

OIG

Office of the Inspector General

SOCIAL SECURITY ADMINISTRATION

*Audit Report*

Analysis of Hearing Offices Using  
Key Risk Factors

*A-12-13-13044 | December 2013*

**MEMORANDUM**

**Date:** December 20, 2013

**Refer To:**

**To:** The Commissioner

**From:** Inspector General

**Subject:** Analysis of Hearing Offices Using Key Risk Factors (A-12-13-13044)

The attached final report presents the results of our audit. Our objective was to analyze individual hearing office performance using a number of key risk factors developed as part of our January 2013 review, *Identifying and Monitoring Key Risk Factors at Hearing Offices*.

If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.



Patrick P. O'Carroll, Jr.

Attachment

# Analysis of Hearing Offices Using Key Risk Factors A-12-13-13044



December 2013

Office of Audit Report Summary

## Objective

To analyze individual hearing office performance using a number of key risk factors developed as part of our January 2013 review, *Identifying and Monitoring Key Risk Factors at Hearing Offices*.

## Background

Administrative law judges (ALJ) and senior attorney adjudicators (SAA) in 169 hearing offices and 5 national hearing centers (NHC) issued over 820,000 dispositions in Fiscal Year (FY) 2012. In conducting this work, ALJs, managers, and staff are expected to adhere to the Office of Disability Adjudication and Review's (ODAR) policies and procedures to ensure each claimant has a fair hearing. The Agency expects its managers to monitor the quality of the hearing process, ensure sufficient resources are directed to key workloads, and address allegations pertaining to deviations from proper case handling.

In an earlier review, *Identifying and Monitoring Risk Factors at Hearing Offices*, we found ODAR had created 19 ranking reports that measured hearing office performance using individual risk factors. However, ODAR had not established a process to rank hearing office performance using a combination of risk factors.

## Our Findings

We developed a model that measured variances among multiple risk factors. The model analyzes performance and outcome data among ALJs in the same office and uses five risk factors: (1) ALJ allowance rates, (2) ALJ dispositions, (3) ALJ on-the-record (OTR) decision rates, (4) ALJ dismissal rates, and (5) ALJ average processing time. While the Agency's monitoring process identified a number of potential workload problems at the time of our review, such as ALJ-specific issues and productivity declines, our model offers another method to evaluate the performance of individual hearing offices.

Using our model and FY 2012 workload data, we identified hearing offices with the highest and lowest variance scores. We believe outlier hearing offices provide ODAR managers with indications of potential processing issues (high-variance) as well as potential best practices (low-variance). We found 4 regions had 20 percent or more of their hearing offices among the 25 high-variance offices, and 4 regions had 20 percent or more of their hearing offices among the 25 low-variance offices. In discussions with ODAR regional managers, we learned that they focused their oversight on individual ALJ performance rather than variances among ALJs in hearing offices as we do in our model.

Finally, our review of the hearing offices with the 10 highest variance scores identified an outlier ALJ who had a significant number of dispositions and OTR decisions with 1 claimant representative. We referred this case to ODAR management for additional review.

## Our Recommendations

1. Determine whether the methodology provided in this report would assist ODAR in monitoring hearing office performance, with the understanding that the number and nature of the risk factors can be adjusted to meet the needs of management.
2. Ensure ODAR's early monitoring system combines existing information on ALJ OTR decisions and case rotation to identify any ALJ who issues a high percentage of OTR decisions with the same claimant representative.

The Agency agreed with the recommendations.

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## ABBREVIATIONS

ALJ	Administrative Law Judge
APT	Average Processing Time
CPMS	Case Processing and Management System
CR	Claimant Representative
DART	Disability Adjudication Reporting Tool
DQ	Division of Quality
FY	Fiscal Year
HOCALJ	Hearing Office Chief Administrative Law Judge
NHC	National Hearing Center
OAO	Office of Appellate Operations
OCALJ	Office of the Chief Administrative Law Judge
ODAR	Office of Disability Adjudication and Review
OIG	Office of the Inspector General
OTR	On-the-Record
RCALJ	Regional Chief Administrative Law Judge
SSA	Social Security Administration

## OBJECTIVE

To analyze individual hearing office performance using a number of key risk factors developed as part of our January 2013 review, *Identifying and Monitoring Key Risk Factors at Hearing Offices*.

## BACKGROUND

The Office of Disability Adjudication and Review's (ODAR) 169 hearing offices and 5 National Hearing Centers (NHC)<sup>1</sup> issued over 820,000 dispositions in Fiscal Year (FY) 2012.

Administrative law judges (ALJ), managers, and staff follow ODAR's policies and procedures to ensure each claimant has a fair hearing on his/her claim. ODAR managers monitor the quality of the hearing process, ensure key workloads have sufficient resources, and address deviations from proper case handling.

In our 2013 review, *Identifying and Monitoring Risk Factors at Hearing Offices*,<sup>2</sup> we found ODAR had created 19 ranking reports that measured hearing office performance using individual risk factors,<sup>3</sup> such as average processing time and pending cases per ALJ. Since FY 2011, ODAR has been developing and refining an early monitoring system to measure ALJ performance based on a combination of risk factors, such as number of dispositions, number of on-the-record (OTR) decisions, and frequency of hearings with the same claimant representative. Moreover, ODAR established a new Division of Quality (DQ) in the Office of Appellate Operations (OAO) that reviews potential issues identified in the early monitoring system to ensure the ALJ decision complies with established policies and procedures. However, ODAR had not established a process to rank hearing office performance using a combination of risk factors.

In our review, we examined hearing office risk factors particular to ALJs to determine whether such information, either alone or combined with outcomes from ODAR's early monitoring system, would provide ODAR management with additional information to assess hearing office management controls. We found large variances in ALJ outcomes within and among hearing offices, indicating that further review of ALJ performance variances in hearing offices, as well as a new hearing office monitoring system using a combination of risk factors, would offer ODAR additional tools to assess hearing office management controls. Moreover, we noted that greater

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<sup>1</sup> NHCs assist hearing offices by transferring and processing cases from the most heavily backlogged offices. NHCs conduct video hearings and operate in Albuquerque, New Mexico; Baltimore, Maryland; Chicago, Illinois; Falls Church, Virginia; and St. Louis, Missouri. NHCs are directed by the Office of the Chief ALJ in Falls Church, Virginia. For more information about the NHC operations, see our audit report, *The Role of National Hearing Centers in Reducing the Pending Hearings Backlog* (A-12-11-11147), April 2012.

<sup>2</sup> Social Security Administration (SSA), Office of the Inspector General (OIG), *Identifying and Monitoring Risk Factors at Hearing Offices* (A-12-12-11289), January 2013.

<sup>3</sup> Throughout the report, we use the term "risk factor" to connote a workload or performance measure that may indicate problems with the underlying process if it varies too far from Agency expectations.

analysis of hearing office variance could put issues identified in ODAR's early monitoring system and quality reviews into a broader context.

To complete this review, we developed a hearing office risk factor model and used the Case Processing and Management System (CPMS) closed claims databases for FYs 2010 through 2012 to compute the variances among ALJs for all of ODAR's hearing offices and NHCs. We also held multiple meetings with ODAR headquarters executives and managers during which we discussed the benefits and limitations of our hearing office risk factor model. We also obtained input from all of ODAR's 10 regional management teams about their experiences monitoring hearing office performance as well as the utility of our model.<sup>4</sup>

## **RESULTS OF REVIEW**

We developed a model that measured variances among multiple risk factors. The model analyzes performance and outcome data among ALJs in the same office and uses five risk factors: (1) ALJ allowance rates, (2) ALJ dispositions, (3) ALJ OTR decision rates, (4) ALJ dismissal rates, and (5) ALJ average processing time (APT). While the Agency's monitoring process identified a number of potential workload problems at the time of our review, such as ALJ-specific issues and productivity declines, our model offers another method to evaluate the performance of individual hearing offices.

Using our model and FY 2012 workload data, we identified the hearing offices with the highest and lowest variance scores. High variances in performance and outcomes between ALJs in the same office, using multiple factors, could highlight potential issues related to processing controls and management oversight of cases at the hearing offices. On the other hand, hearing offices with low-variance scores could highlight best practices that can be used at other offices to address related issues. We found 4 regions had 20 percent or more of their hearing offices among the 25 high-variance offices, whereas 4 regions had 20 percent or more of their hearing offices among the 25 low-variance offices. In discussions with ODAR regional managers, we learned that they focused their oversight on individual ALJ performance rather than variances among ALJs in hearing offices as we do in our model.

Finally, our review of the hearing offices with the 10 highest variance scores identified an outlier ALJ with a significant number of dispositions and OTRs with 1 claimant representative. We referred this case to ODAR management for additional review.

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<sup>4</sup> See Appendix A for a further discussion of our scope and methodology.

## OIG Hearing Office Key Risk Factor Model

We created a hearing office key risk factor model<sup>5</sup> that identified variances in performance and case outcomes among ALJs in the same office using multiple risk factors. The variables we included in our model were ALJ

- allowance rates,<sup>6</sup>
- dispositions,<sup>7</sup>
- OTR rates,<sup>8</sup>
- dismissal rates, and
- APT.<sup>9</sup>

We calculated the variance in ALJ performance and case outcomes for each of the 5 variables and sorted the 167 hearing offices for each variable.<sup>10</sup> We then added the five scores to obtain a total variance score, and we sorted the hearing offices from low to high-variance.<sup>11</sup> In Table 1, we illustrate the variance scores between the hearing office with the highest total variance score and the hearing office with the lowest total variance score. The total variance score for Office 1 (783) indicates there was high-variance among ALJs in the hearing office among the 5 risk factors. For instance, the high-allowance ALJ had an 85-percent allowance rate, while the low-allowance ALJ had a 25-percent allowance rate. The 60-percent difference in allowance rates among the ALJs in the office placed Office 1 as 160 of 167 offices.

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<sup>5</sup> See Appendix B for more information on our model.

<sup>6</sup> We calculated the decisional allowance rate for ALJs, meaning we did not include dismissals in our calculations.

<sup>7</sup> For our model, we only calculated variances among ALJs with 200 or more dispositions during the year. In this way, we hoped to avoid including ALJs who may have been working at the office for only part of the year, were on detail, or had other circumstances that precluded a full year's worth of work.

<sup>8</sup> OTR decisions, which are generally favorable, occur when an ALJ or SAA has determined a decision can be issued without a hearing. OTR decisions can also occur when the claimant has waived the right to a hearing.

<sup>9</sup> We calculated processing time for closed cases by determining the number of days from the date the hearing was requested through the date of disposition. We then averaged it for each ALJ.

<sup>10</sup> We counted each of the five NHCs as hearing offices for the purposes of the model. We excluded three small hearing offices because each had an insufficient number of ALJs meeting our criteria for us to calculate variances. In addition, we excluded four satellite offices that did not report workloads during our review period. The workloads at these satellite offices were added to the workload totals of the parent hearing office.

<sup>11</sup> After discussions with ODAR executives and managers, we agreed that we would apply equal weights to each variable in this model.

**Table 1: Hearing Office Key Risk Factor Model  
Variance Score for Two Hearing Offices in FY 2012**

Hearing Office	Allowance Rate Variance Score	Disposition Variance Score	OTR Rate Variance Score	Dismissal Rate Variance Score	APT Variance Score	Total Variance Score
Office 1	160	150	143	165	165	783
Office 2	17	8	11	5	3	44

Office 2 had a variance score of 44, which indicated the ALJs in the Office had less variance among the 5 risk factors. For example, the ALJs in Office 2 had a similar allowance rates, dispositions, OTR rates, dismissal rates, and APTs. Even though Office 2 did not have the lowest variance score in any of the variables, it did have the lowest total variance score among all of the hearing offices when we added each of the five scores together.

Among the 167 hearing offices and NHCs in our model for FY 2012, the median variance score was 407.<sup>12</sup> Individual hearing office variance scores ranged from a low of 44 to a high of 783 (see Figure 1).

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<sup>12</sup> The mean for FY 2012 data was 419.

**Figure 1: Range in Hearing Office Variances Using  
the OIG Hearing Office Risk Factor Model  
(FY 2012)**

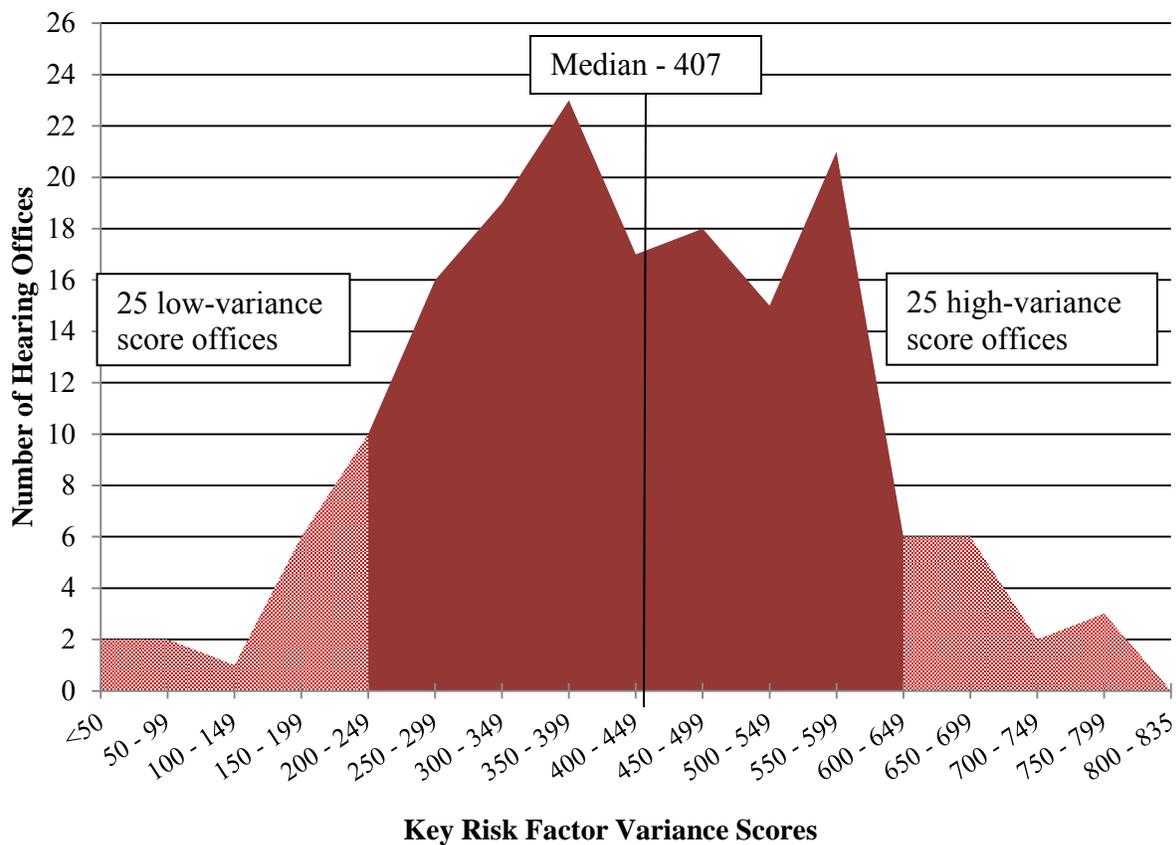


Figure 1 identifies hearing offices with the highest and lowest variance scores, or the outliers, which we subjected to further analysis (we discuss this analysis in the next section of this report). High variances in performance and outcomes between ALJs in the same office, using multiple factors, could highlight issues related to processing controls and management oversight of cases at the hearing offices. On the other hand, hearing offices with low-variance scores may provide some best practices that can be used at other offices to address potential issues. We understand that one ALJ may affect multiple measures or an entire office may be at an extreme of a risk factor, limiting the utility of such analysis, but analyzing such variances provides another tool to managers overseeing hearing office operations. Moreover, while the Agency’s monitoring of its workload may identify a number of potential workload problems, such as ALJ-specific issues and productivity declines, our model offers another method to evaluate the performance of hearing offices.<sup>13</sup>

<sup>13</sup> We discuss ODAR’s monitoring process later in the report.

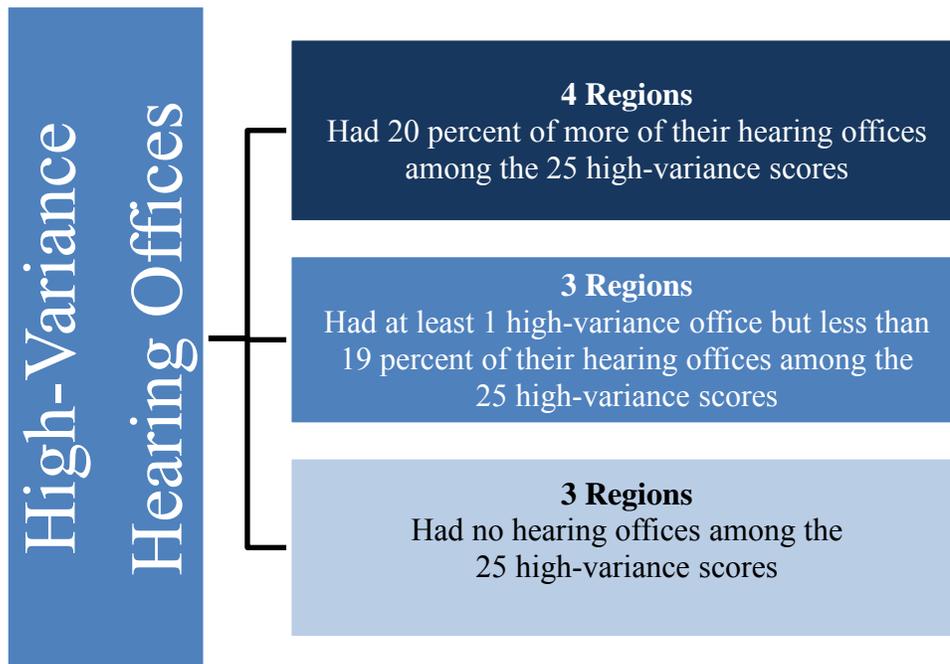
## Hearing Office Variance Scores by Region

We reviewed the high- and low-variance score outlier hearings offices by region to gain an understanding of their nation-wide distribution.<sup>14</sup> We also contacted the 10 regional management teams to (1) learn about how they monitor hearing offices and (2) obtain their views on the hearing office risk factor model.

### *Regional Distribution of Variance Scores*

We found 4 regions had 20 percent or more of their hearing offices among the 25 high-variance hearing offices, with 1 region having 35 percent of its hearing offices among the highest variance offices. Three regions had at least 1 high-variance office but less than 19 percent of their hearing offices among the 25 high-variance offices. The remaining three regions had none of their hearing offices among the highest variance offices (see Figure 2: ).

**Figure 2: Regional Distribution of the 25 High-Variance Hearing Offices in FY 2012**

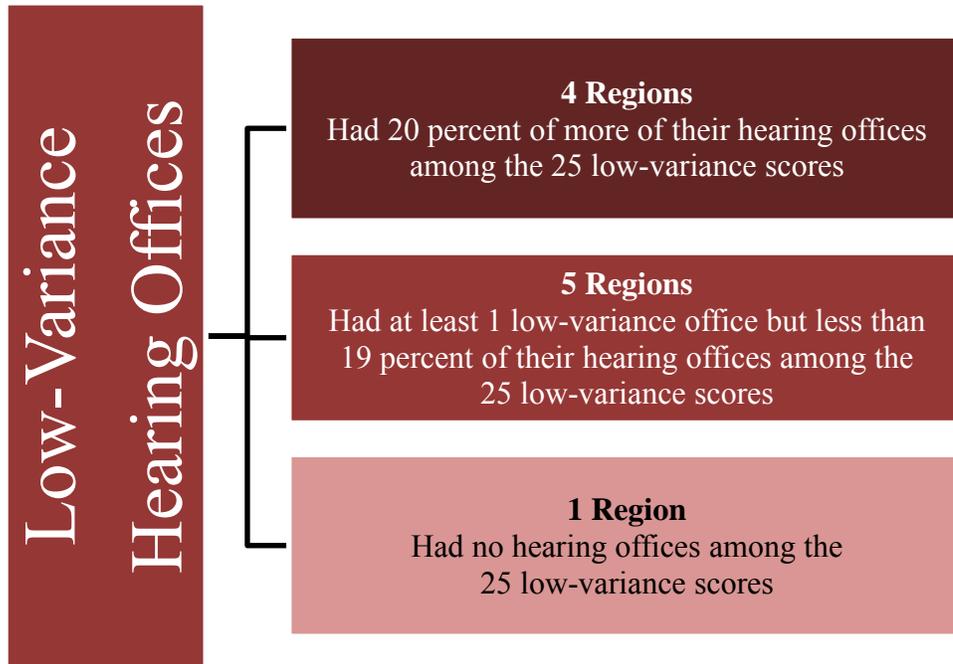


We also found 4 regions had 20 percent or more of their hearing offices among the 25 low-variance hearing offices, with 1 region having 25 percent of its hearing offices among the lowest variance offices. Five regions had at least 1 low-variance office but less than 19 percent

<sup>14</sup> We focused on hearing offices in the 10 regions and not the NHCs in this section.

of their hearing offices among the 25 low-variance offices. One region had no hearing offices among the lowest variance offices (see Figure 3: ).<sup>15</sup>

**Figure 3: Regional Distribution of the 25 Low-Variance Hearing Offices in FY 2012**



### *Regional Comments on Monitoring and the Model*

In our conversations with regional managers, we learned their oversight primarily focused on ALJ productivity and timely movement of cases through the hearing process. For example, the regional managers used management information (MI) reports to monitor the number of cases pending, transferred, and developed for each ALJ. Regional management teams told us they used CPMS, the Disability Adjudication Report Tool (DART), and the *How MI Doing?*<sup>16</sup> tool to monitor ALJs' workloads, including dispositions and APTs. Furthermore, 5 of the 10 regions stated they also developed hybrid reports using DART and/or CPMS MI to better track ALJ dispositions and case status. For example, one of the reports shared by the Chicago Region showed dispositions for all the ALJs in that Region, with a projection of the ALJ total dispositions for the FY. In addition, the regions monitored cases in judge-controlled workload statuses to ensure timely processing. One region manager explained:

<sup>15</sup> One region had more than 22 percent of its hearing offices among the highest variance offices and another 22 percent of its hearing offices among the lowest variance offices.

<sup>16</sup> ODAR rolled out the *How MI Doing?* reporting tool on August 9, 2011, which allows ALJs, decision writers, and senior case technicians to monitor and compare their performance to their peers in the office, region, and nation.

The Regional Chief ALJ (RCALJ) and Hearing Office Chief ALJ (HOCALJ) have ongoing conversations with judges to gain their cooperation in moving work timely. If the HOCALJ cannot gain cooperation through an informal discussion, the RCALJ will contact the ALJ and have an informal discussion as well. If these conversations are not productive and there is no underlying factor affecting the judge from taking timely action such as [the Judge's] availability, the RCALJ may determine if further action is required.

In addition, the majority of the regional management teams agreed a few of its hearing offices had productivity issues that they attributed in part to variances among the five risk factors we identified in our model. For example, the Dallas Region determined three of its hearing offices were experiencing significant variances among the ALJs' processing times and allowance rates. These three hearing offices were part of the 25 hearing offices with the highest variance scores in our model. However, none of the regional managers indicated they were analyzing a combination of variances in a way that was similar to our model.

In terms of the key risk factors we used in our model, the regions suggested the model could be modified to include other factors, such as remand rates, ALJ availability, number of hearings scheduled/held, and cases that do not timely move through the hearing process. Our model offers sufficient flexibility for the regions to focus on additional or different factors, which will be useful to regional managers for monitoring their offices.

We also reviewed six hearing offices in three regions—one low- and one high-variance score office per region—and identified issues related to the scores that we shared with regional managers. For instance, we were told at one of the offices with a high-variance score that one ALJ had missed many workdays because of health issues. Having the ALJ often on sick leave, they explained, caused variances in the hearing office performance since other ALJs were covering his hearings.<sup>17</sup>

## Hearing Office Risk Factors and Productivity

We reviewed the hearing offices with the highest variance scores to learn more about the role of individual ALJs in each office's score. We also compared the results of our hearing office matrix with ODAR hearing office ranking reports to identify commonalities and differences.

### *ALJ Frequency Among Factors*

We examined the 10 highest variance scores in 11 hearing offices for FY 2012 to determine whether 1 or multiple ALJs contributed to the variances.<sup>18</sup> Our analysis found two offices had one ALJ as an outlier in all five risk factors. Being an outlier in all five risk factors meant the

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<sup>17</sup> See Appendix D for more information on the six interviews,

<sup>18</sup> The 10 highest variance scores related to 11 hearing offices two offices tied for the 10th highest score. The 11 hearing offices were located in 4 regions. Eight of the 11 hearing offices have been part of earlier OIG reviews related to such ALJ issues as case rotation and allowance rates outliers.

ALJ was either the highest or the lowest contributor in each of the five risk factors. In Table 2, we provide the range of ALJ frequencies among the 5 risk factors in the 11 hearing offices.

**Table 2: Frequency of ALJs Associated with Five Factors at 11 Hearing Offices with the Highest Variance Scores**

ALJ Frequency Among Model Risk Factors	Number of Hearing Offices	Percent of Hearing Offices in Population
Same ALJ Among 5 Factors	2	18%
Same ALJ Among 4 Factors	5	46%
Same ALJ Among 3 Factors	3	27%
Same ALJ Among 2 Factors	1	9%
Totals	11	100%

In one office where the ALJ was an outlier in all five risk factors, we identified a potential rotation issue with a claimant representative. During our analysis, we found the outlier ALJ issued 22 percent of his workload with one claimant representative, even though this claimant representative represented only about 10 percent of the hearing office’s overall workload in FY 2012. Furthermore, about 82 percent of the claimant representative’s cases before this ALJ were issued as OTR decisions.<sup>19</sup> While other ALJs in the office issued OTRs with this same claimant representative, about 61 percent of the claimant representative’s OTR cases were with the outlier ALJ. The hearing office management team could not explain why this ALJ’s workload was greater with that claimant representative than what was expected under a normal rotation of cases.<sup>20</sup> The analysis also showed the ALJ’s average decisional allowance rate with all the other representatives was 89 percent, while his decisional allowance rate with the one representative was 96 percent.

In our 2013 report,<sup>21</sup> we stated ODAR had begun developing an early monitoring system to measure ALJ performance based on a combination of risk factors. A few of the factors the system tracked were the ALJs’ number of dispositions, number of OTR decisions, and frequency of hearings with the same claimant representative. This monitoring system assisted the Office of the Chief ALJ (OCALJ) in determining whether a particular ALJ’s decision making needed further review. If ODAR executives determined further attention was needed, they requested OAO’s DQ staff to conduct a focused review of the ALJ’s decisions. Hence, it is likely that this system was already measuring some of the issues we identified in our model, particularly where

<sup>19</sup> We notified ODAR headquarters, regional managers, and the hearing office managers about this finding.

<sup>20</sup> We did not find a similar rotation issue in the other 10 hearing offices.

<sup>21</sup> SSA, OIG, *Identifying and Monitoring Risk Factors at Hearing Offices* (A-12-12-11289), January 2013.

one ALJ was associated with all five risk factors.<sup>22</sup> However, as noted, we identified offices where multiple ALJs were associated with high-variance scores, which may provide the Agency with further insights on potential hearing office issues.

When we discussed our model outliers with ODAR staff responsible for the early monitoring system, we learned that this system was not monitoring the ratio of ALJ-OTR decisions with one claimant representative at the time of our review. Moreover, when we shared information concerning the ALJ rotation issue highlighted above, we learned DQ conducted two reviews on the ALJ in question, though these reviews highlighted the ALJ's dispositions and allowance rate, not the OTR rotation issue we identified.<sup>23</sup> We believe the early monitoring system could be enhanced by detecting high rates of OTR decisions between an ALJ and a representative.

### *Hearing Office Productivity and Timeliness*

When we compared hearing offices with the 10 highest variance scores from our model to ODAR's national "ranking" reports for productivity<sup>24</sup> and APT, we found our model highlighted some hearing offices that may not draw management's attention when using the two ODAR reports. For example, the CPMS reports showed Office 7 had a high productivity ranking of 16 and an above-average APT ranking of 77 (see Table 3). In other cases, the model and ODAR results were more aligned. For instance, Office 5 had similar results across all three reports with a low productivity score of 164 and an APT score of 139.

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<sup>22</sup> DQ has performed two focused reviews on the ALJ we identified as having a possible rotation issue with a claimant representative. Cases from this ALJ were also part of DQ's random sample of their pre-effectuation review, with DQ taking a higher than average own motion decision on his cases. Own motion means DQ remanded the case to the ALJ, or issued its own decision on a case. For more information on OAO's pre-effectuation reviews, see *Congressional Response Report: The Social Security Administration's Review of Administrative Law Judges' Decisions* (A-07-12-21234), March 2012.

<sup>23</sup> We shared our findings related to this ALJ with ODAR management for appropriate review and resolution.

<sup>24</sup> CPMS MI, *National Ranking Report by ALJ Dispositions Per Day Per ALJ*.

**Table 3: OIG Hearing Office Key Risk Factor Model  
Results Versus CPMS Ranking Reports  
(FY 2012)**

Highest Variance Hearing Office From OIG Model <sup>1</sup>	ODAR Productivity Ranking Report <sup>2</sup>	ODAR APT Ranking Report <sup>3</sup>
<b>Office 1</b>	33	77
<b>Office 2</b>	136	131
<b>Office 3</b>	104	159
<b>Office 4</b>	54	74
<b>Office 5</b>	164	139
<b>Office 6</b>	134	125
<b>Office 7</b>	16	77
<b>Office 8</b>	111	146
<b>Office 9</b>	104	38
<b>Office 10</b>	66	34
<b>Office 11</b>	54	40

- Notes:**
1. Hearing offices are shown from highest to lowest model variance scores.
  2. Hearing offices are ranked from highest productivity to lowest productivity. The higher the productivity in an office, the lower the ranking
  3. Hearing offices are ranked from most timely case processing to least timely. The lower the processing time in an office, the lower the ranking.

We used FY 2010 and 2011 workload data in our hearing office key risk factor model to determine whether the Huntington, West Virginia, Hearing Office had a high-variance score.<sup>25</sup> Among all of the hearing offices, the Huntington Office had the second highest variance score in FY 2010 and third highest score in FY 2011. Furthermore, the model identified the ALJ referenced in the media article as a strong outlier among all of the other ALJs in the hearing office.<sup>26</sup> We also found that the Huntington Hearing Office was listed as one of ODAR’s best performing offices in the FY 2010 productivity and APT ranking reports. The CPMS report on ALJ productivity showed the Huntington Hearing Office ranked 12<sup>th</sup> best in the nation while APT ranking report had it ranked second best in APT. ODAR realized that its hearing office ranking reports did not identify outlier ALJs and, as previously mentioned, began developing an

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<sup>25</sup> Congressional concerns related to potential workload anomalies in this office led to our review of ALJ outliers nationwide. See our 2012 report, *Congressional Response Report: Oversight of Administrative Law Judge Workload Trends* (A-12-11-01138), February 2012.

<sup>26</sup> ODAR responded by implementing management controls that prevent an ALJ from assigning and re-assigning cases to themselves or others. In addition, in FY 2011 the outlier ALJ in the Huntington Hearing Office retired and ODAR replaced the Hearing Office management team. Our model showed that in FY 2012, the variance score for the Huntington Hearing Office became closer to the national average.

early monitoring system to identify outlier ALJ performance.<sup>27</sup> We believe our hearing office risk model can similarly assist in identifying potential hearing office issues for ODAR managers that go beyond the productivity ranking reports.

## CONCLUSIONS

During our review, we tested our model that measures variances in performance and outcomes between ALJs in the same office, using five risk factors. If used by ODAR, the model would enhance its early monitoring system by evaluating overall hearing office performance, not just the performance of outlier ALJs. We found 4 regions had 20 percent or more of their hearing offices among the 25 high-variance offices, and 4 regions had 20 percent or more of their hearing offices among the 25 low-variance offices. Further analysis of the hearing offices with the 10 highest variance scores also helped identify a hearing office with possible rotation issues involving an ALJ who produced a significant number of OTR with one claimant representative. Adding OTR decision ratios for ALJs and representatives to its current ALJ early monitoring system would assist ODAR in further identifying possible rotation issues. In addition, while ODAR's national ranking reports measure hearing office performance using only one risk factor, our five-factor model can offer additional insights about the operations in these offices.

## RECOMMENDATIONS

In our previous audit related to hearing office risk factors, we recommended SSA (1) ensure its ALJ early monitoring system becomes a permanent part of management oversight and use this information to timely address potential anomalies in the hearings process, (2) create new MI reports combining ALJ-related hearing office risk factors, which could include variances within those factors.

To enhance the monitoring of hearing offices, we recommend SSA:

1. Determine whether the methodology provided in this report would assist ODAR in monitoring hearing office performance, with the understanding that the number and nature of the risk factors can be adjusted to meet the needs of management.
2. Ensure ODAR's early monitoring system combines existing information on ALJ OTR decisions and case rotation to identify any ALJ who issues a high percentage of OTR decisions with the same claimant representative.

## AGENCY COMMENTS

The Agency agreed with our recommendations. See Appendix E for the full text of SSA's comments.

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<sup>27</sup> SSA OIG, *Identifying and Monitoring Risk Factors at Hearing Offices* (A-12-12-11289), January 2013.

# *APPENDICES*

## Appendix A – SCOPE AND METHODOLOGY

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To accomplish our objective, we:

- Reviewed applicable laws and Social Security Administration (SSA) policies and procedures, including the Office of Disability Adjudication and Review's (ODAR) Hearings, Appeals, and Litigation Law Manual.
- Reviewed previous Office of the Inspector General reports related to administrative law judge (ALJ) and hearing office workloads.
- Reviewed relevant SSA studies and reviews conducted by ODAR, the Office of Appellate Operations, and the Division of Quality.
- Interviewed ODAR headquarters executives, managers, and staff.
- Reviewed Case Processing and Management System (CPMS) and Disability Adjudication Reporting Tools ad hoc management information reports to identify risk factors ODAR was already tracking.
- Obtained Fiscal Years (FY) 2010 to 2012 workload statistics on ALJs from ODAR's CPMS. Using these data, we calculated ALJ allowances, dismissals, productivity, on-the-record decisions, and average processing time and determined the variances of these factors at all hearing offices.<sup>1</sup>
- Interviewed 46 staff, managers, and ALJs at 6 hearing offices in 3 regions.<sup>2</sup>

We found FY 2010 through 2012 CPMS data were sufficiently reliable to meet our objectives. The entity audited was the Office of the Deputy Commissioner for Disability Adjudication and Review. We conducted this performance audit from November 2012 through June 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and conduct the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>1</sup> See Appendix B for more information on the model.

<sup>2</sup> See Appendix C for selection of these hearing offices and Appendix D for summary of hearing office interviews.

## Appendix B – HEARING OFFICE KEY RISK FACTOR MODEL

We created a model based on risk factors identified in our previous risk factor audit.<sup>1</sup> We identified the following as potential hearing office risk factors (see Table B–1).

**Table B–1: Risk Factor Variable and Definition**

Risk Factor Variable	Definition
Administrative Law Judge (ALJ) Allowance Rate	Number of ALJ favorable decisions divided by ALJ total decisions and converted to a percent, dismissals not included.
ALJ Dispositions	Total number of ALJ dispositions at a hearing office.
ALJ On-the-Record (OTR) Rate	Number of ALJ OTR decisions <sup>2</sup> divided by ALJ total dispositions and converted to a percent.
ALJ Dismissal Rate	Number of ALJ dismissals divided by ALJ total dispositions and converted to a percent.
ALJ Average Processing Time (APT)	The number of days from the request for hearing date through the date of disposition, and calculated the average APT for each ALJ.

For FY 2012 model, we used the following methodology:

1. We removed all ALJs from our model who had fewer than 200 dispositions at a hearing office during the fiscal year.<sup>3</sup> We excluded ALJs who issued fewer than 200 dispositions to account for newly hired ALJs and ALJs working in offices for only part of a year.<sup>4</sup>
2. We categorized the hearing offices by the number of ALJs who issued dispositions in the office: small (fewer than seven ALJs), medium (seven or eight ALJs), and large (more than eight ALJs). We did this to ensure the number of ALJs in an office did not skew our variance analysis.

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<sup>1</sup> We selected these five factors after reviewing previous Office of the Inspector General audits and the Office of Disability Adjudication and Review’s early monitoring system. Social Security Administration (SSA), Office of the Inspector General (OIG), *Identifying and Monitoring Risk Factors at Hearing Offices* (A-12-12-11289), January 2013.

<sup>2</sup> OTR decisions, which are generally favorable, occur when an ALJ issues a decision without a hearing. OTR decisions can also occur when the claimant has waived the right to a hearing

<sup>3</sup> By excluding ALJs with less than 200 dispositions, our model omits ALJs that might have been with the Agency for years and were low producers. The Agency also calculates ALJ availability, which may be another method for modifying the model.

<sup>4</sup> About 12 percent of the ALJs were excluded from our model.

- We calculated the variance for each of the five risk factors between the highest ALJs and lowest ALJ in the hearing office. In Table B–2, we illustrate how we computed the variance in one variable in the model. In Office 1, the highest ALJ allowance rate was 96 percent, while the lowest was 25 percent. The variance was 71 percent. Office 2 had an ALJ allowance rate variance of 4 percent.

**Table B–2: Example of a Variance in Allowance Rates Among ALJs at Two Hearing Offices in Fiscal Year 2012**

Hearing Office	Highest Allowance	Lowest Allowance	Variance
Office 1	96%	25%	71%
Office 2	79%	75%	4%

- We then sorted the offices from 1 to 167, with 1 having the lowest variance between the 2 judges for each of the 5 risk factors.<sup>5</sup>
- We combined the variance scores for each factor to determine an overall variance score for each office (see Table B–3).<sup>6</sup>

**Table B–3: Example of Two Hearing Office Overall Variance Score Calculation in FY 2012**

Hearing Office	Allowance Rate Variance Score	Disposition Variance Score	OTR Rate Variance Score	Dismissal Rate Variance Score	APT Variance Score	Overall Variance Score
Office 1	132	167	107	42	124	572
Office 2	45	1	76	2	132	256

We sorted the hearing offices from the lowest overall variance score to the highest. Since there were 167 hearing offices and we had 5 workload factors, the maximum possible score was 835. However, the highest score among the 167 hearing office was 783.

<sup>5</sup> We counted each of the five NHCs as hearing offices for the purposes of the model. We excluded three small hearing offices because each had an insufficient number of ALJs meeting our criteria for us to calculate variances. In addition, we excluded four satellite offices that did not report workloads during our review period. The workloads at these satellite offices were added to the workload totals of the parent hearing office.

<sup>6</sup> After discussions with ODAR executives and managers, we agreed that we would apply equal weights to each variable in this model.

## Appendix C – HEARING OFFICE SELECTION CRITERIA

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We interviewed individuals at six hearing offices to learn more about the characteristics of high- and low-variance offices identified in our key risk factor model. To identify the offices to be visited, we used Fiscal Year (FY) 2011 and 2012 closed case data from the Office of Disability Adjudication and Review’s Case Processing and Management System (CPMS) to calculate the variances among administrative law judges (ALJ) in the same hearing office (as described in Appendix B) and sorted the hearing offices from lowest to highest variance.

Using the sorted hearing offices, we identified Social Security Administration (SSA) regions that had at least one lower variance and one higher variance office in the same State. We then focused on large hearing offices<sup>1</sup> that met criteria and were no more than 200 miles apart. Finally, from this new group, we selected hearing offices that were not part of a previous Office of the Inspector General hearing-related workload audit.

We used these criteria to learn more about wide variances between hearing offices (1) managed by the same regional management team, (2) operating in the same State where workload differences would be minimized,<sup>2</sup> and (3) not already part of a prior OIG review where we might be familiar with the circumstances related to these variances.

We selected two hearing offices using FY 2011 CPMS data since they were the latest data available at the time of our first two visits (see Table C–1). We selected the remaining four hearing offices using FY 2012 CPMS data.<sup>3</sup>

**Table C–1: Six Hearing Offices**

Hearing Office	Region	FY CPMS Data
Chicago	Chicago	FY 2011
Peoria	Chicago	FY 2011
Elkins Park	Philadelphia	FY 2012
Wilkes-Barre	Philadelphia	FY 2012
Greenville	Atlanta	FY 2012
Columbia	Atlanta	FY 2012

We interviewed managers, ALJs, and staff at six hearing offices: three hearing offices with high-variance scores and three hearing offices with low-variance scores.

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<sup>1</sup> Large hearing offices have nine or more ALJs processing cases.

<sup>2</sup> For instance, cases in both offices were more likely to be processed by the same State disability determination services staff.

<sup>3</sup> All of the offices we visited for both periods were among the 30 highest variance or 30 lowest variances offices in the model.

## Appendix D – HEARING OFFICE INTERVIEWS

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We conducted interviews at six hearing offices in three States in three regions to test our model outcomes with offices in the same region. In each region, we selected one hearing office among the highest variance score offices and one office among the lowest variance score offices.<sup>1</sup> We used this approach to learn more about wide variances among hearing offices managed by the same regional management team and operating in the same State to minimize management and workload differences between the offices.<sup>2</sup> We also focused on hearing offices that were not already part of prior Office of the Inspector General reviews. Managers, ALJ, and staff stated that the reasons for the high variance in hearing offices included judge availability, office morale, and hearing office management’s style.

### First Region: Office Morale

In the first region, the high-variance office had a score of 695, while the low-variance office had a score of 173 (see Table D–1).<sup>3</sup>

**Table D–1: Variances Among ALJs at Two Hearing Offices at the First Region (Fiscal Year 2011)**

Hearing Office	Allowance Rate Variance Score	Disposition Variance Score	OTR Rate Variance Score	Dismissal Rate Variance Score	APT Variance Score	Total Variance Score
High-Variance Office	153	146	95	149	152	695
Low-Variance Office	62	34	48	17	12	173

During our visit, we found that some ALJs in the high-variance office stated they had concerns about the Agency’s 500 to 700 dispositions-per-year goal since the Agency had not completed a study to demonstrate that this was a suitable goal. An ALJ explained that management assessed ALJs as good or bad performers based solely on their productivity and not on the quality of their decisions. Staff said the ALJs’ concerns with the Agency’s dispositions-per-year goal had a

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<sup>1</sup> We used the model’s five risk factors: (1) administrative law judge (ALJ) allowance rates, (2) ALJ dispositions, (3) ALJ on-the-record (OTR) decision rates, (4) ALJ dismissal rates, and (5) ALJ average processing time (APT). See Appendix B for the model and Appendix C for our selection methodology.

<sup>2</sup> For instance, cases in both offices were more likely to be processed by the same State disability determination services staff.

<sup>3</sup> We selected the first two hearing offices using Fiscal Year (FY) 2011 CPMS data since they were the latest data available at the time of our first two visits.

negative effect on office morale. Further analysis of the statistics for this office showed 54 percent of the ALJs used in our model did not meet the 500-700 disposition goal in FY 2011.<sup>4</sup>

At the low-variance hearing office in this region, managers stated that all of the ALJs were striving to meet the Agency’s 500 to 700 cases. Management had a concern with one low-producing ALJ, but stated the ALJ had started issuing more decisions after intervention by regional management.<sup>5</sup> When we reviewed the statistics for this office, we found 71 percent of the ALJs used in our model met or exceeded the 500 to 700 disposition goal in FY 2011.

## Second Region: Judge Availability

In the second region, the high-variance office had a score of 614, while the low-variance office had a score of 314 (see Table D–2).

**Table D–2: Variances Among ALJs at Two Hearing Offices at the Second Region (Fiscal Year 2012)**

Hearing Office	Allowance Rate Variance Score	Disposition Variance Score	OTR Rate Variance Score	Dismissal Rate Variance Score	APT Variance Score	Total Variance Score
<b>High-Variance Office</b>	148	54	165	139	108	614
<b>Low-Variance Office</b>	41	20	97	71	85	314

During our discussions with management at the high-variance office, we were told that one ALJ had missed many workdays because of health issues, and his absence led to variances in hearing office performance. For the office to keep from rescheduling this ALJ’s cases when he was absent, it scheduled the ALJ’s cases in the morning and the Hearing Office Chief Administrative Law Judge’s (HOCALJ) cases in the afternoon. In this way, the HOCALJ could cover the hearings for the ALJ when he was absent. This caused the HOCALJ to have more dispositions than other ALJs in the office. We asked the other ALJs in the office about the reason for the variance, but they stated they did not discuss their numbers with each other so they had no opinion regarding the variances or could not comment on how other ALJs handled their workloads. Hearing office management stated they had informed the regional office of the situation concerning the absent ALJ.

<sup>4</sup> Total dispositions include all dispositions issued by the ALJ in one or more hearing offices.

<sup>5</sup> The staff at this office did not want to participate in our interviews.

Managers, ALJs, and staff at the low-variance office stated the office had a good working relationship. The ALJs in the office stated they did their fair share of the hearing office workload and when a new judge came into the office, they sat down and agreed to share the workload. We also learned that the low producing ALJ was new to the Agency, so she was not expected to be as productive as the other ALJs in the office. New judges generally have lower productivity until they gain enough experience on the job to become fully proficient.

### Third Region: Management Style

In the third region, the high-variance office had a score of 669, while the low-variance office had a score of 352 (see Table D-3).

**Table D-3: Variances Among ALJs at Two Hearing Offices at the Third Region (Fiscal Year 2012)**

Hearing Office	Allowance Rate Variance Score	Disposition Variance Score	OTR Rate Variance Score	Dismissal Rate Variance Score	APT Variance Score	Total Variance Score
<b>High-Variance Office</b>	123	132	158	119	137	669
<b>Low-Variance Office</b>	153	102	41	46	10	352

ALJs, managers, and staff at the high-variance office mentioned the HOCALJ was particular about how his decisions needed to be written, which increased the time it took to process a case. According to hearing office managers and other ALJs, the hearing office lost a stable cadre of decision writers because of this. Managers and ALJs also voiced concerns that the remaining decision writers spent a larger portion of their time writing decisions for the HOCALJ. Consequently, the other ALJs in the office stated they had most of their decisions written outside of the parent hearing office, and the office ended up having to rewrite a high number of them, which also caused delays in the process.

During our discussions with the hearing office managers at the low-variance office, we found some similarities to the low-variance office in the second region. For example, manager and ALJs stated that overall, they had a good working relationship, and the ALJs in the office did their fair share of the hearing office workload. We also found the lowest producing ALJ was a new judge and was therefore not expected to produce the same number of dispositions as the more experienced ALJs. Management also stated that it was not necessary for them to monitor the ALJs workload since they were all meeting the Agency’s goal. However, some of the ALJs mentioned they had to work overtime to meet these goals.

## Appendix E – AGENCY COMMENTS

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### SOCIAL SECURITY

#### MEMORANDUM

Date: December 11, 2013

Refer To: SIJ-3

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

From: Katherine Thornton  
Deputy Chief of Staff

A handwritten signature in black ink, appearing to read 'K Thornton', written over the printed name and title.

Subject: Office of the Inspector General Draft Report, "Analysis of Hearing Offices Using Key Risk Factors" (A-12-13-13044) - INFORMATION

Thank you for the opportunity to review the draft report. Please see our attached comments.

Please let me know if we can be of further assistance. You may direct staff inquiries to Gary S. Hatcher at (410) 965-0680.

Attachment

**COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL DRAFT REPORT,  
"ANALYSIS OF HEARING OFFICES USING KEY RISK FACTORS" (A-12-13-13044)**

**Recommendation 1**

Determine whether the methodology provided in this report would assist ODAR in monitoring hearing office performance, with the understanding that the number and nature of the risk factors can be adjusted to meet the needs of management.

**Response**

We agree that we should evaluate the methodology in the audit report. In fact, in calendar year 2013, our Office of Disability Adjudication and Review (ODAR) developed Electronic Hearing Office Performance (eHOP) reports that use at least three of the data categories characterized in the report as risk factors. We are further developing our eHOP reports to meet the needs of the Office of the Chief Administrative Law Judge (OCALJ). OCALJ monitors the average processing times (APT) at the hearing offices for the purpose of workload balancing and periodically reviews APTs for Administrative Law Judges (ALJ). In addition, OCALJ monitors the disposition pace of offices and ALJs.

**Recommendation 2**

Ensure ODAR's early monitoring system combines existing information on ALJ OTR decisions and case rotation to identify any ALJ who issues a high percentage of OTR decisions with the same claimant representative.

**Response**

We agree with the intent of this recommendation, to consider other relevant ALJ data in conjunction with our early monitoring system with the goal of identifying trends that could enhance our compliance monitoring process. ODAR's work on the early monitoring system is still in development. On-the-record (OTR) rates are available in the Case Processing and Management System's management information reports. We will determine if we can combine existing information on ALJ OTR decisions and case rotation to identify ALJs who issue a high percentage of OTR decisions with the same claimant representative into a single report. The early monitoring system is one tool ODAR uses to look for patterns of possible non-compliance. The Office of Appellate Operations reviews requests for Appeals Council, ALJ allowances on pre-effectuation, focused reviews, and other disability data in our case processing systems to identify patterns that might warrant further review. We will work to determine if there is an issue with patterns.

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

## Appendix F – MAJOR CONTRIBUTORS

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Nicholas Milanek, Audit Manager, Crystal City Audit Office

Yaquelin Lara, Auditor-in-Charge

Brennan Kraje, Statistician

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