commercial vendors provide most of the interpreter services and the task of locating interpreters is left up to each HO. We asked the HODs how they recruited interpreters, ascertained the language proficiency of the interpreters, and whether they confirmed the identity of the interpreter before entering the hearing room. Four of the eight HODs responded that they required a letter or a resume from the interpreters before they were hired, which they or the Hearing Office Chief Administrative Law Judge reviewed. The remaining four did not require this. Further, none of the HOs conducted face-to-face interviews with prospective interpreters. They also did not verify previous employment, nor confirm the interpreter's identity before admittance into the hearing room. All eight HOs stated that they relied on the vendor to establish the qualifications and identity of the individual interpreter.

Commercial interpreting agencies seldom rigorously test the interpreters whom they place on their lists.⁷ OHA introduces interpreters into the hearing room with no prior determination of language skills and/or identifying information. Nonetheless, these HODs stated they are successful at maintaining a cadre of qualified interpreters through "experience," which in most cases have been established over many years.

The consequence of not adequately screening the qualifications of the interpreters was also well known in the HOs. HODs from six of the eight HOs stated that they witnessed an ALJ or attorney stop a hearing at least once because they believed an interpreter lacked the skills to perform. The ALJ or attorney drew this conclusion only because they were familiar with the language being translated. It is not known how often poor translations are conducted in hearings where neither the ALJ, nor other individuals present were familiar with the translated language.

If the HO assessed the background of the prospective interpreter through a structured interview process, the HO would be able to establish the interpreter's identity, language proficiency, education, and professional background. The interviewer must be satisfied that the candidate's English comprehension and verbal skills are at a level commensurate with the demands of the court, prior to the hearing.⁸ The interview would provide information for the HO to assess interpreters and provide background information to qualify them to serve in the hearing.

⁷ As indicated in Fundamentals of Court Interpretation: Theory, Policy and Practice, 1991.

⁸ For example, to assist bilingual training for OHA employees, a work group is developing OHA specific terminology to include in SSA's Spanish Glossary and this information could also assist new interpreters.

MONITORING INTERPRETER PERFORMANCE

OHA's only monitoring of interpreters' performance occurs in those situations where a HO employee has some familiarity with the language spoken at the hearing. As of November 2000, OHA did not operate a formal quality assurance review of the interpreter's performance. The need for an effective quality assurance function in an adjudicative setting, such as an OHA hearing, is high since the process is subject to discretion and judgment. Given the discretion available to the ALJs in reaching their decisions and historical concerns over translator fraud, increased oversight over interpreter's performance is warranted. A formalized quality assurance process would confirm the accuracy of interpretations and address errors or omissions in translations.

OHA currently undergoes extensive review as part of the Disability Hearing Quality Review Process (DHQRP) conducted by the Office of Quality Assurance and Performance Assessment (OQA). The DHQRP is a peer review performed by participating ALJs who serve as Reviewing Judges. Reviewing Judges evaluate ALJ decisions and assess significant issues of law, policy, and procedures in the hearings decision process. In reviewing cases, they do not assess the accuracy of interpreter's services during hearings or in translating documents. OHA, however, does maintain tape recordings of all hearings. In a manner similar to the peer review by the Reviewing Judges, OQA could utilize other interpreters to systematically monitor a sample of hearings as part of the DHQRP. If OQA's review of interpreter services finds questionable interpretations with evidence of potential fraud, such cases should be referred to SSA's Office of the Inspector General for investigation.

The use of a third party interpreter to validate the reliability of the interpretation would improve oversight of interpreter performance. These independent interpreters would help OHA determine whether individuals are entitled to benefits. While the individual payments to interpreters are small, the greater risk to SSA is the potential for adding new beneficiaries to the disability program based on inaccurate or fraudulent interpretations. This cost to the taxpayer could be huge, since the average annual disability benefit payment is \$9,060 and beneficiaries can receive payments for many years.

ADMINISTERING THE OATH FOR INTERPRETER SERVICES

ALJs' Administration of Oath to Interpreters

At the beginning of a hearing, the ALJ administers an oath to those present, including the interpreter. The claimant, witnesses, and interpreter then proceed to give testimony. HALLEX I-2-610 requires that the ALJ verify the interpreter's identity and require the interpreter to certify

"under the penalty of perjury" his or her relationship to the person testifying and that he or she will accurately translate the questions asked and answers given to the best of his or her ability. ALJs may obtain the required certification on the record at the hearing or in writing. Whichever medium is chosen, HALLEX I-2-610 stipulates that the required certification include the following information:

- I am acting as an interpreter for (claimant's name) to perform the specific function of providing accurate translation between (claimant's name) and the ALJ. I solemnly (swear or affirm) that I will accurately translate the questions asked and the answers given in this case to the best of my ability, under penalty of perjury.
- The interpreter's name, address and telephone number.
- The interpreter's relationship to the claimant (e.g., son, mother, friend, minister, paid interpreter, or legal representative). (This information is needed because any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest and should be made known to the ALJ).
- Any relevant comments that the interpreter wishes to include.
- Any relevant comments that the ALJ wishes to document over the interpreter's signature.
- The interpreter's signature.

If the interpreter refuses to provide any of the required certification, or the ALJ doubts an interpreter's qualifications or suspects fraudulent activity, the ALJ is to adjourn or postpone the hearing until the services of an acceptable interpreter are obtained.

We reviewed 30 tape recordings of hearings where interpreters were present and reviewed the claimants' case folders of the same tape-recorded hearings.

We found that:

- All of the oaths administered by the ALJs were on the tape-recordings made at the hearings. Although all but one of the ALJs swore in the interpreters, none of the ALJs stated for the record the full body of text required in HALLEX.
- ALJs asked the interpreters to state their name for the record in 22 hearings, while in the remaining 8 hearings ALJs did not ask the interpreters to identify themselves.
- At 25 of the 30 hearings, ALJs did not ask the interpreter to clarify his or her relationship to the claimant for the record.
- Only two ALJs told the interpreters to translate verbatim.

It is important that the ALJs administer the oath in full, given the extent to which the integrity of the translation process relies upon the character and ethics of its interpreters. When the interpreters certify under oath to perform to the "best of their abilities," the obligation they have entered into is critical to the hearing process. They

must assure due process by preserving the level of language used without imposing any editorial emphasis, refrain from disclosing any confidential information, and avoid conflicts of interest, or the appearance thereof. Further, interpreters must not give any legal advice, unless they are also serving as the claimant's representative.

The importance of administering the oath properly is compounded further by the practice of performing minimal reviews of the backgrounds and qualifications of OHA's cadre of interpreters. By swearing or affirming under the "penalty of perjury" to perform to the best of their ability, the oath and certification serve as a critical deterrent to interpreter fraud. Similarly, the tape recorded or written evidence of the completed oath provides important evidence to law enforcement and court officials for use in the investigation and prosecution of suspected fraud against SSA.

TRANSLATING AND CERTIFYING FOREIGN LANGUAGE DOCUMENTS

OHA requires that all foreign language documents submitted to substantiate a claim must be translated prior to the hearing. SSA's Central Translation Service (CTS) translated approximately 29,000 foreign language documents in FY 1999, of which 116 were submitted by OHA. In addition to those that CTS translates, HOs also send documents to outside vendors. OHA does not keep data on the number of documents translated by outside vendors, but the cost for translation is a part of the overall amount spent on interpreter vendor services. Documents that are translated at the hearing level into English include the claimant's own description of his or her physical or mental impairments; medical records; psychiatric case histories; laboratory findings; application forms; instructions; form letters; birth, death, and marriage certificates; and financial affidavits. The standard of accuracy is the same for translated documents as it is for interpreting the proceedings of a hearing.

Every translation entered into evidence at the hearing level requires that the interpreter preserve the meaning, style, and form of the original document. OHA requires that all foreign language documents are translated and that the document on which the translation is based consists of the original document or a notarized copy. OHA also requires that translators validate their work by signing the translation—attesting that it is a true and correct translation of the original. The original document and the translation must be exhibited side by side, so that there can be no question about what is being translated.

Of the eight foreign documents we found in our sample, six did not meet the requirements stipulated in HALLEX. We found:

- A foreign language document containing medical information with a letter attached attesting to the accuracy of the translation; however, the interpreter did not sign the letter and the actual translation was missing.
- A foreign language document containing medical information had been certified as an official copy, but was not translated in its entirety.

- A foreign language document containing medical information was translated but was not certified as an original or copy of the original, nor did the translator sign the translation.
- An SSA reconsideration disability report containing medical information was not translated in its entirety.
- Two foreign language documents containing medical information, and a notarized statement regarding an incorrect date on a birth certificate were not translated and not certified as the original or as copies of the original documents.

We referred these six cases to OHA management to determine why some of the procedures required by HALLEX were not followed, and the effect, if any on the outcome of the hearing. Five of the cases whose outcome was an unfavorable decision were from the same HO and OHA management responded that HALLEX procedures do require that an authorized interpreter translate all foreign language documents necessary for the development of a claim. However, OHA stated that there are occasions when certain information is not relevant to the outcome of a case, and these foreign language documents may not be sent for authorized translation. In these situations, employees familiar with the language are consulted to ensure that the documents are not relevant to the case. OHA also stated that if there were any evidence that was not properly translated, OHA would make every effort to ensure that this does not happen in the future. The sixth case involved a favorable decision. HO management responded that HALLEX had been followed, but agreed that the quality of the translation was poor, and that HALLEX criteria for a Qualified Foreign Language interpreter does not include proficiency. We continue to believe that HOs should follow HALLEX procedures and translate all documents in their entirety and have them certified by the translator.

Conclusions and Recommendations

OHA's controls over interpreter services are intended to minimize the risk of conflict of interest, ensure the reliability of translations, and confirm the accuracy of vendor payments. However, many of the controls have not been effectively implemented. Timesheets which support payments to vendors for interpreter services were missing key information such as hours worked and certification of hours. As a result, we estimate that \$451,000 in interpreter payments were not fully supported. Controls over timesheets were inadequate in three HOs. OHA did not have procedures for selecting interpreters or monitoring interpreter performance. The translation and certification of foreign language documents did not meet the requirements in HALLEX I-2-576.

To strengthen the controls over interpreter services, we recommend that SSA:

1. Standardize HO procedures to ensure that all payments are fully supported by adequate documentation to include: (a) a record of the foreign language in which the interpreter's service was rendered; (b) the claimant's name; (c) the claimant's SSN; (d) the interpreter's signature; (e) a record of the hours worked and/or date and time the hearing was held; and (f) a signature from a presiding OHA official who authorized the hours worked.
2. Instruct HOs to require current and comprehensive fee agreements from each vendor to validate the accuracy of invoices before payments are made.
3. Establish procedures in HALLEX similar to SSA's existing procedures for screening interpreters, confirming their identities, and assessing their background and qualifications prior to hiring and assigning interpreters.
4. Expand OQA's DHQRP to include an assessment of the accuracy of the interpreter's performance.
5. Remind all ALJs to fully administer the oath to interpreters.
6. Instruct HOs to ensure that interpreters translate and certify all foreign language documents submitted as evidence for the claimant's appeal.

AGENCY COMMENTS

In response to our draft report, SSA agreed with all but one of our recommendations. Specifically, SSA agreed to: (1) develop a preformatted timesheet; (2) have a workgroup address interpreter fee agreements; (3) tighten controls over the selection of interpreters; (4) issue a reminder to all ALJs to administer oaths fully; and (5) issue a reminder to HOs to ensure that interpreters comply with procedures governing the

translation of foreign language documents. Further, SSA established a workgroup to address improvements in services to individuals with limited English language skills. This workgroup will address our recommendations and expects to submit an implementation plan by October 2001.

With regard to our fourth recommendation, SSA noted that current program priorities and resources preclude an additional workload in OQA. However, its workgroup will explore how OHA might devise a program to evaluate interpreter services.

OIG RESPONSE

Although SSA disagreed with our recommendation to expand OQA's review process to include an assessment of the accuracy of interpreter performance, SSA assigned its workgroup the task of exploring how OHA can evaluate interpreter services. We await the results of the workgroup and will reassess SSA's actions after the workgroup has made its recommendations.

Appendices

Appendix A

SSA's Field Office and Regional Office Procedures for Selecting Interpreters

The following procedures are to be followed when authorizing a non-SSA translator according to SSA's Program Operations Manual System GN 00301.350.

All non-SSA translator candidates are to translate verbatim and submit a statement of qualifications. The field office (FO) does not rely on oral representations made by the candidates.

- The FO must contact the employer, previous employer, or other sources in the community with knowledge of the candidate's ability to verify their experience. The FO Manager forwards a memorandum to the regional office (RO) setting out the basis for the recommendation. The recommendation is reviewed and, if approved by the RO, is certified and returned to the FO.
- Two copies of the Official Translators' Signature Card are completed specifying the name of the school, prior translation experience, and native language ability. Both FO staff and the candidate sign the card. The FO retains one copy and the translator must present the other as a form of identification.
- The non-SSA translator is then placed on an official list of approved translators and that list is accessible to SSA employees.

FO managers must also advise all non-SSA translators at the point of initial authorization that all information submitted to them for translation is confidential and not to be disclosed.

Sampling Methodology and Results

From SSA we obtained an extract of all payments issued in Fiscal Year (FY) 1999 from the Financial Accounting Control System that had a Common Account Number beginning with 400 and a Sub-Object Class of 252A, which identifies payment to interpreters. This extract resulted in a file containing 6,775 payments from 128 hearing offices (HO) totaling \$2,240,336. Not all HOs used interpreter services and six temporary HOs were no longer in existence after completion of reviews mandated by the Welfare Reform legislation of 1996. From our population, we then removed 511 payments totaling \$334,425 issued in conjunction with Welfare Reform reviews. This left a data file totaling \$1,905,911 for 6,264 payments made by 122 HOs.

We then sorted the file by HO and by total payments made. We found that 21 HOs issued 3,069 of the 6,264 payments (49 percent) and accounted for \$1,158,466 of the \$1,905,911 (61 percent) spent for interpreter services.

Since 21 HOs comprised 61 percent of the \$1.9 million spent, we decided to limit our review to these 21 HOs. Of these 21 HOs, we randomly selected 8 to test the documentation supporting the payments. The 8 selected HOs issued 1,357 of the 3,069 payments and accounted for \$530,594 of the \$1,158,466 spent.

Hearing Office Selected	Rank Among HOs
Bronx, New York	1
Detroit, Michigan	19
Fresno, California	4
Los Angeles (Downtown), California	8
Los Angeles (West), California	5
Miami, Florida	18
Newark, New Jersey	2
Queens, New York	13

From each of the eight HOs, we randomly selected eight of that office's payments resulting in a sample of 64 payments totaling \$42,646. See tables B-1 and B-2 for our sample results and projections.

Every timesheet linked to a sample payment was reviewed for specific errors. If any of the timesheets supporting a payment contained at least one of these errors, then we declared that payment to have erroneous support. For each payment with at least one erroneous timesheet, we then accumulated the dollar value of each timesheet in error for projection purposes.

The 64 payments were supported by 296 timesheets. These timesheets contained one or more claimant name and related Social Security number (SSN) for whom the service was rendered. The 296 timesheets contained 330 claimant names and SSNs. We selected a random sample of 100 claims folders and reviewed the first 30 we received.

Table B-1: Sample Population Description

Stratum	Number of Payments In FY 1999	Payment Amount	Secondary Sample Size	Number of Timesheets	Sample Payment Amounts
Bronx, New York	53	\$128,474	8	115	\$21,356
Detroit, Michigan	31	30,596	8	36	5,500
Fresno, California	382	68,312	8	15	1,200
Los Angeles (Downtown), California	201	61,711	8	20	1,725
Los Angeles (West), California	244	67,736	8	16	1,592
Miami, Florida	99	33,350	8	20	2,397
Newark, New Jersey	96	97,598	8	55	6,741
Queens, New York	251	42,817	8	19	2,135
Total for 8 HOs	1,357	\$530,594	64	296	\$42,646

Table B-2: Sample Results and Projections

Stratum	Sample Size	Sample Items with Errors	Payments Not Supported	Projection of Payments Not Supported
Bronx, New York	8	8	\$5,980	\$39,618
Detroit, Michigan	8	8	5,500	21,313
Fresno, California	8	8	1,200	57,300
Los Angeles (Downtown), California	8	0	0	0
Los Angeles (West), California	8	0	0	0
Miami, Florida	8	3	417	5,167
Newark, New Jersey	8	6	2,429	29,151
Queens, New York	8	4	615	19,296
Total for Sample	64	37	\$16,141	\$171,845
Projection to 21 HOs				\$451,089
Projected Lower Limit				\$250,377
Projected Upper Limit				\$651,802

Appendix C

Agency Comments



SOCIAL SECURITY

MEMORANDUM

July 11, 2001

Refer To: S1J-3

To: James G. Huse, Jr.
Inspector General

Larry G. Massanari
Acting Commissioner
of Social Security

A handwritten signature in black ink, appearing to read "L.G. Massanari".

Subject: Office of the Inspector General (OIG) Draft Report, "Internal Controls Over the Office of Hearings and Appeals Interpreter Services"(A-12-00-10023)—INFORMATION

We appreciate the OIG's efforts in evaluating the internal controls over the Office of Hearings and Appeals' interpreter services. Our comments on the draft report and the specific recommendations are attached.

Staff questions concerning our comments may be referred to Robert Berzanski on extension 52675.

Attachments:
SSA Comments

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, "INTERNAL CONTROLS OVER THE OFFICE OF HEARINGS AND APPEALS INTERPRETER SERVICES" (A-12-00-10023)

We appreciate the OIG's efforts in conducting this review and the opportunity to comment on the draft report. An Office of Hearings and Appeals' (OHA) workgroup was recently established to address improvements in services to those individuals with limited English language skills. The workgroup's agenda focuses on the need to develop an implementation plan identifying strategies and timeframes for securing uniform hearing office (HO) compliance with procedures governing interpreter services. The recommendations contained in this report will be addressed by the workgroup. We expect the workgroup to submit their implementation plan by October 2001.

Following are our comments on the recommendations.

Recommendation 1

Standardize HO procedures to ensure that all payments are fully supported by adequate documentation to include: a) a record of the foreign language in which the interpreter's service was rendered; b) the claimant's name; c) the claimant's social security number; d) the interpreter's signature; e) a record of the hours worked and/or date and time the hearing was held; and f) a signature from a presiding OHA official who authorized the hours worked.

Comment

We agree. We are developing a preformatted timesheet to capture the required information. The timesheet should be released by August 31, 2001. It will be distributed by electronic message to all OHA employees and placed on OHA's Document Generation System for electronic retrieval in the HOs.

Recommendation 2

Instruct HOs to require current and comprehensive fee agreements from each vendor to validate the accuracy of invoices before payments are made.

Comment

We agree. The workgroup described above will determine whether:

- vendors should be required to submit new fee agreements or under what circumstances new agreements should be obtained (e.g., in response to a change in the vendor's interpretation rates);
- OHA should attempt to seek nationwide or regionwide controls on interpretation rates, though we suspect that large vendors may exert undue influence in the establishment of going rates for interpretation services; and
- HOs or the regional office should approve fee agreements.

Recommendation 3

Establish procedures in Hearings, Appeals and Litigation Law Manual (HALLEX) similar to SSA's existing procedures for screening interpreters, confirming their identities, and assessing their background and qualifications prior to hiring and assigning interpreters.

Comment

SSA agrees that tightening of controls over the selection of interpreters and proof of their identities is warranted. However, we question whether the recommendation to follow field office procedures for selecting paid interpreters from non-SSA sources is a sufficient remedy for the report's described weaknesses in interpreter selection and identification procedures at the hearing level. In this regard, the draft report discussed only interpreters hired by HOs and stated that most of the hired interpreters are commercial vendors. However, OIG acknowledged in the report that it did not have information concerning the number of hearings involving the use of unpaid interpreters.

Since OHA does not currently collect data on interpreter services, we are unable to establish with any precision the relative proportions of unpaid and paid interpreter services. Nonetheless, we believe that a significant percentage of interpreters at hearings are unpaid individuals, particularly at hearing sites remote to the servicing HO.

We believe that though it may be wise to use current field office interpreter procedures for selection of paid non-SSA interpreters, much also remains to be done to tighten controls over the selection of unpaid interpreters. These considerations will be studied by the workgroup described above.

Recommendation 4

Expand the Office of Quality Assurance and Performance Assessment's Disability Hearings Quality Review Process to include an assessment of the accuracy of the interpreter's performance.

Comment

We do not concur. Current program priorities and budgeting resources preclude this additional workload in the Office of Quality Assurance and Performance Assessment. However, the workgroup described above will explore how OHA might devise a program to evaluate interpreter services.

Recommendation 5

Remind all Administrative Law Judges (ALJ) to fully administer the oath to interpreters.

Comment

We agree and will issue a reminder to all ALJs to administer interpreter oaths fully. The proposed reminder item language will set out the statutory and HALLEX standards governing oath administration. The reminder item will be sent electronically as an administrative message by August 31, 2001.

Recommendation 6

Instruct HOs to ensure that interpreters translate and certify all foreign language documents submitted as evidence for the claimant's appeal.

Comment

We agree and plan to issue a reminder to HOs to ensure that interpreters comply with HALLEX procedures governing the translation of foreign language documents. The reminder item will be sent as an administrative message by August 31, 2001.

Appendix D

OIG Contacts and Staff Acknowledgments

OIG Contacts

Rona Rustigian, Acting Director, Disability Program Audit Division, (617) 565-1819

Michael Maloney, Deputy Director, (703) 578-8844

Acknowledgments

In addition to the persons named above:

Mary Ann Braycich, Program Analyst

For additional copies of this report, please contact Office of the Inspector General's Public Affairs Specialist at (410) 966-5998. Refer to Common Identification Number A-12-00-10023.

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