

# ***CONGRESSIONAL RESPONSE REPORT***

## **Review of File Assembly Contracts at Office of Hearings and Appeals**

A-07-04-24076



**March 2004**

## **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.**



## SOCIAL SECURITY

Inspector General

March 3, 2004

The Honorable E. Clay Shaw, Jr.  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Shaw:

I want to thank you for your interest in the Social Security Administration's Office of Hearings and Appeals. In an October 14, 2003 letter, you requested that we perform additional reviews of contractors that assemble case files for the Office of Hearings and Appeals. The results of our review are discussed in the enclosed report.

My office is committed to eliminating fraud, waste, and abuse in the Social Security Administration's operations and programs. If you have any questions concerning this matter, please call me or have your staff contact H. Douglas Cunningham, Executive Assistant, at (202) 358-6319.

Sincerely,

A handwritten signature in blue ink, appearing to read "James G. Huse, Jr.", written in a cursive style.

James G. Huse, Jr.

Enclosure

cc:

Jo Anne B. Barnhart, Commissioner  
Martin H. Gerry, Deputy Commissioner for Disability and Income Security Programs  
A. Jacy Thurmond, Jr., Associate Commissioner for Hearings and Appeals

# Background

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## OBJECTIVES

The objectives of our review were to determine whether:

- Office of Hearings and Appeals (OHA) file assembly contractors followed the terms of the contracts.
- File assembly contractors had controls in place to safeguard sensitive information contained in case files.
- OHA provided adequate oversight of file assembly contractor activities.

## BACKGROUND

Within the Social Security Administration (SSA), OHA is responsible for conducting hearings and issuing decisions as part of determining whether a person may receive disability-related benefits. When a claimant requests a hearing, it is held before an administrative law judge (ALJ). The ALJ conducts the hearing and issues a written decision. Cases involving disability under the Disability Insurance (DI) program<sup>1</sup> and the Supplemental Security Income (SSI) program<sup>2</sup> account for 90 percent of OHA's work. The remainder consists of claims made under the Retirement and Survivors Insurance program, Medicare, and non-disability claims under the SSI program. OHA's organizational structure includes 10 regional offices and 139 hearing offices.

Some OHA offices use contractors to prepare case files for review by ALJs. The contractors organize medical documents chronologically, arrange documents in appropriate sections of the case files, number documents, identify and retain duplicate documents, and ensure all pertinent documents are appropriately labeled. As of October 31, 2003, OHA had 74 file assembly contracts valued at approximately \$1.3 million.

During 2003, problems with OHA oversight of file assembly contracts in an OHA regional office resulted in several media stories and a subsequent review by the Office of the Inspector General. As a follow-up to that report and to determine whether similar problems existed in other OHA offices, Congressman E. Clay Shaw, Jr. requested that we review additional file assembly contracts in a letter dated October 14, 2003.

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<sup>1</sup> Title II of the Social Security Act; § 223 of the Social Security Act, 42 USC 423; 20 CFR 404.1601 et seq.

<sup>2</sup> Title XVI of the Social Security Act; § 1631 et seq. of the Social Security Act, 42 USC 1383 et seq. 20 CFR 416.100 et seq.

To fulfill Congressman Shaw’s request, we selected one file assembly contract in each of SSA’s 10 regions, as shown in the following table:

<b>Region</b>	<b>Hearing Office</b>	<b>Contract Amount</b>
Boston	Boston, Massachusetts	\$4,500
New York	New York , New York (Northeastern Program Service Center)	7,248
Philadelphia	Philadelphia, Pennsylvania (Philadelphia East)	19,968
Atlanta	Atlanta, Georgia	13,762
Chicago	Cincinnati, Ohio	12,000
Dallas	Dallas, Texas (Processing Center)	54,210
Kansas City	Springfield, Missouri	16,817
Denver	Denver, Colorado	6,000
San Francisco	San Jose, California	17,190
Seattle	Portland, Oregon	18,672

See Appendix B for the scope and methodology of our review.

# Results of Review

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With the exception of the file assembly contractor in the Boston region, the file assembly contractors we reviewed followed the terms of their respective contracts and had controls in place to safeguard sensitive information in case files. The file assembly contractor in the Boston region, however, removed documents from case files, which was not in accordance with the terms of the contract. Following removal from the case files, the documents were placed in a recycle bin and supposedly shredded. According to the contractor, only duplicate documents were removed from the case files. However, we were unable to verify what documents were removed from the case files and if these documents were only duplicates.

We also identified areas where OHA's oversight of file assembly contractor activities could be improved. Specifically,

- Contractors did not receive consistent guidance from some OHA offices on case file assembly. Specifically, case file assembly training instructions provided by OHA to contractors were not consistent with the terms of the contracts regarding the removal of documents from case files.
- Some OHA offices did not have controls in place to safeguard case files because contractors were allowed inappropriate and unsupervised access to case files.

We will issue a report to the Commissioner of Social Security with recommendations to correct the problems in the case file assembly process found during this review.

## **CONTRACTOR IN THE BOSTON REGION REMOVED DOCUMENTS FROM CASE FILES**

The file assembly contractor in Boston inappropriately removed documents from case files. Following removal from the case file, documents were placed in a recycle bin to be shredded.<sup>3</sup> This was contrary to the terms of the contract, which stated that documents could not be discarded or permanently removed from the case files, and training instructions, which stated that no documents could be thrown away. According to the contractor, only duplicate documents were removed from case files and shredded. This was also contrary to the terms of the contract, which stated that duplicate documents were to be marked "duplicate" and retained in the case file.

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<sup>3</sup> The Boston OHA hearing office used a separate contractor to shred documents. We could not verify that the duplicate documents were in fact shredded.

At the time of our review, approximately 24 case files had been assembled by this contractor.<sup>4</sup> Of these case files, we were unable to determine how many contained documents that were discarded and whether the contractor only discarded duplicate documents. The project officer for the file assembly contract stated that he was unaware that the contractor removed documents from the case files. He further stated that the contractor would be instructed not to remove documents from the case files.<sup>5</sup>

## **IMPROVEMENTS ARE NEEDED IN OHA'S OVERSIGHT OF FILE ASSEMBLY CONTRACTORS**

The training instructions given to contractors by some OHA offices were not consistent with the terms of the contracts.<sup>6</sup> Specifically,

- The written training instructions provided to the Philadelphia, Springfield, and Portland contractors stated that duplicate documents should be removed from the case files and discarded. However, the contracts stated that duplicate documents must be marked "duplicate" in the top right-hand corner and placed at the back of the section of the file in which it was found.<sup>7</sup> We found that these three contractors followed the terms of their respective contracts.
- The written training instructions provided to the New York and Portland contractors specified that certain documents could be removed from the case files and discarded.<sup>8</sup> However, the contracts stated that no documents were to be discarded. These two contractors followed the terms of their contracts.

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<sup>4</sup> The contract was for 100 case files to be completed during the period of September 29, 2003 through September 28, 2004.

<sup>5</sup> According to comments received from SSA's Deputy Commissioner for Finance, Assessment and Management, of the 24 case files assembled by this contractor, one received a fully favorable decision and one is pending a fully favorable decision. The remaining 22 cases are pending a hearing. Also, SSA will notify claimants that documents may have been removed from their case file and afforded the opportunity to review their case file for completeness.

<sup>6</sup> The project officers for eight of the contracts provided us with the instructions they used to train the contractors. Training given to the Atlanta and Denver contractors did not include written training instructions.

<sup>7</sup> Neither the training instructions nor the contracts defined what constituted "duplicate" documents.

<sup>8</sup> According to the training instructions, contractors are allowed to discard blank Forms SSA-5002, Report of Contact; carbon copies of Forms SSA-561, Request for Consideration; field office copies of Forms HA-501, Request for Hearing; numident queries in most Title II claims; Forms SSA-1719Bs, SSI Posteligibility Input; Forms SSA-827, Authorization for Source to Release Medical Information to SSA, if dated 6 months earlier than the current date; and blank or carbon copies of disability determination services development worksheets/case development records.

In addition, some OHA regions did not have controls in place to safeguard case files. Specifically,

- In Cincinnati, Denver, San Jose, and Portland, the case files were stored in the file assembly location. According to a memo issued by the Associate Commissioner for Hearings and Appeals, contractors located in SSA space in non-government buildings should not have access to case files not currently in process.<sup>9</sup> The file assembly location in Cincinnati is in SSA space in a non-government building. Since the case files are stored in the file assembly location, contractors had inappropriate access to case files that were not currently in process. Also, according to the memo, contractors located in counsel rooms should only be given enough work for 1 day and must return all case files to the project officer at the end of the day. The San Jose and Portland file assembly locations were counsel rooms. Denver contractors were located in vacant SSA space in a government building.<sup>10</sup> Since the case files were stored in the file assembly location, contractors had inappropriate access to more case files than could be worked in 1 day and case files were not returned to the project officer at the end of the work day.
- The Denver and Portland contractors were allowed unmonitored, immediate and continued access to case files. This occurred because case files were stored in the file assembly location where the doors were equipped with keyless code entry systems with access codes that were known to the contractors. According to the memo issued by the Associate Commissioner for Hearings and Appeals, contractors located in counsel rooms should obtain the key to the file assembly location from the receptionist and return the key once the door is unlocked. The use of keyless code entry systems for file assembly locations is not consistent with the Associate Commissioner's guidance.

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<sup>9</sup> Memo from A. Jacy Thurmond, Jr., Associate Commissioner for Hearings and Appeals, dated November 21, 2003 to all regional and hearing office chief administrative law judges, regional management officers, and hearing office directors.

<sup>10</sup> The memo from the Associate Commissioner gives different instructions for file assembly contractors based on the file assembly location, either a counsel/IVT/hearing room, program service center, or SSA space in a non-government building. The file assembly location in Denver does not fit into any of these categories. Since the instructions for contractors in counsel/IVT/hearing rooms are the most restrictive, we determined that the file assembly contractors in Denver are subject to the instructions for file assembly contractors in counsel/IVT/hearing rooms.

- The access code provided to the Portland contractor for the file assembly location was the same as the access code for an Interactive Video Teletraining (IVT) room. The IVT room also had an unlocked door which leads into OHA office space. Therefore, the contractor could use the access code to enter the IVT room and then gain unsupervised access to case files in the hearing office. According to the Memorandum of Understanding governing file assembly contracts, contractors “will not be issued access codes/keys to the hearing office.”<sup>11</sup>

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<sup>11</sup> Memorandum of Understanding Regarding Management’s Decision to Contract Out Pre-hearing Case Folder Assembly Work, dated May 15, 2002, section A.(2)(b), Independent Contractors in the Hearing Office.

# *Appendices*

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*Appendix A* – Acronyms

*Appendix B* – Scope and Methodology

## Acronyms

ALJ	Administrative Law Judge
DI	Disability Insurance
IVT	Interactive Video Teletraining
OHA	Office of Hearings and Appeals
SSA	Social Security Administration
SSI	Supplemental Security Income

### Scope and Methodology

We collected and analyzed information specific to the concerns raised by Congressman E. Clay Shaw, Jr., regarding file assembly contracts at Offices of Hearings and Appeals (OHA). To achieve our objectives, we:

- Reviewed the previously issued reports *Operations at the Social Security Administration's Milwaukee, Wisconsin, Office of Hearings and Appeals* (A-13-03-23091) and *Chicago Regional Office of Hearings and Appeals Claimant Medical Files* (A-13-04-24045).
- Reviewed the Memorandum of Understanding Regarding Management's Decision to Contract Out Pre-hearing Case Folder Assembly Work dated May 15, 2002; Program Operations Manual System DI 70005.005; the Social Security Acquisition Handbook, *Security Requirements Clause*; and the Memorandum from A. Jacy Thurmond, Jr., Associate Commissioner for Hearings and Appeals, dated November 21, 2003 to all regional and hearing office chief administrative law judges, regional management officers, and hearing office directors, to determine policies and procedures in place for file assembly contracts.
- Obtained a listing of all OHA file assembly contracts as of October 31, 2003, to identify contracts subject to our review.<sup>1</sup>
- Selected for review the largest dollar valued file assembly contract within close proximity to an Office of Audit field office in each of the Social Security Administration's (SSA) 10 regions. The contracts selected for review are listed on Page 2 of this report.
- Interviewed the contractor and project officer and observed the file assembly location for each contract to determine if the terms of the contract were being followed and adequate oversight was being provided.<sup>2</sup>

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<sup>1</sup> Some of the contractors on the listing had not begun work on the contract and were excluded from being selected for our review. File assembly contractors cannot begin working until they have cleared a pre-screening determination by SSA's Protective Security Suitability Program Officer. Due to a recent backlog of processing background checks, some contractors had not begun working at the time of our review.

<sup>2</sup> The interviews and observations were conducted in December 2003.

The SSA operating component reviewed was the Office of Hearings and Appeals within the Office of the Deputy Commissioner for Disability and Income Security Programs. We performed our review at OHA file assembly locations in Boston, Massachusetts; New York, New York; Philadelphia, Pennsylvania; Atlanta, Georgia; Cincinnati, Ohio; Dallas, Texas; Springfield, Missouri; Denver, Colorado; San Jose, California; and Portland, Oregon; and the Office of Audit in Kansas City, Missouri, from October 2003 through January 2004. We conducted our review in accordance with Quality Standards for Inspections issued by the President's Council on Integrity and Efficiency.

## **DISTRIBUTION SCHEDULE**

Commissioner of Social Security

Office of Management and Budget, Income Maintenance Branch

Chairman and Ranking Member, Committee on Ways and Means

Chief of Staff, Committee on Ways and Means

Chairman and Ranking Minority Member, Subcommittee on Social Security

Majority and Minority Staff Director, Subcommittee on Social Security

Chairman and Ranking Minority Member, Subcommittee on Human Resources

Chairman and Ranking Minority Member, Committee on Budget, House of Representatives

Chairman and Ranking Minority Member, Committee on Government Reform and Oversight

Chairman and Ranking Minority Member, Committee on Governmental Affairs

Chairman and Ranking Minority Member, Committee on Appropriations, House of Representatives

Chairman and Ranking Minority, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Committee on Appropriations, House of Representatives

Chairman and Ranking Minority Member, Committee on Appropriations, U.S. Senate

Chairman and Ranking Minority Member, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Committee on Appropriations, U.S. Senate

Chairman and Ranking Minority Member, Committee on Finance

Chairman and Ranking Minority Member, Subcommittee on Social Security and Family Policy

Chairman and Ranking Minority Member, Senate Special Committee on Aging

Social Security Advisory Board

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

## **Office of Audit**

The Office of Audit (OA) conducts comprehensive financial and performance audits of the Social Security Administration's (SSA) programs and makes recommendations to ensure that program objectives are achieved effectively and efficiently. Financial audits, required by the Chief Financial Officers' Act of 1990, assess whether SSA's financial statements fairly present the Agency's financial position, results of operations and cash flow. Performance audits review the economy, efficiency and effectiveness of SSA's programs. OA also conducts short-term management and program evaluations focused on issues of concern to SSA, Congress and the general public. Evaluations often focus on identifying and recommending ways to prevent and minimize program fraud and inefficiency, rather than detecting problems after they occur.

## **Office of Executive Operations**

The Office of Executive Operations (OEO) supports the Office of the Inspector General (OIG) by providing information resource management; systems security; and the coordination of budget, procurement, telecommunications, facilities and equipment, and human resources. In addition, this office is the focal point for the OIG's strategic planning function and the development and implementation of performance measures required by the *Government Performance and Results Act*. OEO is also responsible for performing internal reviews to ensure that OIG offices nationwide hold themselves to the same rigorous standards that we expect from SSA, as well as conducting investigations of OIG employees, when necessary. Finally, OEO administers OIG's public affairs, media, and interagency activities, coordinates responses to Congressional requests for information, and also communicates OIG's planned and current activities and their results to the Commissioner and Congress.

## **Office of Investigations**

The Office of Investigations (OI) conducts and coordinates investigative activity related to fraud, waste, abuse, and mismanagement of SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, physicians, interpreters, representative payees, third parties, and by SSA employees in the performance of their duties. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

## **Counsel to the Inspector General**

The Counsel to the Inspector General provides legal advice and counsel to the Inspector General on various matters, including: 1) statutes, regulations, legislation, and policy directives governing the administration of SSA's programs; 2) investigative procedures and techniques; and 3) legal implications and conclusions to be drawn from audit and investigative material produced by the OIG. The Counsel's office also administers the civil monetary penalty program.