



## SOCIAL SECURITY

July 14, 2010

The Honorable Claire McCaskill  
United States Senate  
Washington, D.C. 20515

Dear Senator McCaskill:

In an August 4, 2009 letter, you asked that we determine whether the Social Security Administration's (SSA) plans will enable the Agency to achieve its goal of eliminating the pending hearings backlog by 2013. To address this issue, we consulted with Office of Disability Adjudication and Review (ODAR) management to obtain updated information on the current status of the pending hearings backlog plan. We also examined ODAR's assumptions related to hearing workloads, hiring, productivity, and other factors associated with reducing the pending hearings backlog through 2013.

My office is committed to combating fraud, waste, and abuse in SSA's operations and programs. Thank you for bringing your concerns to my attention. The report highlights various facts pertaining to the issues raised in your letter. To ensure SSA is aware of the information provided to your office, we are forwarding a copy of this report to the Agency.

If you have any questions concerning this matter, please call me or have your staff contact Misha Kelly, Congressional and Intra-governmental Liaison, at (202) 358-6319.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick P. O'Carroll, Jr." with a stylized flourish at the end.

Patrick P. O'Carroll, Jr.  
Inspector General

Enclosure

cc:  
Michael J. Astrue

# ***CONGRESSIONAL RESPONSE REPORT***

## ***The Office of Disability Adjudication and Review's 2013 Pending Hearings Backlog Plan***

**A-12-10-20114**



July 2010

## Mission

By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, 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

We strive for continual improvement in SSA's programs, operations and management by proactively seeking new ways to prevent and deter fraud, waste and abuse. We commit to integrity and excellence by supporting an environment that provides a valuable public service while encouraging employee development and retention and fostering diversity and innovation.

# Background

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## OBJECTIVE

Our objective was to determine whether the Social Security Administration (SSA) had an achievable plan to eliminate the pending hearings backlog by Fiscal Year (FY) 2013.

## BACKGROUND

In May 2007, SSA presented to Congress and began implementing its *Plan to Eliminate the Hearings Backlog and Prevent its Recurrence*. As outlined in its FY 2008–2013 Strategic Plan, SSA plans to reduce the number of pending cases to a desired level of 466,000 cases and reduce the average processing time to 270 days by FY 2013.<sup>1</sup> According to SSA, a pending case level of 466,000 cases would be the ideal number of pending cases based on the expected number of administrative law judges (ALJ) working in the Agency.

To accomplish our objective, we consulted with Office of Disability Adjudication and Review (ODAR) management to obtain updated information on the current status of the pending hearings backlog plan; reviewed the information already provided by the Agency in our August 2009 report, *Office of Disability Adjudication and Review Management Information (A-07-09-29162)*; and examined SSA's latest assumptions related to hearing workloads, hiring, productivity, and other factors associated with reducing the pending hearings backlog through 2013.

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<sup>1</sup> Hearing timeliness was about 442 days in March 2010.

# Results of Review

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We believe SSA will be able to achieve its FY 2013 pending hearings backlog goal if the Agency has reliably projected hearing level receipts, ALJ availability levels, ALJ productivity levels, and senior attorney adjudicator decisions through 2013. However, the Agency has varying control over these factors. Moreover, a small variance in these projections could cause SSA to exceed the targeted number of cases in its 2013 pending hearings backlog. For example, a 3-percent change in receipts, ALJ hiring, or ALJ productivity could cause SSA to exceed its 466,000-case backlog goal. SSA could also miss its targeted hearings backlog goal if the Senior Attorney Adjudicator initiative expires in FY 2011.

## ACHIEVING THE 2013 PENDING HEARINGS BACKLOG GOAL

Our projections, based on four key variables that directly affect the pending hearings backlog, indicate SSA will meet its FY 2013 pending hearings backlog goal (see Table 1). We estimate the Agency will have approximately 405,000 pending hearing cases by the end of FY 2013, which is lower than the Agency's stated ideal goal of 466,000 cases. We developed similar projections in a 2009 report to the Agency.<sup>2</sup> Our calculations are based on factors over which SSA maintains varying control, including the (1) number of new receipts, (2) number of available ALJs, (3) productivity of those ALJs, and (4) number of decisions issued by senior attorney adjudicators.<sup>3</sup> Current projections indicate the Agency is closer to meeting its FY 2013 pending hearing backlog goal than it was when we conducted our 2009 review.<sup>4</sup> However, to demonstrate the sensitivity of the factors used in our projections, we also projected the negative impact on the FY 2013 pending hearings backlog should the Agency's assumptions vary over time.<sup>5</sup>

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<sup>2</sup> SSA Office of the Inspector General (OIG), *Office of Disability Adjudication and Review Management Information* (A-07-09-29162), August 2009.

<sup>3</sup> Other than the *Senior Attorney Adjudicator* initiative, we did not evaluate the effect of ODAR's initiatives on the pending hearings backlog. ODAR has not issued performance measures on its other initiatives that impact the pending hearings backlog.

<sup>4</sup> Our August 2009 projections estimated SSA would have 458,870 cases in the pending hearing backlog at the end of FY 2013.

<sup>5</sup> The four key factors could also change favorably to the Agency's benefit and effectively lead to a faster reduction of the backlog. Moreover, some factors could improve and others worsen, leading to a more complex picture. In the projections that follow, we will hold all but one factor constant to demonstrate the sensitivity of each factor with regard to the Agency's ability to meet its 2013 goal.

**Table 1: OIG Projection of the Pending Hearings Backlog  
(FYs 2009 through 2013)**

<b>Workloads/ Staffing</b>	<b>FY 2009 (Actual)</b>	<b>FY 2010 (Projected)</b>	<b>FY 2011 (Projected)</b>	<b>FY 2012 (Projected)</b>	<b>FY 2013 (Projected)</b>
Beginning Balance <sup>1</sup>	760,813	722,822	696,382	635,662	527,422
Projected Receipts <sup>2</sup>	622,851	708,600	749,900	729,800	707,500
ALJs Available <sup>3</sup>	1,057	1,178	1,309	1,358	1,348
Total ALJ Dispositions <sup>4</sup>	609,538	683,240	759,220	787,640	781,840
Informal Remands <sup>5</sup>	14,938	2,000	2,000	2,000	2,000
Senior Attorney Adjudicator Dispositions <sup>6</sup>	36,366	49,800	49,400	48,400	46,500
Total Dispositions <sup>7</sup>	660,842	735,040	810,620	838,040	830,340
<b>Year-End Pending<sup>8</sup></b>	<b>722,822</b>	<b>696,382</b>	<b>635,662</b>	<b>527,422</b>	<b>404,582</b>

**Table Notes:**

1. The FY 2009 *Beginning Balance* figure was taken from the *Cumulative Regional Workload* report. The *Beginning Balance* figures for FYs 2010 through 2013 are equal to the *Closing Pending* levels from the prior FYs.
2. The FY 2009 receipts figure was taken from ODAR's Case Processing and Management System's *Caseload Analysis Report*. The FYs 2010 through 2013 *Projected Receipts* data were provided by SSA's Office of Budget, Finance and Management.
3. The FY 2009 *ALJs Available* figure was taken from ODAR's *Workload and Performance Summary* report. The FYs 2010 through 2013 *ALJs Available* figures were provided by SSA's Office of Budget, Finance and Management.
4. The FY 2009 *Total ALJ Dispositions* figure was taken from the *Cumulative Regional Workload* report. *Total ALJ Dispositions* for FYs 2010 through 2013 were calculated by multiplying available ALJs x ALJ productivity (2.32) x number of work days in the year (250 days per year). See the *ALJ Productivity* section of this report for more details.
5. The FY 2009 *Informal Remands* figure was taken from the *Cumulative Regional Workload* report. ODAR provided the FYs 2010 through 2013 projections. These cases are part of the ALJ workload but counted separately.
6. The FY 2009 *Senior Attorney Adjudicator Dispositions* figure was taken from ODAR's *Caseload Analysis Report*. ODAR provided the FYs 2010 through FY 2013 projections, which include increased screening dispositions. We describe these dispositions later in the report.
7. *Total Dispositions* is the sum of *Total ALJ Dispositions*, *Informal Remands*, and *Senior Attorney Adjudicator Dispositions*.
8. We calculated *Year End Pending* by adding projected receipts to the *Beginning Balance* level and subtracting *Total Dispositions* for each FY.

In our projections, we factored in workloads from the *Informal Remand* initiative even though ODAR is not processing many cases through the initiative at this time (see Appendix C).<sup>6</sup> This initiative led to approximately 15,000 allowances in FY 2009 and represents a tool available to the Agency should it choose to reinitiate the process.

<sup>6</sup> To produce 2,000 allowances, as shown in the table, the disability determination services (DDS) offices need to review approximately 10,000 hearing cases.

## SSA ROLE IN BACKLOG FACTORS

The Agency has varying levels of influence over the backlog factors in our calculations (see Table 2). For example, the number of incoming hearing-level receipts depends, in part, on the status of the economy.<sup>7</sup> In addition, the number of available ALJs is not completely within SSA's control since ALJ funding comes from Congress. Moreover, ALJ screening and development of a roster of eligible candidates are controlled by the Office of Personnel Management (OPM).<sup>8</sup> SSA has greater influence over ALJ productivity, continuation of the *Senior Attorney Adjudication* initiative, and use of the *Informal Remand* initiative.

**Table 2: Agency Influence over Factors Impacting the Pending Hearings Backlog Goal**

Factor	Primarily Influenced by SSA	Primarily Influenced by Non-SSA Causes
Hearing Receipts		✓
ALJ Availability - Funding		✓
ALJ Availability - OPM		✓
ALJ Productivity	✓	
Senior Attorney Adjudicator	✓	
Informal Remands	✓	

<sup>7</sup> While the overall volume may be outside SSA's control, the flow can be moderated based on the ability of DDS offices to process incoming claims. However, the States are facing increasing initial claim backlogs due to the status of the economy. See SSA OIG, *Impact of State Budget Issues on the Social Security Administration's Disability Programs* (A-01-10-11006), November 2009.

<sup>8</sup> Applicants for an ALJ position must meet experience and licensure requirements, and complete an Accomplishment Record, a Written Demonstration, and a Structured Interview. Eligible candidates are placed on the ALJ register, which is used as the source of names to make referrals to agencies for employment consideration when they have entry level ALJ vacancies to fill. Names are referred in numerical score order. It is the responsibility of the agencies to make selections from the list of candidates referred for employment consideration from among the highest three available names, pursuant to 5 C.F.R. § 332.404, taking into consideration veterans' preference rules regarding order of selection. It is OPM's responsibility to ensure that the ALJ register maintains a sufficient number of qualified ALJ candidates to meet the projected hiring needs of agencies, including enabling agencies to have an adequate number of choices for each position to be filled. Consequently, OPM will periodically reopen the ALJ examination as the need arises.

## HEARING RECEIPTS

SSA is projecting hearing receipts to peak at about 750,000 cases in FY 2011, then drop slightly in FYs 2012 and 2013 (see Table 3). Compared to the earlier projections that were outlined in our August 2009 report, SSA's current projections show a higher number of hearing receipts primarily in FYs 2012 and 2013. Increased projections in hearing receipts are due, in part, to increased applications for disability benefits during the economic downturn. SSA staff noted that these hearing receipt projections do not anticipate potential delays in requests for hearings resulting from increasing claims backlogs at DDS offices. Hence, depending on the situation at DDS offices, the timing of the peak in receipts may shift.

**Table 3: Changes in Projected Hearing Receipts  
(Earlier Versus Current)**

SSA's Projections	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Current Projections	622,851 <sup>2</sup>	708,600	749,900	729,800	707,500
Earlier Projections <sup>1</sup>	641,000	698,000	736,000	699,000	670,000
<b>Difference in Projections</b>	<b>-2.8%</b>	<b>1.5%</b>	<b>1.9%</b>	<b>4.4%</b>	<b>5.6%</b>

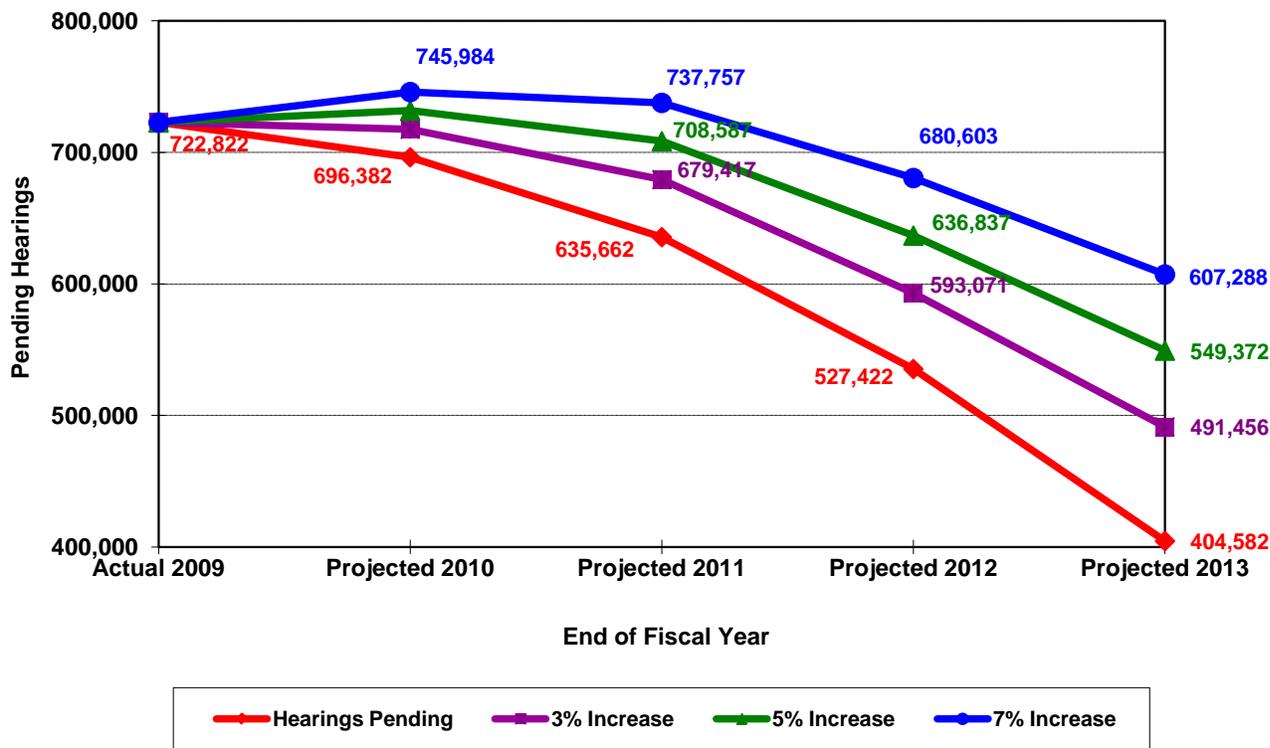
**Note 1:** FY 2009 projections from our August 2009 report.

**Note 2:** Represents actual receipts in FY 2009.

SSA's ability to achieve its 2013 pending hearings backlog goal (466,000 cases) will be at risk if the Agency receives 3 percent more hearing receipts each year from 2010 through 2013 than is currently projected (see Figure 1).<sup>9</sup> With 3 percent more hearing receipts, the pending hearings backlog at the end of FY 2013 would rise to about 491,000 cases. As noted in Table 3, FYs 2012 and 2013 already exceeded this 3 percent based on the new projections. Moreover, if hearing receipts increase by 5 percent annually through 2013, the pending hearings level would rise to about 549,000 cases by the end of FY 2013. If hearing receipts increase by 7 percent, the pending hearings level would be about 607,000 by the end of FY 2013.

<sup>9</sup> In each of our projections, we held all the other variables constant.

**Figure 1: Projected Pending Hearings Backlog Based on Changes in Hearing Receipts (FYs 2009 through 2013)**



## ALJ AVAILABILITY

SSA is projecting that it will have 1,178 ALJs available in FY 2010, 1.7 percent fewer available ALJs than it projected in FY 2009 (see Table 4).<sup>10</sup> However, SSA is projecting it will have 1,348 available ALJs by FY 2013, or 1.6 percent more than it initially projected in FY 2009. SSA’s ability to hire ALJs depends on annual appropriations, space availability, and OPM’s ability to screen potential candidates and create a list of eligible candidates. In our December 2009 report,<sup>11</sup> we noted that ODAR’s planned number of ALJ hires in FY 2009 dropped from 157 to 153 after it was determined that 4 candidates did not meet the Agency’s requirements. In addition, of these 153 ALJ selections, 6 offers were declined and ODAR could not continue hiring until OPM produced a new list of eligible ALJ candidates.

<sup>10</sup> The Agency’s assessment of ALJ availability incorporates ALJ attrition as well as the learning curve of new ALJs by assuming inexperienced ALJs are not fully available until they have worked at least 9 months on the job.

<sup>11</sup> SSA OIG, *The Office of Disability Adjudication and Review’s Staffing Plan Under the American Recovery and Reinvestment Act (A-12-09-29140)*, December 2009.

**Table 4: Changes in Projected Available ALJs  
(Earlier Versus Current)**

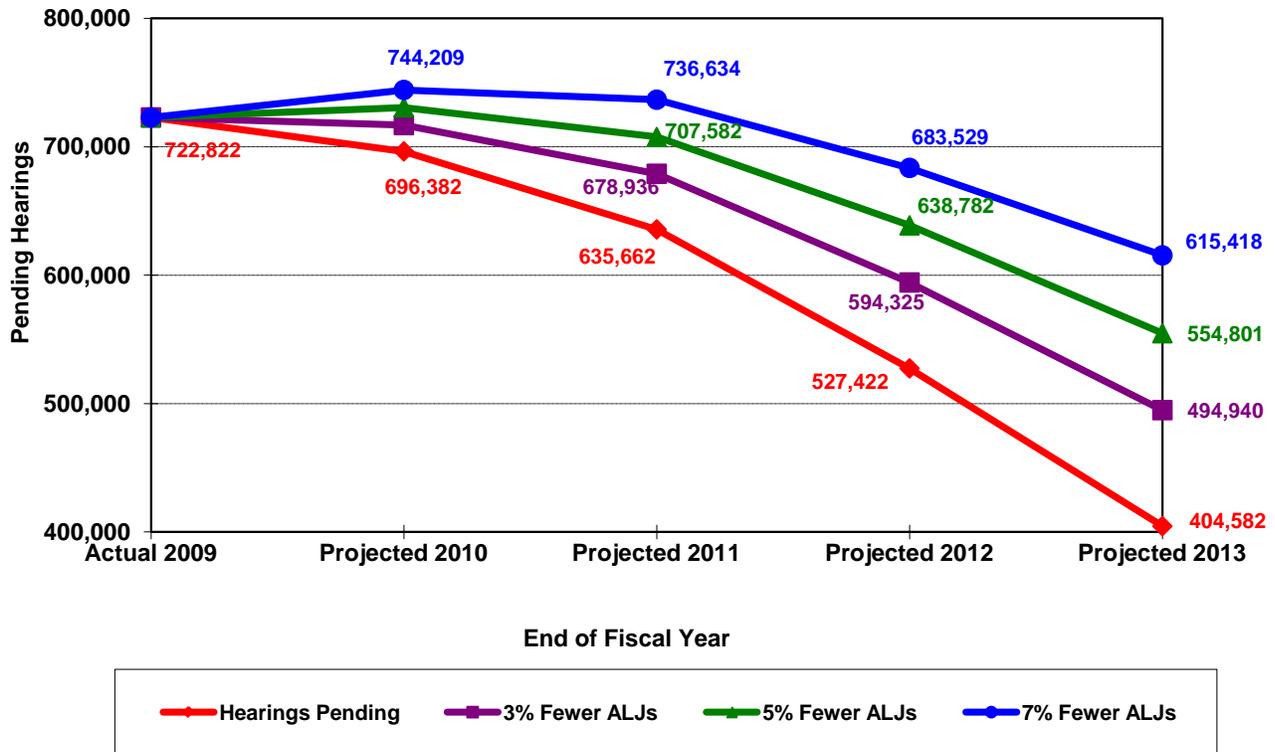
SSA Projections	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Current Projections	1,057 <sup>2</sup>	1,178	1,309	1,358	1,348
Earlier Projections <sup>1</sup>	1,066	1,198	1,316	1,327	1,327
<b>Difference in Projections</b>	<b>-0.8%</b>	<b>-1.7%</b>	<b>-0.5%</b>	<b>2.3%</b>	<b>1.6%</b>

**Note 1:** FY 2009 projections from our August 2009 report.

**Note 2:** Represents actual ALJs available in FY 2009.

SSA's ability to achieve its 2013 backlog goal will be at risk if the number of available ALJs is 3 percent or less per year from FY 2010 through FY 2013 than projected (see Figure 2). With 3 percent fewer available ALJs, the pending hearings backlog at the end of FY 2013 would rise to about 495,000 cases. With 5 percent fewer available ALJs, the pending hearings backlog would increase to about 555,000 cases at the end of FY 2013. Finally, if the Agency had 7 percent fewer available ALJs over the next 4 years, the number of pending hearings at the end of FY 2013 would rise to about 615,000 cases.

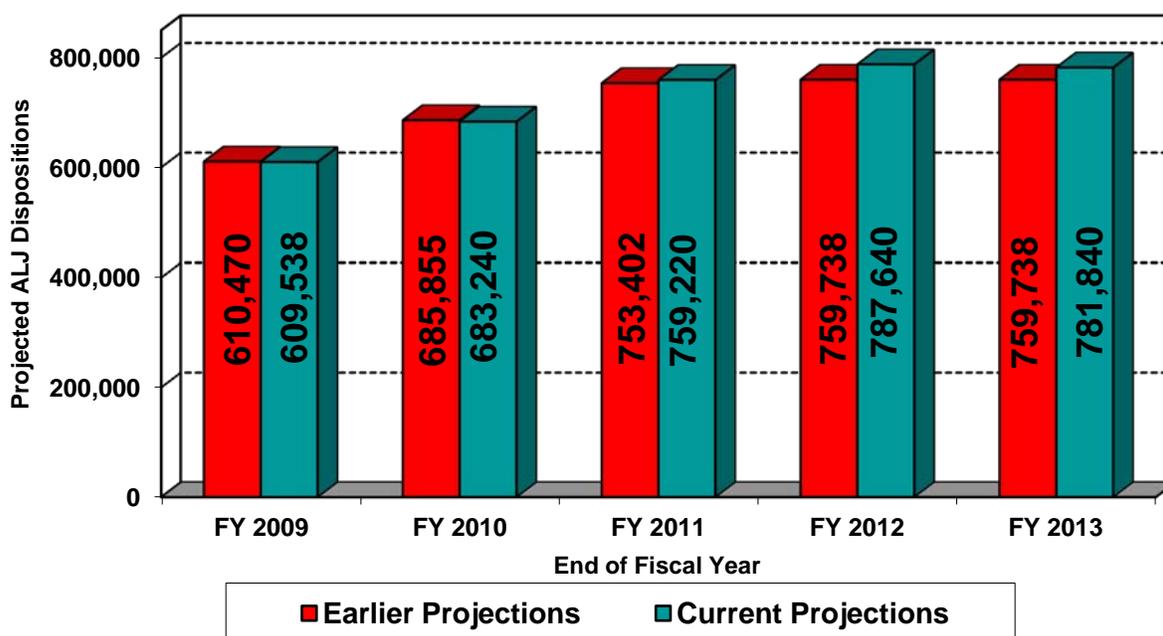
**Figure 2: Projected Pending Hearings Backlog Based on  
Changes in Available ALJs  
(FYs 2009 through 2013)**



## ALJ PRODUCTIVITY

Based on ALJ staffing and productivity projections, the number of ALJ dispositions will rise above 750,000 in FY 2011 and remain at this level or higher throughout this period (see Figure 3).<sup>12</sup> In our August 2009 report, we used 2.29 dispositions per available ALJ per day as the level of ALJ productivity for FYs 2009 through 2013. Based on actual FY 2009 ALJ productivity, we are now using an ALJ productivity level of 2.32 dispositions per day per ALJ for FYs 2010 through 2013. This ALJ productivity level represents a 1.3-percent increase from the earlier projections.<sup>13</sup> These later projections are slightly higher than initially projected in FY 2009 primarily due to the increased ALJ productivity combined with a higher number of available ALJs.<sup>14</sup>

**Figure 3: Changes in Projected ALJ Dispositions through FY 2013<sup>1</sup>  
(Earlier Versus Current<sup>2</sup>)**



**Note 1:** ALJ productivity is defined as the number of dispositions per ALJ per day. ALJ productivity is shown here as 2.32 dispositions per day per ALJ for FYs 2010 through 2013. Work days are 250 per year for FYs 2010 through 2013.

**Note 2:** Current projections for FY 2009 represent actual ALJ dispositions.

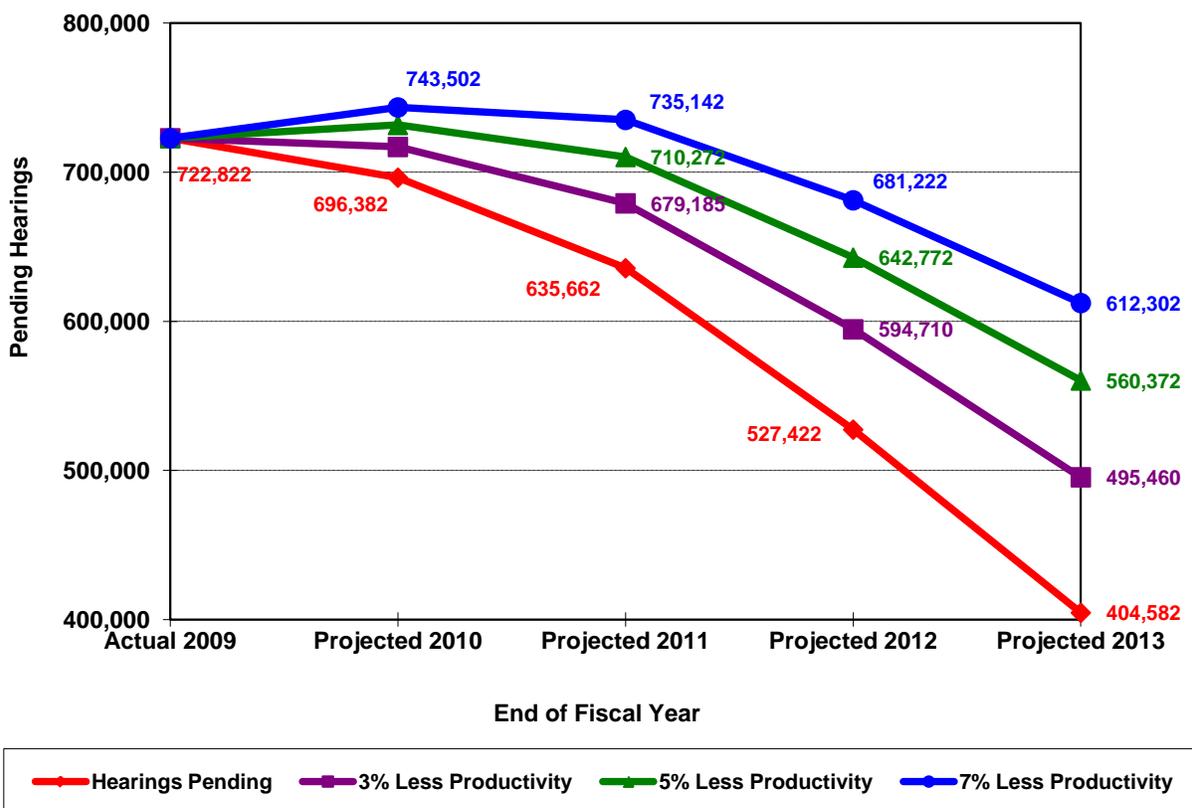
<sup>12</sup> *Annual Dispositions* is calculated by multiplying three numbers: available ALJs, ALJ productivity, and 250 work days per year.

<sup>13</sup> ALJ productivity relies on having adequate staffing ratios and staffing mixes in the hearing offices. See SSA OIG, *Hearing Office Productivity and Staffing* (A-12-08-28088), February 2010.

<sup>14</sup> The lower ALJ dispositions in FYs 2009 and 2010 relate to lower numbers of available ALJs (see Table 4).

We determined that if ALJ productivity declined by 3 percent from FYs 2010 through 2013, the projected hearings backlog would be about 495,000 cases at the end of FY 2013, falling short of the SSA's pending hearings backlog goal. If ALJ productivity decreased by 5 percent, the projected hearings backlog would be about 560,000 cases by the end of FY 2013. Finally, a 7-percent decrease in ALJ productivity would result in a projected hearings backlog of about 612,000 cases at the end of FY 2013 (see Figure 4).<sup>15</sup>

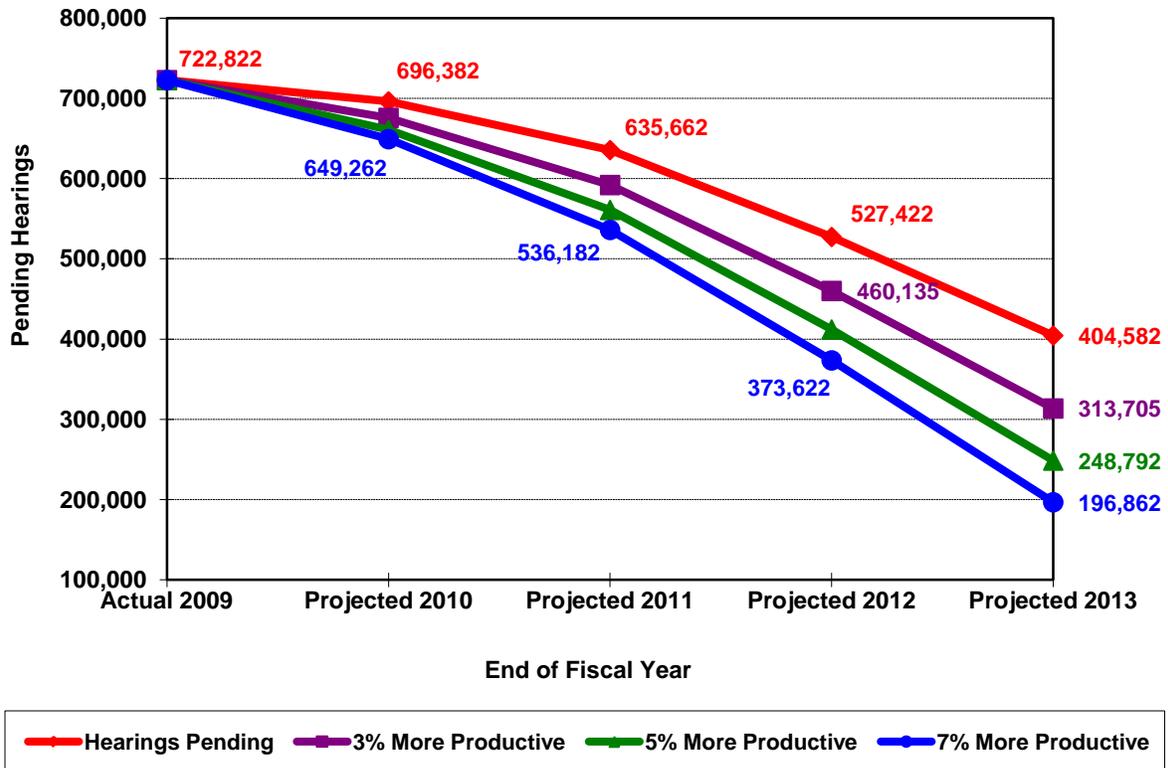
**Figure 4: Projected Pending Hearings Backlog Based on Changes in ALJ Productivity (FYs 2009 through 2013)**



To demonstrate the long-term role of productivity gains, we also calculated the potential effect of increased ALJ productivity. If ALJ productivity increased by 3 percent through 2013, the projected hearings backlog would be about 314,000 cases at the end of FY 2013. Moreover, if ALJ productivity increased by 5 percent, the projected hearings backlog would be about 249,000 cases by the end of FY 2013. Finally, a 7-percent increase in ALJ productivity would result in a projected hearings backlog of about 197,000 cases, or less than half the goal SSA set for pending cases at the end of FY 2013 (see Figure 5).

<sup>15</sup> While we do not expect productivity to decrease from FYs 2010 through 2013, we wanted to illustrate the potential impact of lower productivity levels on the pending hearings backlog through the end of FY 2013.

**Figure 5: Projected Pending Hearings Backlog Based on Increased ALJ Productivity (FYs 2009 through 2013)**



## SENIOR ATTORNEY ADJUDICATOR DISPOSITIONS

SSA reinstated the *Senior Attorney Adjudicator* initiative in November 2007. The initiative allows senior attorney adjudicators to issue fully favorable on-the-record decisions. The goal of the initiative is to expedite the decision-making process and conserve ALJ resources for the more complex cases that require a hearing. Senior attorney adjudicators issued 24,575 decisions in FY 2008, and another 36,366 decisions in FY 2009. SSA is also planning increased workloads for senior attorney adjudicators related to three screening initiatives: (1) the Virtual Screening Unit (VSU); (2) Office of Quality Performance (OQP) screening; and (3) Medical Expert Screening (see Table 5).<sup>16</sup>

<sup>16</sup> We are completing a separate review of the *Senior Attorney Adjudicator* initiative, which will be issued later this year. See Appendix C for more on this initiative as well as other hearing backlog initiatives.

**Table 5: Senior Attorney Adjudicator Productivity  
Including Screening Projects  
(FYs 2009 through 2013)**

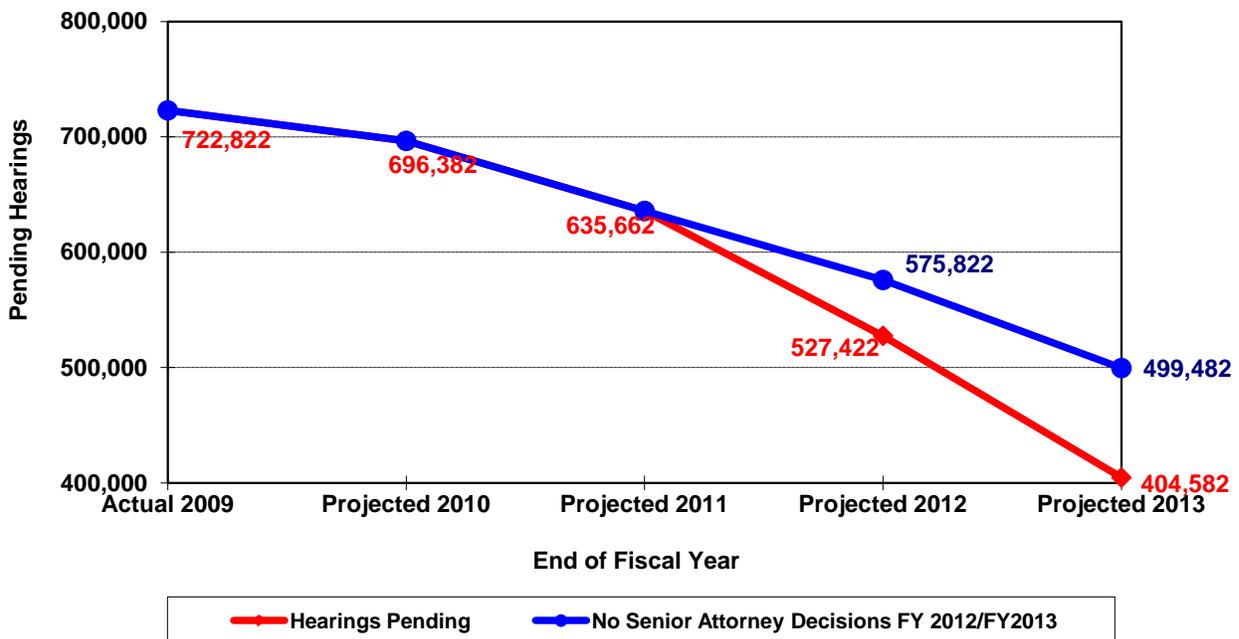
Source of Dispositions	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Senior Attorney Adjudicators at Hearing Offices <sup>1</sup>	36,366	32,300	32,300	32,300	32,300
Virtual Screening Unit	NA	14,500	14,100	13,100	11,200
OQP Screening	NA	3,000	3,000	3,000	3,000
Medical Expert Screening <sup>2</sup>	NA	NA	NA	NA	NA
<b>Total</b>	<b>36,366</b>	<b>49,800</b>	<b>49,400</b>	<b>48,400</b>	<b>46,500</b>

**Note 1:** While some senior attorney adjudicators at hearing offices also dispose of hearings under VSU, we separated them because their workload is controlled by separate entities. Most senior attorney adjudicators are supervised by hearing office management, whereas senior attorney adjudicators involved in the VSU are supervised by ODAR Headquarters.

**Note 2:** ODAR management informed us that the *Medical Expert Screening* initiative is under new management and should be producing cases in the near future.

As shown in Table 5, the senior attorney adjudicators are expected to dispose of approximately 194,000 hearing cases by the end of FY 2013. However, the *Senior Attorney Adjudicator* initiative is set to expire in August 2011. Unless the Agency takes action to extend this authority, the number of senior attorney dispositions will be reduced by approximately 94,900 in FYs 2012 and 2013, thereby increasing the number of pending hearings to about 499,000 cases at the end of FY 2013, and exceeding the Agency's target of 466,000 backlog cases (see Figure 6).

**Figure 6: Projected Pending Hearings Backlog Based on  
Eliminating the Senior Attorney Adjudicator  
(FYs 2009 through 2013)**



## Conclusions

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SSA should be able to eliminate the pending hearings backlog if its projections regarding hearings-level receipts, ALJ availability, ALJ productivity, and senior attorney adjudicator productivity are met. However, there is little room for error. A small change in any one of the underlying assumptions may cause SSA to miss its 2013 pending hearings backlog goal. For this reason, continued assessment of these various factors, as well as periodic adjustments by Agency managers, will be necessary to ensure SSA remains on track to reduce the pending hearings backlog. Moreover, since not all these factors are solely within SSA's control, such as available sufficient funding and qualified ALJ candidates, the Agency will need to maintain a good understanding of any potential deficiencies to communicate its needs to other parties, including the Congress and OPM.

In our discussions with SSA management, they informed us that the Agency continues to make progress eliminating the pending hearings backlog. For example, Agency managers stated that by the end of May 2010, SSA was approximately 12,000 pending hearings below its FY 2010 goal of 706,700.<sup>17</sup> Additionally, average processing time through May 2010 stood at 437 days, about 48 days better than the FY 2010 average processing time goal of 485 days. Agency managers also stated senior attorney adjudicators had produced 36,915 dispositions as of May 2010, which, when annualized at the current rate, would put them on track to exceed the FY 2010 goal of 49,800 dispositions.

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<sup>17</sup> At the same time the pending hearings backlog is being worked, new hearing requests continue to come into the Agency.

# Appendices

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APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Initiatives Designed to Reduce and Eliminate the Hearings Backlog

APPENDIX D – Hearings-Level Receipts

## Acronyms

ALJ	Administrative Law Judge
DDS	Disability Determination Services
FY	Fiscal Year
ME	Medical Expert
NHC	National Hearing Center
OCALJ	Office of the Chief Administrative Law Judge
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
OPM	Office of Personnel Management
OQP	Office of Quality Performance
SAR	Service Area Realignment
SSA	Social Security Administration
VSU	Virtual Screening Unit

### Scope and Methodology

To accomplish our objective, we:

- Reviewed previous Office of the Inspector General reports on pending hearings backlog projections.
- Consulted with Social Security Administration and Office of Disability Adjudication and Review managers to obtain updated information on the current status of the pending hearings backlog plan.
- Reviewed the Agency's backlog reduction initiatives to identify those related to the pending hearings backlog.
- Analyzed the assumptions the Agency used to project the pending hearings backlog through 2013, particularly as it related to hearing receipts, administrative law judge (ALJ) availability, ALJ productivity, and workloads under the *Senior Attorney Adjudicator* initiative. In the case of FY 2009, we obtained the actual hearing receipts, ALJ availability, ALJ productivity, and workloads under the *Senior Attorney Adjudicator* initiative as reported by the Agency and used this information as part of our review of future expectations.
- Examined scenarios in which the variables related to hearing receipts, ALJ availability, and both ALJ and senior attorney adjudicator productivity were reduced and/or increased incrementally each year to determine the effect on the pending hearings backlog by Fiscal Year 2013.

We found that Fiscal Year 2009 data were sufficiently reliable to meet our objective. However, as noted in the report, future estimates are subject to change based on a number of cited factors, as well as other potential factors not enumerated here. The entity audited was the Office of the Deputy Commissioner for Disability Adjudication and Review. We conducted this performance audit from January through March 2010 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 objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## Initiatives Designed to Reduce and Eliminate the Hearings Backlog

The Office of Disability Adjudication and Review (ODAR) has implemented a number of initiatives related to increased staffing and improved processing of workloads, including the (1) *Administrative Law Judge (ALJ) Hiring* initiative, (2) *Informal Remand* initiative, (3) *Senior Attorney Adjudicator* initiative, and (4) *Medical Expert Screening* initiative.

### **ALJ HIRING INITIATIVE**

The *ALJ Hiring* initiative is intended to promote the appointment of senior judges and the hiring of new ALJs. In Fiscal Year (FY) 2009, 147 ALJs were hired. ODAR plans to hire 226 ALJs in FY 2010 and is processing pending requests for reassignment and finalizing the list of locations for new ALJs.<sup>1</sup> According to ODAR management, hiring in FY 2010 is proceeding as planned.

### **INFORMAL REMAND INITIATIVE**

The *Informal Remand* initiative was developed to increase ODAR's adjudicatory capacity and reduce the paper case backlog (predominantly aged cases) by having the disability determination services (DDS) reopen certain cases based on specific profiles established by the Agency's Office of Quality Performance (OQP). DDSs review the cases, and in each case where the DDS makes a fully favorable determination, the case is allowed by the DDS while the hearing is dismissed by the hearing office. If the DDS cannot make a favorable decision, the case is returned to the hearing office and continues to go through the normal hearing process (with updated medical information). Although the initiative was intended to reduce the backlog of paper cases, it was extended to electronic cases in March 2008. As noted in this report, ODAR is not processing many cases through this initiative at this time.

### **SENIOR ATTORNEY ADJUDICATOR INITIATIVE**

The *Senior Attorney Adjudicator* initiative was reinstated in November 2007 and was designed to improve the disability determination process and increase adjudication capacity. This initiative allows non-ALJs to issue fully favorable on-the-record decisions to expedite the decision and conserve valuable ALJ resources for the more complex cases and cases that require a hearing. In FY 2010, the Agency expanded the *Senior Attorney Adjudicator* initiative by implementing a Virtual Screening Unit (VSU). Approximately 100 Senior Attorneys in hearing offices nationwide are detailed to the

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<sup>1</sup> SSA Office of the Inspector General, *Office of Disability Adjudication and Review Management Information* (A-07-09-29162), August 2009; and *Hearing Office Performance and Staffing* (A-12-08-28088), February 2010.

VSU to screen cases under central directions from ODAR Headquarters in Falls Church, Virginia.<sup>2</sup> Cases are selected using profiles developed by OQP that are designed to identify cases with a high probability of a favorable decision. OQP staff is also screening cases that meet these criteria and sharing these cases with ODAR so that they can be handled by senior attorney adjudicators.

### **MEDICAL EXPERT SCREENING INITIATIVE**

The *Medical Expert Screening* initiative is expected to identify cases that may meet or equal one of the *Listings of Impairments*<sup>3</sup> as early in the hearing process as possible through the use of pre-hearing interrogatories to Medical Experts (ME). Cases are initially profiled by OQP staff before being sent to an ME for further review. If the case can be allowed on the record, the case is routed to a senior attorney adjudicator for final review and a decision. For cases that cannot be allowed, the ME's response is included in the record and the case routed to an ALJ for normal processing. ODAR management noted that the initiative is under new leadership and expected to increase screening efforts in the near future.

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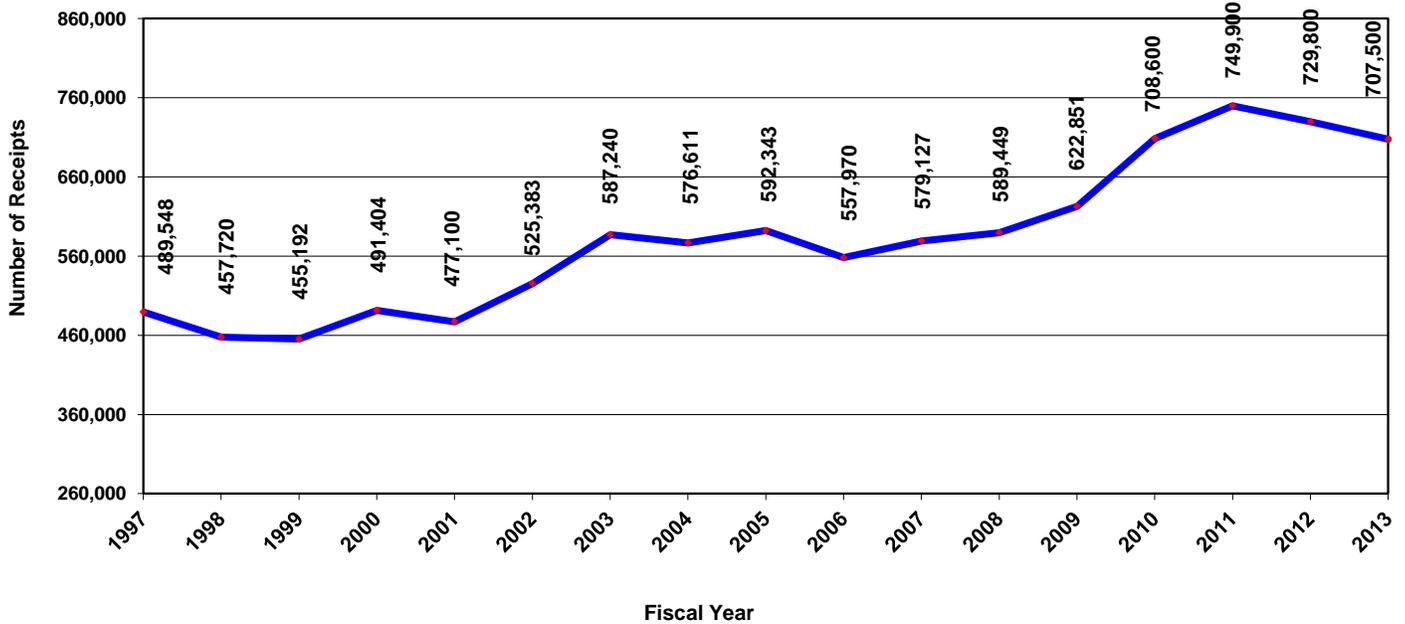
<sup>2</sup> We are completing a separate review of the *Senior Attorney Adjudicator* initiative that will be issued later this year.

<sup>3</sup> The Listing of Impairments describes disabling impairments for each of the major body systems.

## Hearings-Level Receipts

The Office of Disability Adjudication and Review monitors requests for hearings through the Case Processing and Management System's Caseload Analysis Report. The number of new receipts being added is considered for determining whether the Social Security Administration will meet its 2013 pending hearings backlog goal. Since Fiscal Year (FY) 1997, hearings-level receipts have generally trended upward, attaining a projected peak of nearly 750,000 in FY 2011. Figure D-1 illustrates the number of hearing receipts from FYs 1997 through 2009, and the estimated hearing receipts for FYs 2010 through 2013.

Figure D-1: Hearing Receipts from FYs 1997 to 2009 and Projections to FY 2013



## ***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, Committee on the Budget, House of Representatives

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

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 Pensions 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**

The Office of the Inspector General (OIG) is comprised of an Office of Audit (OA), Office of Investigations (OI), Office of the Counsel to the Inspector General (OCIG), Office of External Relations (OER), and Office of Technology and Resource Management (OTRM). To ensure compliance with policies and procedures, internal controls, and professional standards, the OIG also has a comprehensive Professional Responsibility and Quality Assurance program.

### **Office of Audit**

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.

### **Office of Investigations**

OI conducts investigations related to fraud, waste, abuse, and mismanagement in SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, third parties, or SSA employees performing their official duties. This office serves as liaison to the Department of Justice on all matters relating to the investigation of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

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

OCIG provides independent legal advice and counsel to the IG on various matters, including statutes, regulations, legislation, and policy directives. OCIG also advises the IG on investigative procedures and techniques, as well as on legal implications and conclusions to be drawn from audit and investigative material. Also, OCIG administers the Civil Monetary Penalty program.

### **Office of External Relations**

OER manages OIG's external and public affairs programs, and serves as the principal advisor on news releases and in providing information to the various news reporting services. OER develops OIG's media and public information policies, directs OIG's external and public affairs programs, and serves as the primary contact for those seeking information about OIG. OER prepares OIG publications, speeches, and presentations to internal and external organizations, and responds to Congressional correspondence.

### **Office of Technology and Resource Management**

OTRM supports OIG by providing information management and systems security. OTRM also coordinates OIG's budget, procurement, telecommunications, facilities, and human resources. In addition, OTRM is the focal point for OIG's strategic planning function, and the development and monitoring of performance measures. In addition, OTRM receives and assigns for action allegations of criminal and administrative violations of Social Security laws, identifies fugitives receiving benefit payments from SSA, and provides technological assistance to investigations.