
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**OFFICE OF HEARINGS AND APPEALS
CASE FILE ASSEMBLY CONTRACTS**

August 2004 A-07-04-24092

**MANAGEMENT
ADVISORY REPORT**



Mission

We improve SSA programs and operations and protect them against fraud, waste, and abuse by conducting independent and objective audits, evaluations, and investigations. We provide timely, useful, and reliable information and advice to Administration officials, the Congress, and the public.

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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:

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SOCIAL SECURITY

MEMORANDUM

Date: August 13, 2004

Refer To:

To: The Commissioner

From: Acting Inspector General

Subject: Management Advisory Report: Office of Hearings and Appeals Case File Assembly Contracts (A-07-04-24092)

OBJECTIVE

The objective of our review was to provide the Social Security Administration (SSA) with recommendations to correct the weaknesses we identified during our review, *Congressional Response Report: Review of File Assembly Contracts at Offices of Hearings and Appeals* (A-07-04-24076). The objectives of that review were to determine whether:

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

BACKGROUND

Within SSA, OHA is responsible for conducting hearings and issuing decisions as part of determining whether a person may receive disability benefits. When a claimant requests a hearing, it is held before an OHA administrative law judge (ALJ). The ALJ conducts the hearing and issues a written decision. Cases involving disability under the Disability Insurance program¹ and the Supplemental Security Income (SSI) program² account for 90 percent of OHA's work. The remainder consists of claims made under the Retirement and Survivors Insurance program, Medicare, and non-disability claims under the SSI program.

¹ Social Security Act § 223, 42 USC 423; 20 CFR 404.1601 et seq.

² Social Security Act § 1631 et seq., 42 USC 1383 et seq. 20 CFR 416.100 et seq.

OHA's organizational structure includes 10 regional offices and 139 hearing offices. Some OHA offices use contractors to prepare case files for review by ALJs. The contractors organize medical documents chronologically, arrange documents in appropriate sections of the case files, number documents, identify and retain duplicate documents, and ensure all pertinent documents are appropriately labeled. As of October 31, 2003, OHA had 74 file assembly contracts valued at approximately \$1.3 million.

During 2003, problems with OHA oversight of file assembly contracts in an OHA office resulted in several media stories and a subsequent review by the Office of the Inspector General (OIG). As a follow-up to the OIG report and to inquire as to whether similar problems existed in other OHA offices, Congressman E. Clay Shaw, Jr. requested in a letter dated October 14, 2003 that we review additional file assembly contracts. We issued our report entitled *Review of File Assembly Contracts at Office of Hearings and Appeals (A-07-04-24076)* to Congressman Shaw on March 3, 2004.

For our review, we selected one file assembly contract in each of SSA's 10 regions, as shown in the following table:

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

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

RESULTS OF REVIEW

With the exception of the file assembly contractor in the Boston region, the file assembly contractors we reviewed followed the terms of their respective contracts and had

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

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

- Case file assembly contractors did not receive consistent training from some OHA offices on case file assembly because the instructions were not consistent with the terms of the contracts regarding the removal of documents from case files.
- Some OHA offices did not have controls in place to safeguard case files because case file assembly contractors and the janitorial contractor in one OHA office were allowed inappropriate and unsupervised access to case files.

CONTRACTOR IN THE BOSTON REGION REMOVED DOCUMENTS FROM CASE FILES

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

At the time of our review, approximately 24 case files had been assembled by this contractor.⁴ We were unable to determine how many of these case files contained documents that were discarded, whether the contractor only discarded duplicate documents, or whether the contractor discarded documents that were material to the

³ The Boston OHA office used a separate contractor to shred documents. We could not verify that the documents were in fact shredded.

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

disability decision. The project officer for the file assembly contract stated that he was unaware that the contractor removed documents from the case files. He further stated that the contractor would be instructed not to remove documents from the case files.⁵

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

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

- The written training instructions provided to the Philadelphia, Springfield, and Portland contractors stated that duplicate documents should be removed from the case files and discarded. However, the contracts stated that duplicate documents must be marked "duplicate" in the top right-hand corner and placed at the back of the section of the case file in which it was found.⁷ We found that these three contractors followed the terms of their respective contracts and retained duplicate documents in the case files.
- The written training instructions provided to the New York and Portland contractors specified that certain documents could be removed from the case files and discarded.⁸ However, the contracts stated that no documents were to be discarded. We found that these two contractors followed the terms of their contracts and did not discard documents.

If contractors used the training instructions as reference material they could inappropriately discard documents needed for accurate disability decisions. The potential problems associated with conflicting instructions could be resolved if OHA had a standardized training package that each OHA office used to train file assembly contractors.

⁵ According to comments received from SSA's Deputy Commissioner for Finance, Assessment and Management on February 26, 2004, of the 24 case files assembled by this contractor, one received a fully favorable decision and one is pending a fully favorable decision. The remaining 22 cases are pending a hearing. The Deputy Commissioner also stated that SSA will notify claimants that documents may have been removed from their case files and afford them the opportunity to review their case files for completeness.

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

⁷ Neither the training instructions nor the contracts defined what constituted duplicate.

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

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

- The Cincinnati file assembly location is in SSA space in a non-Government building. According to a memo issued by the Associate Commissioner for Hearings and Appeals (see Appendix C), contractors located in SSA space in non-Government buildings should only have access to case files currently in process. Files not in process should be secured in a locked room, which is inaccessible to the contractors. In Cincinnati, case files were stored in the file assembly location so contractors had inappropriate access to case files that were not currently in process.
- The San Jose and Portland file assembly locations were counsel rooms, and the Denver contractors were located in vacant SSA space in a Government building.⁹ According to the Associate Commissioner's guidelines, contractors located in counsel rooms should only be given enough work for one day and must return all case files to the project officer at the end of the day. In these three locations, case files were stored in the file assembly location so contractors had inappropriate access to more case files than could be worked in one day and case files were not returned to the project officer at the end of the work day.
- The Denver and Portland file assembly contractors were allowed unmonitored, immediate and continued access to case files. This occurred because case files were stored in the file assembly location where the doors were equipped with keyless code entry systems with access codes that were known to the contractors. According to the Associate Commissioner's guidelines, file assembly contractors located in counsel rooms should obtain the key to the file assembly location from the receptionist and return the key once the door is unlocked so the use of keyless code entry systems for file assembly locations is not consistent with the Associate Commissioner's instructions. We also found that the janitorial contractor in Denver was allowed to enter the file assembly location even if Government employees or file assembly contractors were not present. For security reasons, the janitors should not have unsupervised access to the file assembly location since case files are stored there.
- The access code provided to the Portland contractor for the file assembly location was the same as the access code for an IVT room. The IVT room also had an unlocked door, which leads into OHA office space. Therefore, the contractor could use the access code to enter the IVT room and then gain

⁹ The memo from the Associate Commissioner gives different guidelines for file assembly contractors based on the file assembly location, either a counsel/Interactive Video Teletraining (IVT)/hearing room, program service center, or SSA space in a non-Government building. The file assembly location in Denver does not fit into any of these categories. Since the guidelines for contractors in counsel/IVT/hearing rooms are the most restrictive and based on our review of the file assembly location, we determined that the file assembly contractors in Denver are subject to the guidelines for file assembly contractors in counsel/IVT/hearing rooms.

unsupervised access to case files in the OHA office.¹⁰ According to the Memorandum of Understanding governing file assembly contracts, contractors “...will not be issued access codes/keys to the hearing office.”¹¹

Some project officers stated that the file assembly contractors understood and respected the integrity of case files so extensive safeguarding measures were not needed. We disagree and believe that case files should be safeguarded at all times.

The memo issued by the OHA Associate Commissioner gives varying guidelines depending on the locality of the file assembly location. The guidelines are divided between file assembly locations in counsel/IVT/hearing rooms, program service centers (PSC), and SSA space in non-Government buildings. See Appendix C for the specific guidelines given by the Associate Commissioner.

There is room for improvement in the OHA Associate Commissioner’s November 2003 guidelines. The guidelines, as currently written, could lead to the security of case files being compromised. Specifically:

- The guidelines do not provide adequate security for case files in file assembly locations in PSCs or non-Government buildings. Contractors in these file assembly locations may leave case files in the file assembly location and may move in and out of the file assembly location at will. In these situations, we believe case files may be compromised.
- The guidelines do not address all file assembly locations. For example, as noted above, the Denver file assembly location does not fit into any of the three categories in the instructions because the location is not in a counsel/IVT/hearing room, a PSC, or a non-Government building. In locations such as this, OHA offices may follow inappropriate guidelines or no guidelines.

CONCLUSION AND RECOMMENDATIONS

We found that 9 of the 10 file assembly contractors included in our review followed the terms of their respective contracts and had adequate controls in place to safeguard information in the case files. However, OHA’s oversight of contractor activities needs improvement to ensure consistent training instructions for case file assembly and case file safeguards.

¹⁰ Our interview and observation in Portland took place in December 2003. According to the supervisor over file assembly contractors in Portland, the access code to the IVT room was changed on February 1, 2004, so file assembly contractors no longer have access to the OHA office.

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

We recommend that SSA:

1. Ensure the Boston contractor is following the correct procedures for case file assembly.
2. Ensure that the case files assembled by the Boston contractor contain complete evidence to render an accurate disability decision.
3. Develop standardized guidelines for file assembly contractors to ensure consistent and accurate training in all OHA regions.
4. Issue guidelines that ensure the security of case files at all file assembly locations.

AGENCY COMMENTS

In response to our draft report, SSA agreed with our recommendations. See Appendix D for the full text of SSA's comments.



Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Memo from OHA Associate Commissioner

APPENDIX D – Agency Comments

APPENDIX E – OIG Contacts and Staff Acknowledgments

Acronyms

ALJ	Administrative Law Judge
IVT	Interactive Video Teletraining
OHA	Office of Hearings and Appeals
OIG	Office of the Inspector General
PSC	Program Service Center
SSA	Social Security Administration
SSI	Supplemental Security Income

Scope and Methodology

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

- Reviewed the previously issued reports *Review of File Assembly Contracts at Offices of Hearings and Appeals (A-07-04-24076)*; *Operations at the Social Security Administration's Milwaukee, Wisconsin, Office of Hearings and Appeals (A-13-03-23091)*; and *Chicago Regional Office of Hearings and Appeals Claimant Medical Files (A-13-04-24045)*.
- Reviewed the Memorandum of Understanding Regarding Management's Decision to Contract Out Pre-hearing Case Folder Assembly Work dated May 15, 2002; Program Operations Manual System Disability Insurance 70005.005; the Social Security Acquisition Handbook, *Security Requirements Clause*; and the Memorandum from A. Jacy Thurmond, Jr., Associate Commissioner for Hearings and Appeals, dated November 21, 2003.
- Obtained a listing of all OHA file assembly contracts as of October 31, 2003, and selected for review the largest dollar valued contract within close proximity to an Office of Audit field office in each of the Social Security Administration's (SSA) 10 regions.¹ The contracts selected for review are listed on Page 2 of this report.
- Interviewed the contractor and project officer and observed the file assembly location for each contract to determine if the terms of the contract were being followed and adequate oversight was being provided for case file assembly.²

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

² The interviews and observations were conducted in December 2003.

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

Memo From OHA Associate Commissioner



SOCIAL SECURITY

MEMORANDUM

Date: November 21, 2003

Refer To: 318-303-6372

To: All Regional Chief Administrative Law Judges
All Regional Management Officers
All Hearing Office Chief Administrative Law Judges
All Hearing Office Directors

From: A. Jacy Thurmond, Jr. /s/ A. J. T., Jr.
Associate Commissioner

Subject: File Assembly Contracts for Fiscal Years 2003-2004 Security Requirements -- ACTION

The purpose of this memorandum is to discuss the security measures to take with respect to case files worked by your file assembly contractor(s). As you know, the physical security of our case files, including the documents contained therein, is a priority of the Commissioner. The Project Officers and management officials in the hearing offices must take all steps necessary to ensure the security of the files assembled by our contractors. I have attached a Statement of Procedures outlining the security measures, which must be taken with respect to our files. Please ensure that all appropriate staffers are aware of and follow these guidelines.

We understand that most of you are already aware of some of the instructions on record keeping information; however, these guidelines are to emphasize the importance of knowing where your case files are at any given time. I believe if these instructions are followed, there will be no loss of files or documents assembled by the file assembly contractors.

Although the Social Security Administration remains under a Continuing Resolution, you have authority to have locks installed in any area where contract file assemblers are located.

Attachment

cc: Chief Judge David B. Washington

SECURITY OF CASE FILES

Contractor Work Location

Counsel Rooms/IVT Rooms/Hearing Rooms

- Locks should immediately be installed on any counsel room, IVT room and a hearing room door that does not already have a lock.
- Contractors should be given only enough cases to be worked during one day. When the contractor's day has ended, he or she must return all cases to the Project Officer or the Project Officer's designee.
- The Case Assignment Control Sheet must be annotated showing receipt of completed cases, and also must be annotated to show the return of uncompleted cases.
- Cases returned to the contractor for correction also must be annotated on the Case Assignment Control Sheet as appropriate.
- Verification of the files assigned to and received from the contractor is mandatory.
- When the contractor leaves the work location, he or she should lock the door. When the contractor returns, he or she may obtain the room key from the receptionist. The key must be returned when the door is unlocked.

Program Service Center

- The room provided for contract file assembly is secure.
- Case files may be left in the work area since it functions as an office. The Program Service Center (PSC) is in a Federal Building and the public has no access to the PSC.
- When the contractor has completed a case, he or she must place it in a specific area marked for completed cases and sign the Case Control Sheet indicating that the case has been completed, and the Project Officer must indicate that the file was received as completed.
- Cases returned to the contractor for correction also must be annotated on the Case Assignment Control Sheet as appropriate.
- Verification of the files assigned to and received from the contractor is mandatory.
- The contractor(s) may move in and out of the space location at will. There are no locking doors on the floors of the PSC, except for a few managers' offices. As stated above, the PSC is in a Federal Building, the public has no access to the PSC, and the building is secured by security guards.

SSA Space in Non-Government Building

- Steps should be taken to ensure the room provided for contract file assembly is secure. There is a combination lock into the space. The contractors will have access to the combination lock. The door must be locked at all times.
- Case files may be left in the work area since it functions as an office. Files not currently in process will be secured in a locked room, which is inaccessible to the

contractors. Cases not in process are held in a locked room in the office. The Project Officer's room is also locked each day.

- At the end of each day the security guard will arm the security system and disarm the security system each morning.
- When the contractor has completed a case, he or she must place it in a specific area marked for completed cases and sign the Case Control Sheet indicating that the case has been completed, and the Project Officer must indicate that the file was received as completed.
- Cases returned to the contractor for correction also must be annotated on the Case Assignment Control Sheet as appropriate.
- Verification of the files assigned to and received from the contractor is mandatory.
- The contractor may move in and out of the space at will since the door is always locked.

Agency Comments



SOCIAL SECURITY

MEMORANDUM

34076-24-1225

Date: August 3, 2004

Refer To: SIJ-3

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

From: Larry W. Dye /s/
Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Management Advisory Report "Office of Hearings and Appeals Case File Assembly Contracts" (A-07-04-24092)--INFORMATION

We appreciate OIG's efforts in conducting this review. Our comments on the draft report content and recommendations are attached.

Please let me know if we can be of further assistance. Staff inquiries may be directed to Candace Skurnik, Director, Audit Management and Liaison Staff, at extension 54636.

Attachment:
SSA Response

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT MANAGEMENT ADVISORY REPORT “OFFICE OF HEARINGS AND APPEALS (OHA) CASE FILE ASSEMBLY CONTRACTS” (A-07-04-24092)

Thank you for the opportunity to review and comment on the draft report. We agree with the report findings and conclusions and we have already undertaken several initiatives to improve the oversight of the folder assembly contract process. Specifically, we issued reminders via email and held conference calls with all project officers and regional staff involved in this contracting activity. We also instituted a Folder Assembly Workgroup (FAW) to develop and implement a plan to improve the oversight and ensure the security of claimant information. Initiatives developed and completed under the auspices of the workgroup include:

- Conducting mandatory training and certification for managers in OHA who act as project officers for contractor services;
- Preparing and distributing a folder assembly checklist for use by all contractors with a reminder that no documents should be discarded;
- Developing and distributing security guidelines; and
- Obtaining regular reports from hearing offices (HO) regarding the contract process.

The workgroup also developed a monitoring guide for all HOs participating in this initiative and conducted on-site reviews in 10 regional offices, 48 HOs and 2 centralized assembly units to closely monitor contractor performance and to ensure that all guidelines are properly implemented. While minor deficiencies were identified for 8 of the HOs, they were easily corrected and all offices are now in compliance.

Our responses to the specific recommendations are provided below.

Recommendation 1

SSA should ensure the Boston contractor is following the correct procedure for case file assembly.

Response

We agree. As stated in our February 26, 2004 comments to the Congressional Response Report, the impacted files were part of the contractor's initial assignment and the project officer, as part of his review of the files, initiated immediate corrective action. In addition, the HO Director reminded the contractor that recycling or shredding duplicate documents is inappropriate and that all duplicate records are to be placed in the “junk file” section of the Modular Disability Folder. In February 2004, the contractor had completed assembling the 100 cases we initially contracted for and as of today, the Boston HO has not and does not plan to contract for any additional file assembly work to be performed by the end of the fiscal year.

Recommendation 2

SSA should ensure that the case files assembled by the Boston contractor contain complete evidence to render an accurate disability decision.

Response

We agree. On March 5, 2004, letters were sent to all potentially impacted claimants affording them the opportunity to review the evidence in their claims files. As of today, no irregularities were found in any of the claims files. There is only one claimant whose case is still pending a decision by an administrative law judge (ALJ); the hearing for that case was held on June 21, 2004.

Recommendation 3

SSA should develop standardized guidelines for file assembly contractors to ensure consistent and accurate training in all OHA regions.

Response

We agree. The FAW developed uniform procedures and guidelines to be followed for contract file assembly. The guidelines were distributed to all HOs with file assembly contracts in February 2004. In addition, between January and March 2004, members of the workgroup met with the project officers, either in person or by videoconference, in every office with contracts in place this year, to review the procedures and provide additional instruction where necessary. At the present time, there are no plans to contract the file assembly function after the end of this fiscal year.

Recommendation 4

SSA should issue guidelines that ensure the security of case files at all file assembly locations.

Response

We agree. As reported above, we developed and distributed a procedures manual to every HO with file assembly contracts in place. In addition, on February 3, 2004, the Associate Commissioner for Hearings and Appeals (ACOHA) held an “all managers” conference call to discuss the proper procedures to be followed for contract file assembly. In addition, the ACOHA issued a memo to all offices on February 6, 2004 (copy attached) to reinforce the topics discussed during the conference call. Finally, the FAW will continue to provide oversight and support to HOs with contracts in place this year.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Mark Bailey, Director, Central Audit Division (816) 936-5591

Shannon Agee, Audit Manager, Central Audit Division (816) 936-5590

Acknowledgments

In addition to those named above:

Tonya Coffelt, Auditor

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