
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**HEARING OFFICE PERFORMANCE
AND STAFFING**

February 2010

A-12-08-28088

AUDIT REPORT



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SOCIAL SECURITY

MEMORANDUM

Date: February 1, 2010

Refer To:

To: The Commissioner

From: Inspector General

Subject: Hearing Office Performance and Staffing (A-12-08-28088)

OBJECTIVE

Our objective was to determine the staffing ratio and combination of staff skills in the Office of Disability Adjudication and Review's (ODAR) hearing offices that maximize hearing office performance.

BACKGROUND

ODAR administers the hearings and appeals program for the Social Security Administration (SSA). Administrative law judges (ALJ) conduct hearings and issue decisions. The hearing process begins after an applicant for benefits appeals a denial by a disability determination services (DDS).¹

In performing their duties, ALJs are assisted by decision writers and other support staff.² Decision writers draft and write ALJ decisions, screen claims, and, in the case of senior attorney adjudicators, issue favorable decisions.³ Other support staff⁴ conduct initial case screening and preparation, maintain a control system for all hearing office cases, conduct pre-hearing case analysis, develop additional evidence, schedule hearings, and prepare notices.

¹ Each DDS is responsible for determining claimants' disabilities and ensuring that adequate evidence is available to support its determinations.

² Hearing offices also have a management team, including the Hearing Office Chief ALJ and Hearing Office Director, who supervise, plan, organize, and control operating activities in a hearing office.

³ To increase the number of decisions issued, SSA's final rule extending the sunset date of the Senior Attorney Adjudicator authority to August 10, 2011, was published on July 13, 2009, in the Federal Register (FR), 74 FR 33327.

⁴ Other support staff includes group supervisors, attorney advisors, paralegal analysts, case technician cadre, case intake specialists, receptionists, and contact representatives. See Appendix B for a description of the duties of hearing office ALJs, management, decision writers and other support staff.

In March 2009, SSA's Commissioner testified⁵ that about 4.5 staff per ALJ (referred to as the staffing ratio) was necessary to maximize the number of legally sufficient hearings and decisions by ALJs. In this context, "staff" represents both decision writers and other support staff. Moreover, in a Fiscal Year (FY) 2009 memorandum,⁶ ODAR's Deputy Commissioner recommended the Regions hire 1.5 decision writers per ALJ and 2.5 other support staff per ALJ (referred to as the staffing mix ratio), thereby giving additional definition to the Commissioner's staffing ratio goal.⁷

RESULTS OF REVIEW

In FY 2009, as a result of additional Agency funding, ODAR increased the number of its ALJs to approximately 1,200 (about a 19-percent increase since FY 2000) and the number of its hearing office managers and support staff to about 6,200 (almost a 25-percent increase over the same period). By July 2009, ODAR's staffing ratio was about 5.1, exceeding the Agency's national goal of 4.5 staff per ALJ. However, our review of ODAR's staffing reports found that 42 hearing offices did not meet the national staffing ratio goal, and 7 of those hearing offices had staffing ratios below 4.0. In addition, ODAR's staffing ratio had not been adjusted to reflect attorney adjudicators who perform two roles—staffing duties when drafting decisions and ALJ duties when issuing fully favorable on-the-record decisions.

In terms of the staffing mix at hearing offices, we found that the hearing offices that met or exceeded the 1.5 decision writers-per-ALJ staffing mix goal had, on average, an almost 9-percent higher productivity rate than those hearing offices with a ratio less than the goal. We did not find similar productivity differences for the other support staffing mix goal. However, 36 hearing offices did not meet the decision writer staffing mix goal, including most of the hearing offices in the San Francisco Region. ODAR managers told us they had difficulty achieving an ideal staffing mix for their offices.

To assist hearing offices in meeting their staffing and workload goals, ODAR is considering the addition of centralized pulling and writing units. These units can supplement staffing and space shortages in hearing offices while providing management with greater flexibility to address unforeseen workload changes. Finally, while the Commissioner has set a staffing ratio goal of 4.5 staff per ALJ, adding the two ODAR staffing mix goals sums to only 4.0 staff per ALJ. At the time of our review, ODAR had not established any clear guidance as to how this 0.5 staff allocation should be used.

⁵ *Hearing on Disability Backlogs and Related Service Delivery Issues*, Prepared Testimony of Michael J. Astrue, Commissioner of Social Security, before the Subcommittee on Social Security and Income Security and Family Support, House Committee on Ways and Means, March 24, 2009.

⁶ *FY 2009 Hiring Authority and Guidance – Action*, Memorandum from the Deputy Commissioner for Disability Adjudication and Review to Regional Chief Administrative Law Judges and Regional Management Officers, February 27, 2009.

⁷ ODAR began calculating the decision writer per ALJ and other support staff per ALJ ratios in January 2009.

HEARING OFFICE STAFFING TRENDS

In FY 2009, the *American Recovery and Reinvestment Act of 2009*⁸ (ARRA) provided SSA \$500 million to process its increasing retirement and disability backlogs. Using ARRA funds, ODAR hired 550 new employees as well as 35 ALJs in FY 2009. In addition to these 585 new hires, ODAR hired 899 support staff and 112 ALJs in the Regions and National Hearing Centers⁹ using funds from its FY 2009 appropriation.¹⁰ These new hires assisted hearing offices in each of the 10 Regions. In FY 2008, ODAR hired 190 ALJs and 581 hearing office support staff.

As a result of hiring in recent years, the number of ALJs increased by about 19 percent compared to FY 2000 levels (see Figure 1).¹¹ ODAR had 1,007 ALJs at the end of FY 2000, but it increased its ALJ corps to approximately 1,200 by July 2009.¹² In addition, since FY 2000, hearing office managers and support staff levels rose to about 6,200—an increase of about 25 percent.

⁸ Public Law Number 111-5, Title VIII.

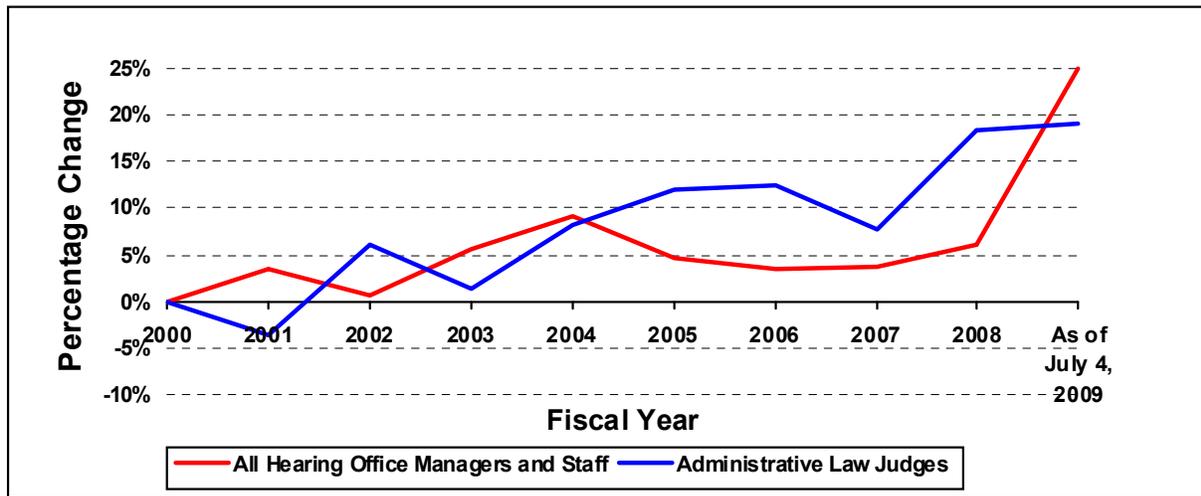
⁹ National Hearing Centers using video conferencing technology are operating in Albuquerque, New Mexico; Baltimore, Maryland; Chicago, Illinois; and Falls Church, Virginia. A fifth National Hearing Center is planned for St. Louis, Missouri, in FY 2010.

¹⁰ For further information, see our December 2009 report, *The Office of Disability Adjudication and Review's Staffing Plans Under the American Recovery and Reinvestment Act* (A-12-09-29140).

¹¹ Reductions in the ALJ levels during FYs 2001 to 2003 occurred because of a Merit Systems Protection Board decision that closed the ALJ register to hiring. See *Azdell v. Office of Personnel Management*, 87 M.S.P.R. 133 (2000), *aff'd on reconsideration*, 89 M.S.P.R. 88 (2001), *rev'd sub nom. Meeker v. Merit Systems Protection Board*, 319 F.3d 1368 (Fed. Cir. 2003), *cert. denied. Azdell v. James*, 540 U.S. 1218 (2004). When the register was closed, ODAR lost almost 200 ALJs through normal attrition. SSA was able to hire ALJs after the litigation concluded.

¹² All hiring figures are as of July 4, 2009, though ODAR added more ALJs and staff throughout the rest of FY 2009. At the end of FY 2009, ODAR had 7,642 total staff in its hearing offices, including 1,268 ALJs.

Figure 1: Percent Changes in Number of ALJs and Hearing Office Managers and Staff (Since FY 2000-Base Year)



HEARING OFFICE STAFFING RATIOS

As of July 4, 2009, ODAR’s staffing ratio was about 5.1, thereby exceeding the 4.5 goal set by the Commissioner. Since our previous staffing report, ODAR had changed the staffing ratio formula in terms of how it counts managers. In addition, ODAR needed to consider the various roles of attorney adjudicators in the overall staffing ratio.

Current Staffing Ratio

In our previous report on staffing,¹³ we recommended that SSA consider developing an ideal staffing ratio for its hearing offices. Since our report was issued, the Commissioner has testified to the Congress about establishing a staffing ratio goal of 4.5 staff per ALJ.¹⁴ As of July 2009, ODAR’s additional hiring has increased the national staffing ratio to about 5.1, thereby exceeding the 4.5 staffing goal. The staffing ratios since FY 2006 are illustrated in Table 1.

¹³ SSA, Office of the Inspector General (OIG), *The Effects of Staffing on Hearing Office Performance* (A-12-04-14098), March 2005.

¹⁴ On November 23, 2009, ODAR’s Deputy Commissioner issued staffing guidance to the Regions where he stated that, “We understand that individual hearing offices may still have significant space limitations. In such situations, the minimum support staff per ALJ ratio in hearing offices remains 4.0.”

**Table 1: Staffing Ratios
(as of July 2009)**

Fiscal Year	National Staffing Ratio
2006	4.23
2007	4.46
2008 ¹	4.08
2009	5.06

Note 1: In FY 2008, ODAR hired a larger percentage of ALJs compared to staff, which contributed to the drop in the national staffing ratio.

Using ODAR's bi-weekly staffing report as of July 4, 2009, we found a total of 42 hearing offices¹⁵ had staffing ratios below the 4.5 staffing ratio goal and, of those, 7 had staffing ratios below 4.0 (see Table 2).¹⁶

**Table 2: Hearing Offices with Staffing Ratios Below 4.0 Staff per ALJ
(as of July 4, 2009)**

Hearing Office	Region	Staffing Ratio
Boston, Massachusetts	Boston	3.70
Dover, Delaware	Philadelphia	3.80
Washington, DC	Philadelphia	3.60
Paducah, Kentucky	Atlanta	3.80
Columbus, Ohio	Chicago	3.66
Oak Park, Michigan	Chicago	3.77
San Jose, California	San Francisco	3.95

Hearing Office staffing ratios ranged from a high of 14.2 in the Johnstown, Pennsylvania, Hearing Office to a low of 3.6 in the Washington, DC, Hearing Office. According to the Philadelphia Regional Management team,¹⁷ the Region allowed the Johnstown Hearing Office to hire extra support staff because the hearing office had additional space to accommodate the staff. Besides performing its normal function, the

¹⁵ While most of these 42 hearing offices were performing below the national disposition rate, we did find some hearing offices that had higher than average disposition rates even though their staffing ratios were below 4.5. In our August 2008 report, we noted ALJs had varying levels of productivity (both high and low productivity) for internalized reasons, such as motivation and work ethic. In the report, we also identified factors that can impact ALJ and hearing office productivity and processing times, including factors related to DDS case development, staff levels, hearing dockets, favorable rates, individual ALJ preferences, and Agency processes. See SSA, OIG, *Congressional Response Report: Administrative Law Judge and Hearing Office Performance (A-07-08-28094)*, August 2008.

¹⁶ ODAR's biweekly staffing report reflects a snapshot of an office that may vary depending on issues like hiring, training, and attrition at a particular point in time.

¹⁷ See Appendix C for more information on our scope and methodology. Also, see Appendix D for information on the hearing and regional offices we contacted for this audit.

Johnstown Hearing Office is being used as a regional “pulling unit”¹⁸ that supports the case preparation duties for other hearing offices in the Region.

Number of Managers

ODAR modified the staffing ratio formula to account for the different numbers of managers among its hearing offices. As discussed in our March 2005 staffing report, ODAR’s staffing ratio formula was calculated by removing three management positions (Hearing Office Director, Hearing Office Systems Administrator, and Administrative Assistant) from each hearing office.¹⁹ However, in many large hearing offices, there are more than three management positions, and in many small hearing offices, there are fewer than three management positions. The prior formula overstated or understated the staffing ratio, depending on the size and composition of managers in the hearing office. In 2005, the formula was modified to reflect the exact number of managers in each office. See Appendix E for a comparison of the staffing ratio at hearing offices using the old and new staffing ratio formula.

Senior Attorney Adjudicators

While senior attorney adjudicators perform staffing duties of drafting decisions and screening cases, they also spend some of their time issuing fully favorable, on-the-record decisions—similar to work performed by ALJs. Hence, the same attorney can act as support staff one moment and an ALJ the next, obscuring the staffing ratio line. To obtain an accurate measure of its staffing ratio, we believe ODAR should consider adjusting the staffing ratio again to account for the time that senior attorney adjudicators are performing duties similar to ALJs.²⁰

HEARING OFFICE STAFFING MIX

In a February 2009 memorandum, ODAR’s Deputy Commissioner instructed the Regional Offices to meet staffing mix goals by hiring at least 1.5 decision writers per ALJ and 2.5 other support staff per ALJ in each of its hearing offices. We reviewed the performance of hearing offices above and below these staffing mix ratios, and found that a lack of decision writers had a greater impact on productivity than a lack of other support staff.

¹⁸ “Pulling” is a term used to prepare a disability case file for a hearing. A hearing office employee must organize medical documents chronologically, number documents, remove duplicate documents, ensure all pertinent documents are appropriately labeled, and prepare an exhibit list of pertinent documents.

¹⁹ ODAR categorizes these management positions as non-workload related and therefore they are removed when calculating the staffing ratio.

²⁰ We are planning a separate audit on the Senior Attorney Adjudicator program.

Productivity Based on Decision Writer per ALJ Ratios

ODAR has instructed Regional Offices to meet a staffing mix goal of 1.5 decision writer per ALJ in each of its hearing offices.²¹ We examined FY 2009 hearing office productivity through January 2009 and determined that hearing offices with at least 1.5 decision writers per ALJ had an average of almost 9 percent higher productivity (dispositions per day per ALJ) than hearing offices with decision writer-to-ALJ ratios less than the goal (see Table 3). In January 2009, 57 hearing offices had a decision writer-to-ALJ ratio that was equal to or greater than the goal, while 83 hearing offices had a ratio less than the goal.²²

**Table 3: Disposition Rate Comparison with Decision Writer per ALJ Ratios
(As of January 2009)**

Decision Writer per ALJ Ratio	Number of Hearing Offices	Average Disposition Rate	Average Difference
Equal or above 1.5	57	2.28	+9%
Below 1.5	83	2.10	---

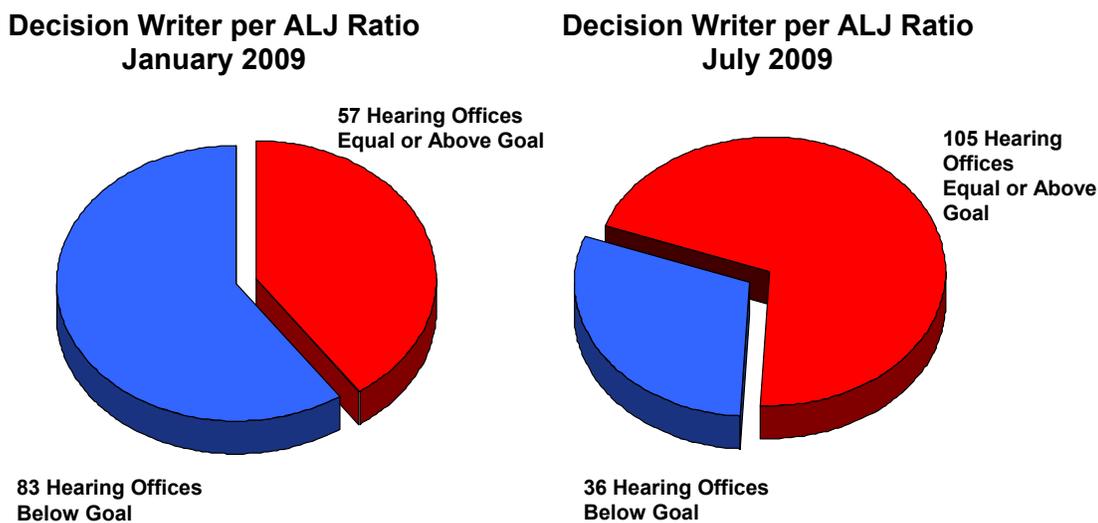
In March 2009, ODAR received its FY 2009 appropriation and ARRA funding, and through additional hiring, the number of hearing offices meeting the decision writer-per-ALJ goal increased from 57 to 105 by July 2009 (see Figure 2).²³ However, since SSA has cautioned that new employees will not have an immediate impact on hearing office workloads, we did not recalculate the effect on productivity of the newly hired employees.

²¹ After our November 12, 2009, exit briefing with the Agency, ODAR increased the decision writer per ALJ goal to 1.85. In November 23, 2009 staffing guidance to the Regions, ODAR's Deputy Commissioner wrote, "To reach a decision writer to ALJ ratio of 1.85, beginning January 1, 2010, regions must focus all attrition replacement and new hiring on achieving that goal on a regional level."

²² The number of hearing offices did not total 142 because ODAR's staffing report did not contain staffing ratios for the Mayaguez, Puerto Rico, and Honolulu, Hawaii, Hearing Offices.

²³ By July 2009, we found 105 hearing offices were at or above the goal and 36 were below the goal. The number of hearing offices did not total 142 because the July 2009 ODAR staffing report did not contain staffing ratios for the Mayaguez, Puerto Rico, Hearing Office.

Figure 2: Comparison of Decision Writer per ALJ Ratios at Hearing Offices



Note: SSA was unable to provide staffing data on all 142 hearing offices.

Even with the additional hiring, 36 hearing offices were below the decision writer-per-ALJ goal,²⁴ including 12 of the 20 hearing offices in the San Francisco Region (see Table 5).²⁵ The hearing offices in the San Francisco Region had higher than average staffing ratios, but the staff was heavily weighted toward other support staff. We believe more decision writers may have assisted with dispositions. According to the Regional Chief Administrative Law Judge (RCALJ), the Region only had space for adding cubicles for other support staff but not enough space for private offices that are required for decision writers.²⁶ The RCALJ said they are hoping to add a centralized writing unit²⁷ in the San Francisco Region to alleviate the shortage of decision writers.

²⁴ The majority of these 36 hearing offices was performing below the national disposition rate, but there were a number of exceptions.

²⁵ Although we highlighted the San Francisco Region because of the number of hearing offices below the decision writer goal, the Denver Region also had a similar percentage of hearing offices below this goal.

²⁶ Under the March 1998 *Space Allocation Standard* for the Office of Hearings and Appeals (later renamed ODAR), hearing offices allow decision writers a private office, as they require privacy and quiet to review cases and speak into dictation units without interruption or sound from other sources.

²⁷ We discuss Centralized Writing Units later in this report, as well as in Appendix F.

**Table 5: Statistics on Hearing Offices and the Decision Writer per ALJ Goal
(As of July 2009)**

Region	Number of Hearing Offices in the Region	Number of Hearing Offices Meeting Decision Writer Goal	Number of Hearing Offices Not Meeting Decision Writer Goal	Percentage of Hearing Offices Not Meeting Decision Writer Goal
Boston	7	5	2	29%
New York ¹	13	11	2	15%
Philadelphia	18	15	3	17%
Atlanta	31	26	5	16%
Chicago	20	14	6	30%
Dallas	16	16	0	0%
Kansas City	7	5	2	29%
Denver	5	2	3	60%
San Francisco	20	8	12	60%
Seattle	4	3	1	25%
Total	141	105	36	26%

Note 1: The staffing report we received from ODAR did not include the staffing at the Mayaguez, Puerto Rico, Hearing Office in the New York Region.

Productivity Based on Other Support Staff per ALJ Ratios

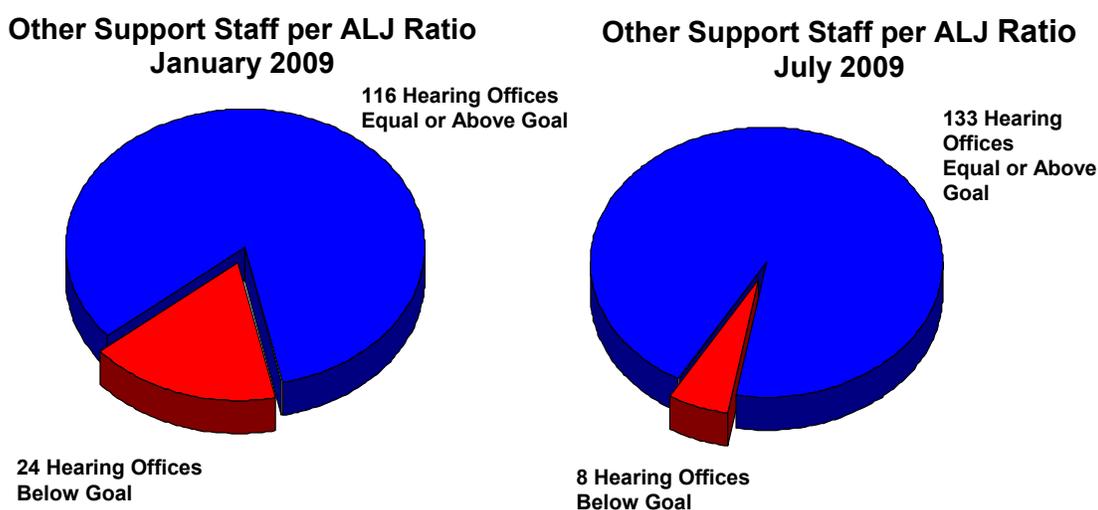
We examined FY 2009 hearing office productivity through January 2009 and found most hearing offices had met the staffing mix goal of 2.5 other support staff per ALJ. In addition, we found the productivity difference between offices equal to or above this ratio was not significant, when compared to those offices under the goal (see Table 6). Using ODAR's January 2009 staffing report, we found that 116 of the 140 hearing offices had met the goal for other support staff.

Table 6: Disposition Rate Comparison with Other Support Staff per ALJ Ratios (As of January 2009)

Other Support Staff per ALJ Ratio	Number of Hearing Offices	Average Disposition Rate	Average Difference
Equal or above 2.5	116	2.18	+1.5%
Below 2.5	24	2.15	--

As a result of the additional hiring in Spring of 2009,²⁸ 133 hearing offices had met or exceeded the 2.5 other support staff-per-ALJ ratio, while only 8 hearing offices had not met the goal by July 2009 (see Figure 3).²⁹

Figure 3: Comparing Other Support Staff per ALJ Ratios at Hearing Offices



Note: SSA was unable to provide staffing data on all 142 hearing offices.

AUGMENTING HEARING OFFICE STAFFING SHORTAGES

To better understand the staffing issues, we conducted site visits and interviews with ALJs, managers, and staff in six hearing offices and interviewed RCALJ management teams in five Regions.³⁰ We found lack of consensus among these parties regarding an ideal staffing ratio or mix of staff. Those we interviewed stated they had difficulty achieving ideal staffing situations because of (1) fluctuating resources over the years to replace departing ALJs, managers and staff; (2) space shortages in hearing offices; and (3) difficulty backfilling some skill sets with existing staff.

²⁸ We did not recalculate the effect on productivity based on the newly hired employees.

²⁹ The eight Hearing Offices not meeting the other support staff per ALJ goal were Albany, New York; Boston, Massachusetts; Elkins Park, Pennsylvania; Greensboro, South Carolina; Madison, Wisconsin; Paducah, Kentucky; Tulsa, Oklahoma; and Washington, D.C.

³⁰ See Appendix D for the hearing office selection criteria.

As a result of these variables, some hearing offices needed more decision writers and some needed other support staff. As noted earlier, one regional manager stated the decision writers are more difficult to hire because hearing offices have space shortages and cannot build the number of private offices required for decision writers. In another case, a manager at a hearing office said her office had extra office space and therefore hired more decision writers to write decisions for other hearing offices. Finally, since the skill set for decision writers is more specialized than for other support staff, their work cannot be duplicated by others inside or outside the hearing office.³¹ For example, staff from other SSA components can assist with some of the pulling and administrative tasks associated with preparing a case. However, this staff would not have the expertise to assist with decision writing.

Commissioner Initiatives

To augment staffing shortages in hearing offices, ODAR has begun implementing a number of initiatives to assist hearing offices in processing its workloads, including *Operations Overtime Assistance*, *Centralized Pulling and Writing Units*, *Service Area Realignment*s, and the *National Hearing Centers*. The first two initiatives augment a hearing office's support staff by assisting with a portion of the processing while allowing the case to remain with that same hearing office, whereas the last two initiatives are designed to move the hearing workload to another location for another team to complete the case more or less in its entirety.

For example, under the *Operations Overtime Assistance* initiative, staff from teleservice centers can assist hearing offices with some of the pulling and administrative tasks associated with preparing a case. However, this case would still remain with the original hearing office.

Under the *Centralized Writing and Pulling Units* initiative, a portion of the support staff work—decision writing and pulling duties—would be handled by ODAR staff in another location.³² The number of centralized units has grown over the years (see Table 7). Under the initiative, ODAR is considering expanding the use of such centralized units.³³ In addition, some Regions use teams of attorneys in the regional offices to write the decisions. Four of the six hearing offices we reviewed temporarily transfer claims to other hearing offices for decision writing and pulling assistance to help reduce their

³¹ This may explain why the lack of other support staff in the hearing offices did not impact productivity as much as the lack of decision writers—the hearing offices had more ways to make up for the loss of other support staff.

³² ODAR is staffing these units with Federal employees. In past initiatives, ODAR used contractors for pulling the files, but we identified a number of problems relating to those contracts. See our earlier report, *The Effects of Staffing on Hearing Office Performance* (A-12-04-14098), March 2005.

³³ Depending on the timing of the FY 2010 appropriations, ODAR is hoping to add two new units during this FY—one in McLean, Virginia, and the other in St Louis, Missouri. ODAR noted that because of the General Services Administration's space and facility requirements, it could take 18 to 24 months to establish a new unit.

backlogs. Additional centralized writing and pulling centers would assist hearing offices that lack the right number or composition of staff, while also providing management with greater flexibility to address unforeseen workload changes.

Table 7: Centralized Units in ODAR
(FYs 2008 - 2009)

Type of Centralized Unit	Number of Regions with Each Type of Centralized Unit	
	FY 2008	FY 2009
Decision Writing	6	8
Pulling	1	3

STAFFING MIX RATIO GUIDANCE

While ODAR has set a staffing ratio goal of 4.5 staff per ALJ, adding the two staffing mix goals sums to only 4.0 staff per ALJ. At the time of our review, ODAR had not established any clear guidance as to how this 0.5 staff allocation should be used. As shown in our earlier analysis, the decision writers are more likely to be under-represented in the ratios because of their use as senior attorney adjudicators. In addition, office productivity was more negatively affected by the lack of decision writers than a lack of other support staff, in part because these decision writer duties are more difficult to augment. For these reasons, we believe ODAR should increase the decision writer-per-ALJ staffing mix ratio before adjusting the other support staff ratio. For example, under the current 4.5 support staff-per-ALJ staffing ratio, ODAR could modify the staffing mix from 1.5 decision writers per ALJ to 2.0 decision writers per ALJ.³⁴ At our exit briefing with SSA, ODAR's Deputy Commissioner stated his office was contemplating increasing the decision writers-per-ALJ ratio to 1.85.³⁵

CONCLUSION AND RECOMMENDATIONS

Overall, ODAR had exceeded its national staffing ratio goal, though, as of July 2009, 42 hearing offices were still below the goal. In addition, we found ODAR's staffing ratios did not account for the different roles the attorney adjudicators played in each hearing office. Our analysis found that hearing offices with at least 1.5 decision writers per ALJ had disposition rates about 9 percent higher than those offices under the goal. ODAR managers and staff noted a number of factors went into achieving an ideal staffing mix. ODAR has also expanded the use of centralized pulling and writing units to enhance the skill sets available to hearing offices and further assist hearing offices in processing workloads. ODAR could further enhance hearing office productivity by adjusting the staffing mix to require more decision writers, since this skill set is diluted by the Senior Attorney Adjudicators program and more difficult to replace when assisted by non-ODAR components.

³⁴ The final figures associated with each element in the staffing mix ratio will depend on any future changes to the staffing ratio.

³⁵ As noted earlier, after our meeting with the Agency, ODAR increased the decision writer per ALJ goal to 1.85 in November 23, 2009 staffing guidance to the Regions.

To meet its staffing ratio and staffing mix goals in all its hearing offices, we recommend that ODAR:

1. To the extent possible, consider adding new hires to hearing offices below the 4.0 staffing ratio before offices already above this ratio.
2. Continue expanding the use of centralized pulling and writing centers to assist hearing offices in processing pending claims.
3. Determine how the attorney adjudicators' new duties of issuing decisions affect the staffing ratio and adjust the ratio based on this analysis.
4. Consider modifying the staffing mix by increasing the number of decision writers per ALJ to fully define the staffing ratio goal of 4.5 staff per ALJ.

AGENCY COMMENTS

The Agency agreed with all our recommendations (see Appendix G).



Patrick P. O'Carroll, Jr.

Appendices

[APPENDIX A](#) – Acronyms

[APPENDIX B](#) – Hearing Office Organizational Chart and Position Descriptions

[APPENDIX C](#) – Scope and Methodology

[APPENDIX D](#) – Hearing Office Selection Criteria

[APPENDIX E](#) – Calculating Hearing Office Staffing Ratios

[APPENDIX F](#) – Initiatives Related to Hearing Office Staffing

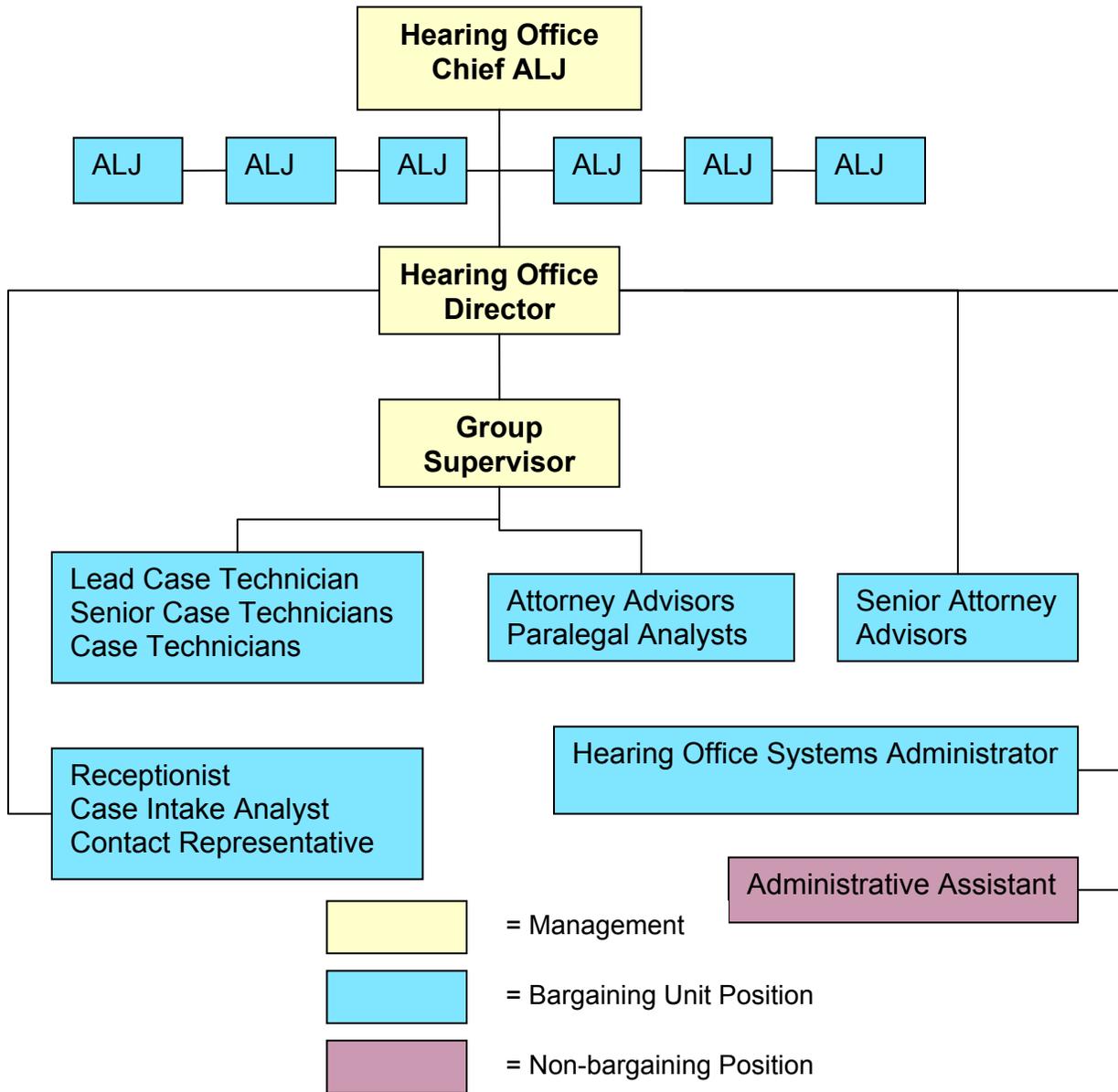
[APPENDIX G](#) – Agency Comments

[APPENDIX H](#) – OIG Contacts and Staff Acknowledgments

Acronyms

AA	Attorney Advisor
ALJ	Administrative Law Judge
CIA	Case Intake Assistant
CT	Case Technician
DDS	Disability Determination Services
FY	Fiscal Year
FR	Federal Register
GS	Group Supervisor
HOCALJ	Hearing Office Chief Administrative Law Judge
HOD	Hearing Office Director
HOSA	Hearing Office System Administrator
LCT	Lead Case Technician
M.S.P.R.	United States Merit Systems Protection Board Reporter
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
OPM	Office of Personnel Management
PA	Paralegal Analyst
RCALJ	Regional Chief Administrative Law Judge
SAA	Senior Attorney Advisor
SAR	Service Area Realignment
SCT	Senior Case Technician
SSA	Social Security Administration

Hearing Office Organizational 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, Supervisory Staff Attorney, and Hearing Office Director. The HOCALJ has full responsibility and full authority to hold hearings and issue decisions made while administering Titles II and XVI of the <i>Social Security Act</i> .
Administrative Law Judge (ALJ)	The ALJ holds hearings and makes and issues decisions on appeals from determinations made in administering Titles II and XVI of the <i>Social Security Act</i> .
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, Lead Case Technician, Senior Case Technician, and the Case Technician. The GS directs all the activities of employees assigned to the group to ensure the efficient, timely and legally sufficient processing of hearing office cases.
Senior Attorney Advisor (SAA)	The SAA reviews selected cases to determine factual and legal issues to determine if a fully favorable on-the-record decision can be issued under Titles II and XVI of the <i>Social Security Act</i> . The SAA also 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 SSA analyzes, researches, and develops cases, while also formulating and drafting comprehensive decisions for the ALJ.
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, while also formulating and drafting comprehensive decisions for the ALJ.
Paralegal Analyst (PA)	The PA assists the ALJ in formulating 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.

Title	Position Description
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 are 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 that reflect the prior medical history of the claimant and treatment undertaken as well as 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 a hearing in accordance with legal and regulatory requirements and coordinates the 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 ¹ 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.

¹ Office of Disability Adjudication and Review hearing offices maintain a Master Docket system that contains all requests for hearings and remanded claims.

Title	Position Description
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. The contract representative also explains the application of regulatory provisions and the bases for the Agency's determinations in individual cases.

Scope and Methodology

To meet the objective of this audit, we:

- Reviewed Social Security Administration (SSA) Office of the Inspector General reports, Government Accountability Office reports, and congressional testimonies by SSA officials.
- Reviewed (1) the Office of Disability Adjudication and Review's (ODAR) staffing reports, position descriptions, Workload Reports, Case Processing and Management System reports; (2) SSA's Performance and Accountability reports; and (3) SSA's *Initiatives to Reduce and Eliminate the Hearings Backlog*.
- Reviewed ODAR's bi-weekly staffing reports to analyze the number of staff in each hearing office and track the staff to administrative law judge (ALJ) ratios and staffing mix ratios in each hearing office. We compared the productivity in each hearing office based on those hearing offices that met the staffing mix goals and those hearing offices that fell short of the goal. We also plotted the trends in ALJ hearing office management and staff hiring over the last decade.
- Interviewed staff and managers in six hearing offices to verify the staffing reports and ratios and to discuss how staffing issues affect productivity and timeliness. We also interviewed five Regional Management teams as well as ODAR headquarters personnel regarding staffing issues. See Appendix D for our hearing office selection criteria.

We found the staffing data used in our review to be sufficiently reliable to meet our audit objective. The entity audited was the Office of the Deputy Commissioner for Disability Adjudication and Review. We performed our review from November 2008 through October 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Hearing Office Selection Criteria

The Social Security Administration’s (SSA) Office of Disability Adjudication and Review (ODAR) has 142 hearing offices throughout the United States and Puerto Rico. The hearing offices range in size from small offices (fewer than seven administrative law judges [ALJ]) to medium hearing offices (seven or eight ALJs) to large hearing offices (more than eight ALJs). All hearing offices have the same core staff and perform the same function—hold hearings and issue decisions—as part of SSA's process for determining whether a person may receive benefits.

We selected six hearing offices based on a combination of factors. One factor was hearing office size (small, medium, or large). Another factor was hearing office performance. We used two measures that ODAR deemed most important: (1) disposition rate (number of dispositions per day per ALJ) and (2) average processing time. Each hearing office was ranked by disposition rate and average processing time over the last 3 fiscal years (FY). Hearing offices that were in the top 20 for either the disposition rate or average processing time for 2 of the past 3 FYs were considered top performers. Hearing offices that were in the bottom 20 for either disposition rate or average processing time for 2 of the past 3 FYs were considered low performers. We also considered a wide geographic distribution to maximize national coverage.

HEARING OFFICES SELECTED FOR THIS REVIEW

We selected 1 small, 1 medium, and 1 large hearing office in the top 20 performing hearing offices for either the disposition rate or average processing time (see Table D-1).

Table D-1: Top Performing Hearing Offices

Hearing Office Name	Region	Hearing Office Size
Charlottesville, Virginia	Region III: Philadelphia	Small
Shreveport, Louisiana	Region VI: Dallas	Medium
Albany, New York	Region II: New York	Large

Note: Performance level based on the number of dispositions per day per ALJ or average processing time for FYs 2006-2008.

We selected 1 small, 1 medium, and 1 large hearing office in the bottom 20 performing hearing offices (see Table D-2).

Table D-2: Low Performing Hearing Offices

Hearing Office Name	Region	Hearing Office Size
Santa Barbara, California	Region IX: San Francisco	Small
Lansing, Michigan	Region V: Chicago	Medium
Portland, Oregon	Region X: Seattle	Large

Note: Performance level based on the number of dispositions per day per ALJ or average processing time for FYs 2006-2008.

We also spoke to regional office management teams in five Regions: Philadelphia (Region III), Atlanta (Region IV), Chicago (Region V), Dallas (Region VI), and San Francisco (Region IX).

Calculating Hearing Office Staffing Ratios

Hearing offices are different size¹ and have different numbers of managers. Previously, the Office of Disability Adjudication and Review's (ODAR) staffing ratio formula automatically excluded three management positions (Hearing Office Director, Hearing Office Systems Administrator, and Administrative Assistant) from each hearing office, regardless of the number of managers in each hearing office. However, in large hearing offices, there were more than three management positions, and in small hearing offices, there were fewer than three management positions.² The prior formula used to calculate the number of support staff per administrative law judge (ALJ), therefore, either overstated or understated the staffing ratio depending on the size of the hearing office. In 2005, ODAR modified the formula to reflect the exact number of managers in each office.

In Table E-1, we provide an example of how the old formula overstated the staffing ratio. In this example, this large hearing office has seven managers. Under the old staffing ratio formula, ODAR removed only three manager positions from the formula leaving a support staff ratio of 3.92. However, under the new formula, ODAR removes the actual number of management positions, so the staffing ratio is now 3.58.

**Table E-1: Example of Old Formula Overstating the Staffing Ratio¹
(Calculated for a Hearing Office with Seven Managers)**

Formula	Total on Duty	Number of Administrative Law Judges	Number of Managers	Support Staff Ratio
Old Formula	62	12	3	3.92
New Formula	62	12	7	3.58

Note: Staffing ratio formula for each hearing office: Total staff on duty minus number of ALJs minus management positions divided by number of ALJs.

Conversely, Table E-2 provides an example of understating the staffing ratio. In this second example, this small hearing office has only one management position. Under the old staffing ratio formula, ODAR would remove three management positions from the formula leaving a staffing ratio of 3.00. However, under the new formula, ODAR removes the actual number of management positions, so the staffing ratio is now 3.67.

¹ We categorize hearing offices by size with small size hearing offices having fewer than seven administrative law judges (ALJ), medium size hearing offices having seven or eight ALJs, and large size hearing offices having more than eight ALJs.

² ODAR categorizes these management positions as non-workload related and therefore they were removed when calculating the staffing ratio.

**Table E-2: Example of Old Formula Understating the Staffing Ratio¹
(Calculated for a Hearing Office with One Manager)**

Formula	Total on Duty	Number of Administrative Law Judges	Number of Managers	Support Staff Ratio
Old Formula	15	3	3	3.00
New Formula	15	3	1	3.67

Note: Staffing ratio formula for each hearing office: total staff on duty minus number of ALJs minus management positions divided by number of ALJs.

Initiatives Related to Hearing Office Staffing

In his May 2007 testimony to Congress¹ Commissioner Astrue reported that the Social Security Administration (SSA) had developed a number of initiatives to eliminate the backlog of pending claims at the hearings level and prevent its recurrence. In our review of these initiatives, we identified the following initiatives affecting staffing in the hearing office.

Senior Attorney Adjudicator Initiative

The purpose of this initiative is to allow senior attorney adjudicators to issue fully favorable, on-the-record decisions. The goal is to expedite the decisions and conserve administrative law judge (ALJ) resources for the more complex cases that require a hearing. This initiative uses an approach similar to that of the Senior Attorney Adjudicator program that operated between 1995 and 2000.

Guidance for the Senior Attorney Adjudicator program was issued in a November 2007 Chief Judge Bulletin (CJB 07-10). Per the Bulletin, all hearing office GS-13 senior attorneys advisors, supervisory attorney advisors (hearing office directors), supervisory attorney advisors (group supervisors), and attorneys in the regional offices at the GS-13 level and above are authorized to issue fully favorable decisions. Hearing office managers assign cases to the senior attorney adjudicators and decide the amount of time these attorney adjudicators will devote to the adjudication duties. In July 2009, the Senior Attorney Adjudicator program was extended for an additional 2 years.² Senior attorney adjudicators will also continue to draft decisions for ALJs as part of their normal decision writer duties.

Operations Overtime Assistance Initiative

The *Operations Overtime Assistance* began on June 23, 2007. Operations employees assist hearing offices with routine hearing office tasks including: folder assembly, burning compact discs, associating paper mail, application and query printing, expert witness photocopying, scanning, alphabetizing, mailing decisions, photocopying for consultative examination requests, filing closed files, folder audit or inventory, creating barcodes, and filing ALJ folders. All of these tasks support the work normally performed by other support staff in the hearing offices. Table F-1 illustrates the overtime hours that Operations employees worked from Fiscal Year (FY) 2007 through May 2009.

¹ *The Social Security Administration's Plans to Reduce the Disability Backlogs*, Statement of Commissioner Michael J. Astrue before the Senate Finance Committee, May 23, 2007.

² To increase the number of decisions being issued, SSA's final rule extending the sunset date of the Attorney Adjudicator authority to August 10, 2011 was published on July 13, 2009 in the Federal Register (FR), 74 FR 33327.

**Table F-1: Operations Overtime to Support Hearing Offices
(As of May 2009)**

Fiscal Year	Operations Employee Overtime Hours
FY 2007 ¹	32,343
FY 2008	62,863
FY 2009	32,412

Note 1: Initiative started in June 2007.

Centralized Pulling Units and Centralized Writing Units Initiative

Centralized pulling and writing units augment staffing shortages at hearing offices that do not have an adequate staffing ratio and/or an adequate staffing mix to process their pending workloads. The Office of Disability Adjudication and Review (ODAR) is using centralized pulling units staffed by ODAR employees to assist hearing offices in the routine work of folder assembly, as described above in the *Operations Overtime Assistance* initiative.

In terms of centralized case pulling, electronic claim folders containing the claimant's request for a hearing are sent electronically from the hearing offices to the centralized location for pulling. After the claim is pulled, it is sent back electronically to the hearing office. ODAR added two centralized pulling units in the last year (see Table F-2), bringing the count of Regions with such units to a total of three. ODAR is considering expanding centralized pulling units in FY 2010, but this will depend on the availability of funds.

ODAR has also expanded its use of centralized writing units, and hopes to continue this trend should funding be available. ODAR's count of centralized writing units grew to eight in FY 2009 (see Table F-2). These units, staffed by ODAR employees, provide decision-writing services for hearing offices. The process of electronically transferring claims is similar to the process described in pulling. The decisions are written in preparation for the ALJ's final disposition and signature.

Table F-2: Centralized Units in ODAR (FYs 2008 - 2009)

Type of Centralized Unit	Number of Regions With This Type of Centralized Unit	
	FY 2008	FY 2009
Pulling	1	3
Decision Writing	5	8

Service Area Realignment Initiative

The *Service Area Realignment (SAR)* initiative was implemented in FY 2007. This initiative has a two-phased strategy. In the first phase, claims are permanently transferred from one Region to another. The permanent claim transfers are made on a flow basis and designed to decrease aged pending workloads of heavily impacted

hearing offices.³ In the second phase, SSA field offices are realigned from hearing offices in high workload Regions to hearing offices in lower workload Regions. New claims submitted into the realigned SSA field offices are processed and heard at hearing offices in a different part of the country from where the claimant lives, usually by video-conference.

National Hearing Centers and Video Hearings Initiatives

In conjunction with the SAR initiative, ODAR implemented the *National Hearing Center*⁴ and *Video Hearing*⁵ initiatives to assist in processing claims in heavily impacted Regions and hearing offices. These initiatives allow claims to be transferred within and between Regions and then heard electronically using video technology. According to ODAR, claims being transferred into National Hearing Centers are coming from areas of the country with the largest backlogs.⁶

³ ODAR's Office of the Chief Administrative Law Judge manages all hearing office claim transfers made between the 10 Regions, whereas hearing office claim transfers within each Region are being managed by the Regional Chief ALJs.

⁴ ODAR has NHC locations in Albuquerque, New Mexico; Baltimore, Maryland; Chicago, Illinois; and Falls Church, Virginia. A fifth NHC is planned for St. Louis, Missouri, in FY 2010.

⁵ We are completing an audit of the *Video Hearing* initiative.

⁶ For a more detailed analysis of the SAR and *National Hearing Center* initiatives, see our September 2009 report, *Aged Claims at the Hearing Level* (A-12-08-18071).

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: January 11, 2010 **Refer To:** S1J-3

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

From: Margaret J. Tittel /s/
Acting Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report, "Hearing Office Performance and Staffing"
(A-12-08-28088)

Thank you for the opportunity to review and comment on the draft report. We appreciate OIG's efforts in conducting this review. Attached is our response to the report findings and recommendations.

Please let me know if we can be of further assistance. You may direct staff inquiries to Candace Skurnik, Director, Audit Management and Liaison Staff, at (410) 965-4636.

Attachment

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, “HEARING OFFICE PERFORMANCE AND STAFFING” (A-12-08-28088)

Overall, we agree with the results of this review and the intent of the recommendations. We began implementing initiatives that align with the recommendations prior to OIG’s audit. In addition, we appreciate the report’s description of our efforts to address productivity, including the senior attorney initiative, the operations overtime assistance initiative, establishment of centralized pulling and writing units, the service area realignment initiative, and establishment of the national hearing centers and video hearing units. Below are our responses to the specific recommendations:

Recommendation 1

To the extent possible, consider adding new hires to hearing offices below the 4.0 staffing ratio before offices already above this ratio.

Comment

We agree. We already have an initiative in place to maintain sufficient hearing office staffing. On November 23, 2009, the Office of Disability Adjudication and Review issued fiscal year (FY) 2010 hiring authority and staffing guidance to its regional management teams. That instructed regions to target a staff ratio of 4.5 staff at the regional level.

Please note that, in some offices where we do not have space to accommodate the ideal number of staff, the hiring guidance is a minimum staff ratio of 4.0.

Recommendation 2

Continue expanding the use of centralized pulling and writing centers to assist hearing offices in processing pending claims.

Comment

This initiative is already part of our Disability Reduction Plan. We are in the process of establishing new centralized units with a decision writing unit planned for McLean, Virginia and a screening/pulling/writing unit in St. Louis, Missouri. The report should acknowledge that due to the General Services Administration’s space and facility requirements, it could take 18 to 24 months to establish these units.

Recommendation 3

Determine how the attorney adjudicators' new duties of issuing decisions affect the staffing ratio and adjust the ratio based on this analysis.

Comment

We already take the dual roles of an attorney adjudicator (staff decision writer and case adjudicator) into account. In our November 23, 2009, hiring authority guidance, we raised the decision writer to ALJ ratio from 1.75 to 1.85 in most offices. The exception is offices that have significant space constraints and therefore have a ratio of 4.0, 1.5 decision writers and 2.5 other support staff.

Recommendation 4

Consider modifying the staffing mix by increasing the number of decision writers per ALJ to fully define the staffing ratio goal of 4.5 staff per ALJ.

Comment

We raised the decision writer to ALJ ratio from 1.75 to 1.85. We continue to strive to reach a 4.5 ratio at the regional level. We plan to use the staffing resources we have received in FY 2010 to achieve that objective.

(SSA also provided technical comments, which have been addressed, where appropriate, in this report.)

OIG Contacts and Staff Acknowledgments

OIG Contacts

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Acknowledgments

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OA conducts 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 reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

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