
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**ASSOCIATION OF ADMINISTRATIVE
LAW JUDGES' TRAINING
CONFERENCE COSTS**

April 2008

A-12-08-28037

AUDIT REPORT



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- 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.**
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SOCIAL SECURITY

MEMORANDUM

Date: April 7, 2008

Refer To:

To: The Commissioner

From: Inspector General

Subject: Association of Administrative Law Judges' Training Conference Costs (A-12-08-28037)

OBJECTIVE

Our objectives were to (1) examine the Social Security Administration's (SSA) contributions to previous Association of Administrative Law Judges' (AALJ) training conferences, (2) assess the support for and reasonableness of conference costs, and (3) evaluate the nature of the training provided to determine the appropriateness of continued SSA support.

BACKGROUND

The AALJ¹ has conducted annual training conferences since 1992 to assist Administrative Law Judges (ALJ) in meeting their education needs. Each year, approximately 150 to 250 of the Office of Disability Adjudication and Review's (ODAR) 1,100 ALJs attend the 3-day conference. Over the years, SSA has assisted the AALJ with logistics and financial support to conduct the training conference including:

- travel for presenters, management ALJs and headquarters personnel;
- fees and contract support for presenters;
- financial support for printed material, audiovisual and rental equipment;
- duty time for those who attend, present, and/or organize the conference; and
- reimbursement of attendee registration fees.

¹ The AALJ is a union representing ALJs employed at SSA. The AALJ started as a professional association. In 1999, it became a nationally recognized union as the Association of Administrative Law Judges, International Federation of Professional and Technical Engineers, American Federation of Labor and Congress of Industrial Organizations.

To meet our objectives, we reviewed information related to the AALJ conferences that were held in Calendar Years (CY) 2003 to 2006,² including training agendas and training tapes of the conferences; reviewed SSA and AALJ expenditures related to the October 2006 training conference in San Diego; and discussed the training conferences with AALJ officials, ODAR managers and staff, and SSA Office of General Counsel (OGC) staff.³

RESULTS OF REVIEW

SSA provided approximately \$888,900 in financial and in-kind support to the AALJ to conduct four training conferences during CYs 2003 to 2006. Moreover, SSA paid for the entire cost of the last three conferences, leaving the AALJ with residual funds that could be applied to other union programs. We also found that SSA spent a total of \$354,800 on the 2006 AALJ training conference once conference support and management travel costs were combined. In our review of the 2006 conference costs, we concluded that SSA and the AALJ could generally support the underlying conference costs. However, we identified AALJ expenses that would not normally be reimbursed by SSA, including a reception, a banquet, and entertainment. Moreover, training revenues versus other types of revenue were not clearly delineated in the AALJ's audited financial statements, making it difficult to isolate revenue associated with training participants. ODAR management stated the conference provided useful training to ALJs, though they would prefer more control over the topics and greater attendance rotation. We believe that the level of support provided by SSA indicates that the Agency could run the entire conference in-house and have greater control over expenditures, topics, and attendance. This would also remove any risk that the Agency is improperly providing support to an employee union.

TRAINING CONFERENCE COSTS

SSA provided approximately \$888,900 in financial and in-kind support for the four AALJ training conferences during CYs 2003 to 2006. SSA support averaged about \$1,049 per attendee over this period, not including management travel costs reimbursed by SSA.

SSA Contribution to Conference Costs

SSA provided about \$888,900 in support to the AALJ training conferences over the past 4 years in a variety of ways (see Table 1):⁴

² The conferences reviewed were held in San Francisco, California (November 2003); Orlando, Florida (October 2004); Jacksonville, Florida (October 2005); and San Diego, California (October/November 2006).

³ See Appendix B for a detailed discussion of our Scope and Methodology.

⁴ See Appendix C for a more detailed breakdown of SSA's costs.

- Direct Costs: Costs include items, such as AALJ scouting trips, speakers' honoraria, and travel expenses for presenters.
- Indirect Costs: Such costs include the salaries of ODAR personnel assisting with planning and development, training material assembly, and audio editing.
- Reimbursement for Registration Fees: SSA reimburses conference attendees for registration fees used to pay for conference meals and entertainment.

Table 1: Total SSA Contribution to the AALJ Training Conferences (CYs 2003 – 2006)

Support Provided	2003	2004	2005	2006	Total
Direct Costs	\$72,011	\$65,652	\$72,043	\$89,739	\$299,445
Indirect Costs	89,013	72,749	86,223	80,566	328,551
Reimbursement for Registration Fees ¹	49,965	56,302	62,650	92,000	260,917
Total	\$210,989	\$194,703	\$220,916	\$262,305	\$888,913

Note 1: Registration fees were \$295 per attendee in 2003, \$325 per attendee in 2005, and \$350 per attendee in 2005 and 2006. SSA reimbursed attendees in full for these fees with the exception of 2005, when only \$295 of the \$325 was reimbursed.

We found that the support and reimbursement method used by SSA led to very few direct payments to the AALJ.⁵ By paying vendors directly, providing personnel support, and reimbursing attendees rather than directly paying the AALJ, the Agency enhanced its ability to maintain control over the majority of conference costs.

The number of conference attendees varied during the CY 2003 to 2006 period, from a low of 169 attendees in 2003 to a high of 279 attendees in 2006 (see Table 2). SSA's contribution per attendee ranged from \$940 to \$1,248, and averaged about \$1,049 over the 4 CYs.

Table 2: Number of Attendees and SSA's Cost Per Attendee (CYs 2003-2006)

	2003	2004	2005	2006	Total
Number of Attendees	169	200	199	279	847
SSA Contribution to Conference	\$210,989	\$194,703	\$220,916	\$262,305	\$888,913
SSA Contribution Per Attendee	\$1,248	\$974	\$1,110	\$940	\$1,049

AALJ Contribution to Conference Costs

We found that SSA's total contributions to the training conferences over the past 3 years have exceeded the actual costs of the conferences. As a result, SSA paid the entire cost of the conferences, and the AALJ was left with residual funds when the registration fee reimbursement and other revenues exceeded the AALJ's costs.

⁵ We did find a few instances of direct payment to the AALJ. For instance, SSA made a direct payment to the AALJ via the third-party draft process for seven headquarters employees attending the 2006 training conference.

The AALJ's financial statements show the organization spent about \$316,200 on the training conferences during CYs 2003 to 2006. However, over this same period, it collected conference revenue⁶ of approximately \$333,300. As a result, the AALJ's revenue exceeded expenses by approximately \$17,200 during this 4-year period (see Table 3).

Table 3: AALJ Training Conference Revenues and Expenses (CYs 2003-2006)

Item	2003	2004	2005	2006	Total
Conference Revenue	\$63,185	\$87,858	\$74,315	\$107,990	\$333,348
Conference Expenses ¹	(99,368)	(70,093)	(62,710)	(84,018)	(316,189)
Net Gain/(Loss)	(\$36,183)	\$17,765	\$11,605	\$23,972	\$17,159

Note 1: AALJ expenses were restated after our review of the underlying support, which we discuss later in the report.

The AALJ's Treasurer explained that the AALJ has attempted to conduct conferences that pay for themselves since it would not be appropriate to use membership dues for a training conference that benefits only a portion of the membership.⁷ The Treasurer also noted that approximately \$100,000 in residual revenues had accumulated from previous conferences, and these funds were maintained in a separate account to support future conferences.⁸ However, we did not see any evidence of a reserve within the AALJ's 2006 financial statements indicating that any residual funds would be reserved to cover the next year's conference. As a result, these excess funds are available to support any other part of the AALJ's mission, including union-related activities and lobbying.

We do not believe SSA should have reimbursed the AALJ an amount that exceeded actual conference expenditures. Should SSA provide similar support to future conferences, the process should involve some form of final accounting by the AALJ before SSA reimburses attendees for registration fees, so that the Agency's reimbursement does not lead to residual funds for the AALJ. SSA will also need to decide if prior amounts paid to the AALJ in excess of actual costs should be reimbursed to the Agency.

⁶ This revenue includes attendee registration fees as well as other fees collected for the conference, such as meal costs for a spouse who is not part of the conference.

⁷ The Treasurer also noted that some expenses were paid by the attendees and not reflected in the AALJ's financial records. For example, he stated that the training attendees paid a higher hotel room rate to cover the training conference rooms. Since the non-management ALJs were not reimbursed by SSA for their travel expenses, some of the conference room costs were paid for by these ALJs.

⁸ The AALJ maintains separate checking and money market accounts related solely to conference activity.

Additional SSA Travel Costs

As demonstrated in Table 2, attendance at the 2006 conference increased by about 40 percent. We believe this increase relates to 2006 being the first year ODAR decided to send one-third of its Hearing Office Chief ALJs (HOCALJ) and reimburse their travel costs. ODAR does not reimburse non-management ALJs for their travel costs.⁹

The additional SSA participants most likely reduced the average cost per attendee demonstrated in Table 2. However, SSA experienced an increased cost by paying for this additional travel. SSA's records show the Agency spent approximately \$85,300 on travel associated with sending management ALJs to the 2006 conference. SSA also spent about \$7,200 on travel for other Headquarters attendees, for a total of about \$92,500 in travel costs. As a result, SSA spent approximately \$354,800 in conference and management travel costs for the 2006 AALJ training conference.

CONFERENCE COST SUPPORT AND REASONABLENESS

In our review of the 2006 conference costs, we found that SSA and the AALJ could generally support the underlying conference costs. However, the 2006 AALJ conference expenses also included some union activity costs that had to be subtracted before we could determine the final expenditures. We also found AALJ expenses that would not normally be reimbursed by SSA, including a reception, banquet, and entertainment. Moreover, types of revenue were not clearly delineated in the AALJ's audited financial statements, making it difficult to separate training revenue from other types of revenue, such as meal fees for spouses.

SSA Expenditures

SSA provided support for its costs in the form of transaction data from its financial systems, requisitions, and calculations.¹⁰ For instance, the Agency provided calculations of the salaries of employees who assisted in the planning and development of the conference.¹¹ We reviewed the supporting documentation provided, requested additional documentation where necessary, recalculated indirect rates, and obtained support for the reimbursement of registration fees and travel costs.

The audiotaping expenses seemed excessive compared to the overall benefit realized. We found the Agency spent approximately \$21,400 in direct and indirect costs for the audiovisual support at the 2006 conference. This represents about 8 percent of SSA's 2006 conference costs. The intent of taping the conference was to provide training

⁹ In a 1999 memorandum, the OGC expressed concerns that paying for non-management ALJs to attend a conference where union business could be discussed in the evening and before/after the conference could be seen as support for the union. See Appendix F.

¹⁰ A full explanation of SSA's direct and indirect costs are provided in Appendix C.

¹¹ Some of these employees assisted in the assembly of conference material, set up and occupied booths during the conference, and edited the audiovisual presentation.

material for ALJs who did not attend the training conference. However, when we asked ODAR staff to provide us with evidence that the tapes were being requested and reviewed by ALJs, they told us that they do not track the distribution and use of the tapes. SSA spent about \$121,000 for audiovisual contracts and related expenses at the four conferences (or about 13 percent of total contributions).¹² In addition, SSA maintained control over the editing of this material. In our review of the taped material, we also found that some of the training sessions were either heavily edited or missing, limiting the overall value of the taping process. AALJ staff told us the Agency did not support any type of taping at the 2007 training conference in Providence, Rhode Island. Hence, this was not an issue at the most recent training conference.

AALJ Revenue and Expenditures

We met with the AALJ's Treasurer and certified public accountant to review the Association's expenditures for the 2006 training conference. We reviewed the AALJ's CY 2006 audited financial statements, which had a separate "Statement of Annual Conference Activity" section for the conference revenues and expenditures. The report initially stated the AALJ collected \$107,990 in conference fees and spent \$91,404 in conference expenditures, with "excess revenues" of \$16,586.

We found the audited financial statements and related support did not clearly delineate between conference fees related to training conference attendees versus fees associated with other conference activities, such as an ALJ paying for the meal of a spouse or attendance at a reception.¹³ Moreover, while the AALJ was able to support the majority of its expenditures, we identified \$7,386 in expenditures that we could not relate to the training conference. After discussing each item, we found they related to union-sponsored activities unrelated to the training at the conference. After removing these items, we found the AALJ's total conference expenditures were \$84,018 and excess revenues were \$23,972.¹⁴

We also found that some of the AALJ conference expenditures were not related to the training of attendees. For example, the union spent approximately \$29,000 on an evening president's reception and a banquet, which included about \$2,900 in "liquor sales" expenses.¹⁵ The AALJ spent another \$3,200 on banquet entertainment, which included a mariachi band and dancers. While we believe that some of the food and

¹² The 2003 and 2004 conferences were videorecorded, while the 2005 and 2006 conferences were audiotaped.

¹³ The Treasurer of the AALJ provided additional support for the revenues. The financial records indicate approximately 88 percent of revenue related to registration fees, and the remaining 12 percent related to additional amounts collected from guests attending the meals, president's reception and/or banquet.

¹⁴ See Appendix D for the restated 2006 AALJ expenditures. We also decreased AALJ's 2003 conference expenses by \$33,669 for amounts paid by SSA in 2007.

¹⁵ As part of the registration fee, each training participant was provided with two drink tickets that could be used at the president's reception for alcohol or non-alcohol drinks.

beverage costs may have been appropriate if it was provided during the training conference, we do not believe the \$32,200 spent on evening food and entertainment, or 38 percent of the AALJ expenditures, can be related to the training costs. Therefore, these activities should not have been reimbursed by SSA.¹⁶ For instance, SSA policy on “Domestic Non-Government Sponsored Conferences/Meetings” states

Fees which may be termed “registration fees” and collected for purposes such as entertainment, social events and refreshments for coffee breaks cannot be reimbursed. This applies even though receipts may be issued as registration fees.¹⁷

We spoke to SSA’s OGC to see if any other criteria would apply to such circumstances.¹⁸ OGC staff noted that the Government Accountability Office (GAO) had issued a training and conference “decision-tree” illustrating which conference expenses an agency may properly reimburse. However, in our review of this GAO decision-tree, we could not find support for the reception, banquet, and entertainment.¹⁹ The GAO document stated that participation in a meal must be “necessary to obtain full benefit of training.” Since the evening events were outside the training period, they could not be considered “necessary.” As a result, we believe SSA should not have reimbursed the AALJ for these expenses.²⁰

NATURE OF THE CONFERENCE TRAINING

ODAR management said they found the conference provided useful training to ALJs, though they would prefer more control over the topics included on the agenda. While the AALJ planned and managed the annual training conferences, ODAR management had input on the training agenda as well as the scheduling of the conference. However, ODAR management said that they would have preferred greater rotation among non-management ALJs. In addition, the training conference agenda included time for ODAR management to educate the ALJs on Agency issues.

¹⁶ In addition, SSA employees being reimbursed by SSA for their travel and per diem should not claim reimbursement for meals on any evening where a meal is provided. Otherwise, SSA will pay for the same meal twice; once via the registration fee and again via the travel voucher.

¹⁷ Administrative Instructions Manual System (AIMS), General Administrative Manual 04.02.06.C, *Registration and Payment Procedures*; and Financial Management Manual 07.20.11.E, *Registration Fees*.

¹⁸ We did not conduct a full review of relevant Federal appropriation law, but rather relied on SSA personnel and policies to better understand the criteria used by the Agency to fund such events. However, we believe relevant Federal appropriation laws may need to be reviewed as part of any updates to existing Agency policies.

¹⁹ 69 Comptroller General 197 (1990). The basis for this rule is that entertainment is essentially a personal expense, even when it occurs in some business-related context.

²⁰ A review of AALJ documentation related to the CY 2003 to 2005 conferences shows similar expenditures on food, beverage and entertainment.

ODAR and AALJ Collaboration

ODAR management and the union stated that the conferences had been a useful tool for training ALJs. Attendees of the 2006 conference were eligible to receive about 25 continuing legal education (CLE) credits for training related to medical, legal and ethics topics.²¹ For instance, some of the conferences focused on a major medical impairment to better understand such disabilities. At the 2006 conference, the emphasis was on cardiac and vascular impairments.²² ODAR management also noted that they would prefer more control over the training conference agenda to ensure it covers all the topics ODAR considers to be important in the development of ALJs.

An AALJ committee planned and administered the annual training conference, including establishing the conference agenda and choosing the speakers, and ODAR management was consulted on the topics and speakers.²³ ODAR management also recommended specific times to avoid holding the conference, including the period late in the fiscal year where case workloads may limit Agency participation in the conference.²⁴ SSA was also allotted a period during the conference when Agency management could discuss workload and program issues. For example, at the 2006 training conference, about 4.5 hours were set aside for SSA management.²⁵

Other union and management-related discussions may occur during the same week as the training conference. AALJ officials told us that they may discuss union business in the evening or before/after the conference, but not during training hours. We found no evidence in our review of the agenda or discussions with ODAR staff that union business was discussed during the training conference. ODAR staff noted that SSA management held a separate session during the 2006 training conference where HOCALJs and Regional Chief Administrative Law Judges discussed SSA-related business.

²¹ The AALJ assists the ALJs in obtaining CLEs for this training. Some ALJs are required to obtain CLEs as part of their membership in a State bar association.

²² See Appendix E for a copy of the 2006 training conference agenda.

²³ In at least one case, SSA did not agree with the selection of the speaker and refused to pay the costs of travel and honoraria for the speaker.

²⁴ The AALJ created an agreement outlining the role of the union and the Agency in planning the conference, and while the Agency is basically following this outline in its actions, it did not sign the agreement. The AALJ also noted that they generally wait for Agency management's commitment to the next conference before starting the planning process since SSA's participation and support is a key part of the conference.

²⁵ See the 2006 training conference agenda in Appendix E.

Conference Attendance

We also found that the AALJ training conference is basically an SSA-only event. For example, we found that 99 percent of the attendees at the 2006 conference were from SSA, and 78 percent of the speakers were from SSA.

In one of our meetings with ODAR management, we were told that the same non-management ALJs may attend the conference each year. We also looked at the frequency of conference attendance to address a concern expressed by ODAR management regarding a possible training gap as a result of the same ALJs attending year after year. While ODAR managers see value in the training conference, they believe that many ALJs are missing out on necessary training, and ODAR management wanted to ensure that the funds spent on the conference benefited ALJs as a whole.²⁶ In our review of the attendance at the CY 2004 through 2006 conferences, we found that 26 percent of the attendees were the same non-management ALJs in all 3 years, and 57 percent of attendees were the same non-management ALJs in at least 2 of 3 years.

LEGALITY AND APPROPRIATENESS OF COLLABORATION

We found that the level of support provided by SSA indicates that the Agency could run the entire conference in-house and have greater control over expenditures, topics, and attendance. This would also remove any risk that the Agency is improperly providing support to an employee union.

Level of SSA Support and Control

We reviewed the facts related to the current conference arrangement between the AALJ and SSA, as well as prior correspondence between SSA management and OGC, to assess whether the training conference collaboration by the Agency and the AALJ was appropriate. As noted above, we found that the conference provided useful training to the ALJ attendees, and union activity was not occurring during training hours. Moreover, SSA had control over the majority of the direct and indirect conference costs, thereby limiting the amount of funding provided directly to the AALJ. In fact, even the reimbursement method for registration fees kept the Agency at “arms-length” from the union to enhance independence. However, as we also noted above, a portion of the registration fees were used for expenditures that SSA cannot pay for under its own policy. Moreover, SSA’s contribution to the AALJ exceeded the full costs of the conferences. For instance, not only did SSA pay approximately \$32,200 for reception, banquet and entertainment expenses, but the AALJ had approximately \$24,000 in residual funds related to the conference. This \$56,200 in support represents about 21 percent of the 2006 total conference costs and most likely would not have been paid had SSA maintained closer oversight of overall conference expenditures.

²⁶ As noted earlier, ODAR management decided in 2006 to rotate one-third of all HOCALJs through the training conferences. However, since the Agency does not pay for the travel of non-management ALJs, it does not have the same control over attendance.

In addition, other factors noted earlier recommend against maintaining this arrangement, including:

- The AALJ training conference has been primarily attended by SSA personnel.
- The majority of speakers at the conference has been SSA personnel.
- We could find no evidence that SSA maintained a similar arrangement with any other employee union.
- SSA management has been constrained in its ability to send non-management ALJs even though it would like to ensure all ALJs have an opportunity to attend.
- SSA has provided the majority of the financial and technical support for the conference.

We have also learned that ODAR has supported similar in-house training conferences of its own personnel and sent all ALJs—management and non-management—to learn more about SSA's programs and relevant legal topics. For example, in August 2006 a training conference was held for all ALJs in Region IX.²⁷ The 2-day conference covered topics, such as video hearings, adjudication in the electronic environment, docket management, ethics, and Agency programs. Hence, some of the AALJ training may be duplicative of other SSA training, and thereby increases overall Agency expenditures on training.

Given all the factors noted above, we believe SSA would be better served by administering its own ALJ training conference in-house. In this way, SSA would (1) control all costs, (2) ensure the topics meet ODAR's training requirements, (3) ensure full or rotational attendance of all ALJs, and (4) avoid potential duplication of costs.

Unfair Labor Practice

Conducting future training conferences in-house would also remove the risk that SSA is providing improper support to an employee union. Under the Federal Service Labor-Management Relations Statute, it is an unfair labor practice to

...sponsor, control, or otherwise assist any labor organizations, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status.²⁸

²⁷ Region IX includes Arizona, California, Nevada, Hawaii and the territories of Guam, American Samoa, and Saipan.

²⁸ 5 U.S.C § 7116(a)(3)(1999).

While we believe SSA has taken steps to prevent the conference support from becoming an unfair labor practice, the Agency's lack of cost controls and desire for greater control over the topics and attendance could potentially cause the Agency to violate this provision.²⁹

CONCLUSION AND RECOMMENDATIONS

The AALJ annual training conference has provided SSA with useful ALJ training over the years. With this said, we have learned that SSA has paid the full costs of the CY 2004 to 2006 training conferences, provided excess funds to the AALJ and also reimbursed attendees for costs the Agency should not have paid. Greater control of costs could have reduced the Agency's conference costs. Moreover, SSA has already demonstrated that it is fully capable of performing most of the conference planning and implementation, paying all the costs, and providing most of the attendees and speakers, which supports the argument that SSA should conduct the conference in-house. ODAR management has already stated an interest in greater control over conference topics and attendance. However, this may be a level of control it cannot necessarily assert within the current framework without potentially creating an unfair labor practice.

To ensure appropriate control over training conference costs, topics and attendance, we recommend SSA:

1. End its current support for the AALJ training conference and conduct its own in-house training for ALJs.
2. Review and revise current AIMS policies and procedures regarding registration fees for non-government sponsored training and conferences to clearly state unallowable costs to ensure conferences are funded in accordance with Federal appropriation law.

Should SSA decide to continue its support for the AALJ training conference, we recommend SSA:

3. Adhere to allowable cost principles under AIMS, increase oversight of training costs and reimbursements to ensure the Agency is not paying more than the AALJ's training-related costs, and obtain a final accounting from the AALJ prior to SSA reimbursing attendees for the registration fees.

²⁹ We provide additional legal context in Appendix F.

AGENCY COMMENTS

SSA agreed with all three recommendations; however, the third recommendation will not need to be implemented since the Agency has decided to host in-house training for ALJs (see Appendix G for SSA's comments).

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

Patrick P. O'Carroll, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Scope and Methodology

APPENDIX C – Costs Paid by Office of Disability Adjudication and Review for the 2006 Association of Administrative Law Judges' Training Conference

APPENDIX D – Association of Administrative Law Judges' Costs for the 2006 Training Conference

APPENDIX E – Agenda for the 2006 Association of Administrative Law Judges' Training Conference

APPENDIX F – Legal Issues Concerning the Association of Administrative Law Judges' Training Conference

APPENDIX G – Agency Comments

APPENDIX H – OIG Contacts and Staff Acknowledgments

Acronyms

AALJ	Association of Administrative Law Judges
AIMS	Administrative Instructions Manual System
ALJ	Administrative Law Judge
CLE	Continuing Legal Education
CY	Calendar Year
FSLMRS	Federal Service Labor-Management Relations Statute
GAO	Government Accountability Office
GETA	<i>Government Employees' Training Act</i>
HOCALJ	Hearing Office Chief Administrative Law Judge
ODAR	Office of Disability Adjudication and Review
OGC	Office of General Counsel
OIG	Office of the Inspector General
SSA	Social Security Administration

Scope and Methodology

To accomplish our objectives, we:

- Reviewed the Social Security Administration's (SSA) Administrative Instruction Manual System, the *Social Security Act*, the Government Accountability Office's rulings, and other relevant policies, procedures, laws and regulations.
- Reviewed information related to the Association of Administrative Law Judges (AALJ) conferences held in Calendar Years (CY) 2003 to 2006, including:
 - support for all SSA assistance and funds, direct and indirect, provided to Administrative Law Judges (ALJ), conference organizers, and other parties associated with the 2006 AALJ training conference;
 - support for all 2006 conference costs, direct and indirect, incurred by conference organizers and participants (that is, travel costs, hotel costs, and registration fees);
 - Agency contracts, policy statements, and memoranda regarding conference costs, topics, and participation; and
 - conference agendas, binders, and associated materials, including available videotapes of conference discussions.
- Met with AALJ officials and the AALJ's certified public accountant to discuss and review the Association's expenditures for the 2006 training conference.
- Obtained and compiled attendance lists for AALJ Training Conferences from CY 2003 to 2006 to determine the number of attendees and the frequency of conference attendance.
- Met with Office of Disability Adjudication and Review's (ODAR) managers to discuss conference costs and ODAR's training policies and practices.
- Met with Office of General Counsel staff to discuss relevant policies related to ODAR's collaboration with the AALJ on the AALJ training conferences.
- Reviewed other ODAR training events held by SSA's Regional Offices.

We found the 2006 cost data provided by SSA and the AALJ to be sufficiently reliable to meet our objective. We discuss data discrepancies and questionable costs within the body of our report and appendices. The entity audited was the Office of the Deputy Commissioner for Disability Adjudication and Review. We conducted our audit from July through December 2007 in accordance with generally accepted government auditing standards.

Costs Paid by Office of Disability Adjudication and Review for the 2006 Association of Administrative Law Judges' Training Conference

The Social Security Administration (SSA) provided approximately \$262,300 in financial and in-kind support to the Association of Administrative Law Judges (AALJ) to conduct the 2006 annual training conference. This amount related to direct costs, indirect costs, and reimbursement for registration fees. SSA also spent approximately \$92,500 in attendee travel costs for the 2006 conference. If this is included in the Agency's overall costs, SSA spent about \$354,800 on the 2006 AALJ training conference.

**Table C-1 SSA Contribution to the 2006 AALJ Training Conference
Direct Costs**

Functions	Expenditure
Audiotaping	\$20,179
Printing	3,871
Speakers Honoraria	6,500
Travel for ALJ Presenters, Headquarters' Personnel and Non-Office of Disability Adjudication and Review (ODAR) Speakers	52,845
CD Duplication	2,017
Scouting Trips	4,327
Total Direct Costs	\$89,739

**Table C-2 SSA Contribution to the 2006 AALJ Training Conference
Indirect Costs**

Functions	Expenditure
Planning and Development ¹	\$52,052
Booth Set-up	1,986
Post Audio Editing	1,191
Graphics	1,344
Books Assembly/Binder Preparation	1,912
Distribution/Staff Time	29
Presentation Preparation	6,310
On-Site Specialist	1,412
In-House Printing	259
Benefits ²	14,071
Total Indirect Costs	\$80,566

Notes: (1) These costs include the salaries of 14 individuals, including ODAR management, contracting and acquisition specialists, and other support staff. Dollar amounts shown are calculated by hours worked, multiplied by applicable hourly grade/step salary of employees.

(2) Benefits based on 21.16 percent of employees' Washington DC - Baltimore - Northern Virginia hourly salaries and locality pay.

**Table C-3 SSA Contribution to the 2006 AALJ Training Conference
Registration Fees**

Function	Expenditure
Registration Fees	\$92,000
Total Registration Fees	\$92,000

Note: The registration fee was \$350 per attendee for the 2006 training conference. SSA attendees would pay the registration fee and later request reimbursement from the Agency. The seven individuals who attended from the Office of General Counsel paid their own registration fees totaling \$2,400.

Table C-4 SSA Travel Costs for the 2006 AALJ Training Conference

Traveler	Expenditure
Headquarters management and staff	\$7,149
Hearing Office Chief Administrative Law Judges	64,200
Regional Chief Administrative Law Judges	21,108
Total Travel Costs	\$92,457

Note: The Headquarters and Regional Chief Administrative Law Judges figures were adjusted downward as a result of our testing a sample of transactions back to support documents.

Association of Administrative Law Judges' Costs for the 2006 Training Conference

The Association of Administrative Law Judges (AALJ) spent approximately \$84,000 on the Fiscal Year 2006 training conference. After accounting for revenues of approximately \$108,000, the AALJ had residual funds of about \$24,000 that could be used to support the mission of the Association.

AALJ Costs for the 2006 AALJ Training Conference

Activity	Expenditures	
<i>Revenues</i>		
-- Conference Fees		\$107,990
Total Conference Revenues		\$107,990
<i>Expenses</i>		
-- Three Breakfasts/Coffee Breaks	\$26,178	
-- Three Lunches	19,962	
-- President's Reception ¹ (Held 10/31/06)	8,781	
-- Dinner Banquet (Held 11/1/06)	20,104	
-- Miscellaneous	567	
<i>Subtotal – Food and Beverage</i>		\$75,592
-- Dinner Banquet Entertainment ²	\$3,273	
-- Shuttle Transportation	2,160	
-- Miscellaneous	568	
<i>Subtotal – Entertainment and Events</i>		6,001
-- Gifts for SSA Presenters ³	\$257	
-- Postage and Miscellaneous	2,168	
<i>Subtotal – Other Expenses</i>		2,425
Total Conference Expenses⁴		\$84,018
Total Residual Funds		\$23,972

- Notes:**
- (1) This figure includes \$2,945 in "liquor sales" expenses.
 - (2) Entertainment included a mariachi band and six dancers.
 - (3) The gifts were two clocks.
 - (4) In our review of the AALJ expenses, we found \$7,386 in expenses that did not belong to the training conference but instead related to union activities. We removed these expenses to derive the figures in the table.

- 10:45 – 11:45 **Cardiac Impairments and Vocational issues**
A discussion of cardiac disease using several hypothetical case studies. Cases will be examined in light of the medical listings, residual functional capacity and the effects of treatment
Panelists: Dr. Grant-Anderson, ALJ John P. Costello, and Larry P. Spain, Office of Medical Policy
- 11:45 – 1:15 **Opening Luncheon**
Speaker: Hon. Irma E. Gonzalez, Chief Judge, United States District Court, Southern District of California
- 1:15 – 2:30 **Breakout sessions on the following topics:**
- 1. New Cardiac Listing Discussion**
Compare old and new cardiac listing
Speaker: Larry P. Spain, Office of Medical Policy
 - 2. Depression and Cardiac Impairments**
Discussion of heart disease, surgical intervention and the relationship to depression
Speaker: Betty Grant-Anderson, MD, JD, FACP
 - 3. Avoiding Judicial Burnout: Tips on Managing a High-Volume Practice**
Speakers: ALJ Linda A. Stagno and Isaiah Zimmerman, Ph.D.
- 2:30 – 2:45 **Break**
- 2:45 – 3:45 **Repeat Breakout Sessions**
- 3:45 – 4:00 **Break**
- 4:00 – 4:30 **Remarks**
Speaker: Lisa deSoto, Deputy Commissioner, ODAR
-

Day Two

- 8:00 – 8:50 **Bench Decisions**
A Question/Answer and How-to session
Speaker: ALJ Thomas S. Robinson
- 8:00 – 8:50 **Lexis/Nexis (repeat of day one program)**
- 9:00 – 10:30 **Vascular Diseases**

An overview of vascular disease, common diagnostic tests and treatment

Speaker: Irwin Weinreb, MD, Clinical Professor, University of California Medical Center, and Medical Consultant, San Francisco Regional Office

10:30 – 10:45 **Break**

10:45 – 12:00 **Vocational Issues in Vascular Diseases**

A discussion of vascular disease using several hypothetical case studies. Cases will be examined in light of the medical listings, residual functional capacity and the effects of treatment

Panelists: Dr. Weinreb, ALJ Michael L. Brownfield, and Larry Spain, Office of Medical Policy

12:00 – 1:30 **Lunch**

Commissioner Jo Anne B. Barnhart

1:30 – 3:00 **Circuit Breakout Sessions**

Presentation/discussion of case law particular to each circuit and tips to avoid remands

Panelists: an ALJ and OGC attorney for each panel

Circuit	ALJ	GC Attorney
1 st and 2 nd Circuits	Peter J. Martinelli	Susan Reiss, Region II
3 rd and 4 th Circuits	Mark G. Barrett	David Chermol, Region IV
5 th and 8 th Circuits	G. Roderic Anderson	Rhonda J. Wheeler, Region VII
6 th and 7 th Circuits	Donald Garrison	Richard Fox, OPL
9 th and 10 th Circuits	Peter J. Valentino	Jeffrey H. Baird, Region X
11 th and DC Circuits	Dale D. Glendening, Jr.	Laura Ridgell-Boltz, Region VII

3:00 – 3:15 **Break**

3:15 – 4:30 **Breakout sessions on the following topics:**

1. Addressing challenges to Vocational Expert testimony

How to anticipate and address Challenges to Vocational Expert Testimony. (e.g., use of the O*NET, DOT, computing job numbers, classifications at variance with DOT, and others)

Panelists: ALJ Mary Kunz and James H. Gold, OPL

2. eDib – Best Practices for the Electronic Folder

A discussion of eDib and electronic folders: Tips and suggestions for efficient use
Panelists: ALJs Nancy Brock and Thomas Snook, Susan Brown

3. Special Topics in Disability Adjudication

An Overview of TWP, EPE, Retirement, self-employment

Panelists: ALJs Cheri L. Fillion and Barry Wesker

Day 3

- 8:00 – 8:50 **Security Update / Tips on Diffusing the Volatile**
Speakers: ALJ Mark A. Brown and Isaiah Zimmerman, Ph.D.
- 8:00 – 8:50 **A Report on Quality Trends**
Speakers: Ray McConchie and Steve Burton
Office of Quality Performance
- 9:00 – 9:45 **Sylvester J. Schieber, Social Security Advisory Board**
- 9:45 – 10:00 **Break**
- 10:00 – 12:15 **Agency Presentations**
Theme: Quality and Integrity Matter(s)
- Topics and Speakers:**
Chief Judge presentation – (30 minutes)
FIT – ALJ David G. Hatfield and Susan Wakshul – (30 minutes)
OGC presentation – Thomas Crawley (30 minutes)
DSI presentation – Regional Chief Administrative Law Judge Nancy J. Griswold (30 minutes)
Remaining time: Questions and Answer session
- 12:15 – 1:30 **Lunch**
- 1:30 – 2:45 **Repeat of Day 2 Breakout Sessions**
- 2:45 – 3:00 **Break**
- 3:00 – 5:00 **Judicial Ethics for Administrative Law Judges**
Speakers: Hon. Richard C. Goodwin, Professor Gregory L. Ogden,
Pepperdine University Law School

Legal Issues Concerning the Association of Administrative Law Judges' Training Conference

The *Government Employees' Training Act* (GETA) provides that the head of an agency may pay all or part of the pay of an employee of the agency for the period of training, and may pay or reimburse the employee for all or part of the necessary expenses of training. GETA provides that the necessary expenses of training includes the necessary costs of travel and per diem, among other things.¹

However, the Federal Service Labor-Management Relations Statute (FSLMRS) makes it an unfair labor practice to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status.²

In 1999, after the Association of Administrative Law Judges (AALJ) unionized, the Agency requested guidance from Office of General Counsel (OGC) as to whether it could provide financial assistance to the union-sponsored training event. OGC advised that under GETA, the Social Security Administration (SSA) may pay for Administrative Law Judge (ALJ) training, since ALJs are agency employees. However, it cautioned that, by providing financial support for a union-sponsored conference or meeting, SSA may commit an unfair labor practice under FSLMRS. It advised that the Agency could provide financial support to those portions of the conference related to Agency mission training, but should not support those related to union business. OGC also noted that while GETA permits SSA to pay for per diem and ALJ travel to attend the conference, it advised against SSA's paying for ALJ travel, as it could encourage ALJs to attend the entire conference and participate in union business activities as well as Agency mission training. Significantly, OGC noted that even if the Agency took steps to ensure it only paid for costs related to Agency mission training, it would be a departure for SSA to provide financial support for a union-sponsored conference.

¹ 5 U.S.C. § 4109(a) (1999).

² 5 U.S.C. § 7116(a)(3).

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: March 28, 2008 **Refer To:** S1J-3

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

From: David V. Foster /s/
Chief of Staff

Subject: Office of the Inspector General (OIG) Draft Report, "Association of Administrative Law Judges' Training Conference Costs" (A-12-08-28037)

We appreciate OIG's efforts in conducting this review. Our response to the report findings and recommendations is attached.

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

Attachment:
SSA Response

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT,
"ASSOCIATION OF ADMINISTRATIVE LAW JUDGES' TRAINING CONFERENCE
COSTS" (A-12-08-28037)

Thank you for the opportunity to review and provide comments on this draft report. We think your review fully addresses the concerns of the Senate Appropriations Committee to review this matter. We are in agreement with your conclusion that the Agency would be better served if it administered its own Administrative Law Judge (ALJ) training. Your audit has identified very serious concerns about the Agency's direct and indirect funding of Association of Administrative Law Judge (AALJ) conference costs over a number of years. Doing so will ensure that Agency costs are controlled and appropriate. It will enhance the Agency's ability to provide training to all ALJs, not just those who have chosen to attend the AALJ conferences in previous years. We want to ensure that all ALJs are aware of and prepared for all of the business process improvement that are part of the backlog elimination initiatives.

Deputy Commissioner Lisa de Soto has spoken with representatives of the International Federation of Professional and Technical Engineers (IFPTE) on several occasions beginning last fall and advised them that we would be unable to make a decision on funding this year's AALJ conference until we received the results of the OIG audit. And on several occasions beginning as early as last year's conference in July 2007, the IFPTE made clear to us that it intended to proceed with this year's conference in Portland, Oregon, regardless of the results of the audit and the Agency's decision on funding. I have also consulted with the Office of the General Counsel and they are in agreement that the Agency taking over training responsibilities is entirely appropriate.

Our response to the specific recommendations is provided below. We are also including a technical comment for your consideration to provide clarification to the text.

Recommendation 1

End our current support for the AALJ training conference and conduct our own in-house training for ALJs.

Comment

We agree. We will conduct our own in-house training for ALJs.

Recommendation 2

Review and revise the current AIMS policies and procedures regarding registration fees for non-government sponsored training and conferences to clearly state unallowable costs to ensure conferences are funded in accordance with Federal appropriation law.

Comment

We agree. We will review the AIMS policies and procedures and revise as appropriate.

Recommendation 3

Adhere to allowable cost principles under AIMS, increase oversight of training costs and reimbursements to ensure the Agency is not paying more than the AALJ's training-related costs, and obtain a final accounting from the AALJ prior to SSA reimbursing attendees for the registration fees.

Comment

We would agree, however, we have decided to host in-house training for ALJs.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Walter Bayer, Director, Chicago Audit Division (312) 353-0331

Nicholas Milaneck, Audit Manager, Falls Church Office (703) 578-8844

Acknowledgments

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For additional copies of this report, please visit our web site at www.socialsecurity.gov/oig or contact the Office of the Inspector General's Public Affairs Specialist at (410) 965-3218. Refer to Common Identification Number A-12-08-28037.

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The Office of the Inspector General (OIG) is comprised of our Office of Investigations (OI), Office of Audit (OA), Office of the Chief Counsel to the Inspector General (OCCIG), and Office of Resource Management (ORM). To ensure compliance with policies and procedures, internal controls, and professional standards, we also have a comprehensive Professional Responsibility and Quality Assurance program.

Office of Audit

OA conducts and/or supervises 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 and program evaluations and projects on issues of concern to SSA, Congress, and the general public.

Office of Investigations

OI conducts and coordinates investigative activity 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 OIG liaison to the Department of Justice on all matters relating to the investigations of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

Office of the Chief Counsel to the Inspector General

OCCIG provides independent legal advice and counsel to the IG on various matters, including statutes, regulations, legislation, and policy directives. OCCIG 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. Finally, OCCIG administers the Civil Monetary Penalty program.

Office of Resource Management

ORM supports OIG by providing information resource management and systems security. ORM also coordinates OIG's budget, procurement, telecommunications, facilities, and human resources. In addition, ORM is the focal point for OIG's strategic planning function and the development and implementation of performance measures required by the Government Performance and Results Act of 1993.