

Request for Proposals – November 2, 2011

SOCIAL SECURITY DISABILITY ADJUDICATION

The Administrative Conference of the United States seeks proposals by potential consultants for a study regarding adjudication in the Social Security Disability programs.

Background. The Social Security Administration (SSA) administers the Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs. Under these programs, the process for determining whether a claimant is disabled has several steps.

State agencies make initial disability determinations using federal guidelines. If benefits are denied, claimants may request reconsideration. If benefits are denied after reconsideration, claimants may request a hearing before a federal Administrative Law Judge (ALJ). Individuals whose claims are denied by an ALJ may appeal to the SSA's Appeals Council, which is the final step in the administrative process. Individuals who disagree with the final administrative decision may pursue appeal through a federal district court, court of appeals, and the Supreme Court.

Although ALJs must follow SSA's regulations, they maintain independence and SSA has limited ability to review their work and address questions of compliance with policy and procedure. SSA strives for consistent and accurate application of regulations and policies at all levels of adjudication, and is concerned about the program costs associated with awarding benefits to claimants who are not disabled, as well as the unequal application of justice for claimants who should be awarded benefits but are not because of improper application of agency policy. The agency is also concerned that the federal courts may be interpreting SSA rules in a manner inconsistent with their intent, resulting in inappropriate remands of cases. Both of these issues pose potential program costs and administrative challenges.

The Administrative Conference of the United States (ACUS or the Conference) is working with SSA to study the SSDI and SSI programs and recommend improvements. The study should provide an independent review that analyzes the role of courts in reviewing SSA disability decisions and should consider measures that SSA could take to reduce the number of cases remanded to it by courts. The study should also address significant observed variances among ALJs in decisional outcomes, length of hearings, and application of agency policies and procedures, and it should analyze the benefits of video hearings in the context of reducing agency burden and improving outcomes.

Project. The Conference seeks proposals for a project that would comprehensively study adjudication in the SSDI and SSI programs and recommend improvements. The study should use empirical methods and should gather and analyze data regarding the programs. The study should particularly address the following issues:



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- The impact of SSA’s treating physician rules on the role of courts in reviewing SSA disability decisions. The study should consider measures that SSA could take to reduce the number of cases remanded to it by courts.
- The role of the SSA Appeals Council in reviewing cases to reduce any observed variances in ALJ’s decisional outcomes, hearing lengths, and application of agency policies. Legal and empirical consideration should be given to the efficacy of an expansion of the Appeals Council’s already existing authority to conduct more focused reviews of ALJ decisions; how the Appeals Council can select cases for review; when review should take place (i.e. pre- or post-effectuation); and the scope and manner of review.
- Additional measures that SSA could take to identify and address issues posed by “outlier” ALJs, in order to reduce the observed variances, and to reduce other irregularities and improve quality in ALJ decisions.
- The role that video hearings might play in reducing the observed variances, as well as what measures SSA could take to incentivize claimants to use video hearings in a way that would reduce agency costs.
- Additional questions that may arise in the course of this study, as resources and time allow, and if agreed upon by SSA, ACUS, and the consultant.

Instructions appear below for how to submit a proposal to be the principal researcher on this Conference project. The Conference anticipates that the principal researcher would likely be a legal expert, although others are also invited to apply. The Conference anticipates separately engaging an additional researcher with social science expertise to work together with the principal researcher on this project. The Conference will facilitate access to relevant SSA data and any necessary security clearances.

How to submit a proposal

Proposals are invited from those who would like to serve as a consultant on this project. All responsible sources may respond to this invitation, and the responses will be considered by the Conference staff.

The product of the consultant’s study for this project will be a report that will be reviewed by the Chairman and the Conference staff, finalized by the researcher in response to comments by the Chairman and the Conference staff, and delivered to SSA as a report from the Office of the Chairman. The report should provide proposed recommendations.

The report will also be delivered to a committee of the Conference membership. The consultant will then work with Conference staff and the committee as the committee debates and further shapes the recommendations. If approved by the committee, the recommendation will then be forwarded to the Council of the Conference and ultimately to the full Conference membership meeting in plenary session. If approved at the plenary session, the recommendation



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will become an official recommendation of the Administrative Conference. (For a general understanding of how the Conference is organized, see 5 U.S.C. §§ 591-596.)

The Conference will provide a consulting fee of \$15,000 for the study plus a budget for expenses. The Conference also typically encourages its consultants to write up the results of their studies for publication. Thus, working as a Conference consultant provides some compensation, a publication opportunity, and the opportunity to work with Conference members from federal agencies, academia, the private sector, and public interest organizations to help shape and improve administrative law.

To submit a proposal to serve as the ACUS consultant on this project, you must:

- Send an e-mail to Jonathan R. Siegel, ACUS Director of Research and Policy, at jsiegel@acus.gov. Proposals must be submitted by e-mail.
- Include the phrase “ACUS Project Proposal” in the subject line of your e-mail.
- In the body of your e-mail or in an attachment:
 - State the name of the project for which you are submitting a proposal (the name is indicated in bold at the top of this request for proposals).
 - Explain why you would be a good person to work on the project.
 - Explain how you would conduct the proposed project—what research you would do, how you would do the research, and how you would develop recommendations based on the research. There is no required format and 10 pages or less should be sufficient.
 - Include your CV, which should contain contact information
 - Include professional references whom the Conference staff can call.
 - State how much you would need for expenses. In light of the extensive empirical data gathering and analysis that will be necessary for this project, consultants may propose a research assistance and travel expense budget of any amount less than \$10,000. The amount of the expenses is not a critical factor in the award of the contract; the quality of the proposal and of the consultant is more important.
 - Propose a schedule for the project. The schedule should call for delivery of an outline, a draft report, and a final report. The outline should include a plan for the research upon which the report will be based, including an analysis of the data sources to be used, with discussion of the utility and limitations of the data. The schedule should target the submission of the draft report for no later than August 1, 2012. The final report should be targeted for no later than November 15, 2012.



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- Submit your proposal by 6:00 pm Eastern time on November 17, 2011. Proposals may also be submitted or amended at any time until the award of the contract, and the Conference may consider any proposals or amended proposals received at any time before the award of the contract, but only proposals submitted by the stated deadline are guaranteed to receive consideration.

Proposals will be evaluated based on:

- The qualifications and quality of the researcher(s)
- The quality of the proposal
- The timeline of the proposal
- The likelihood that the research will lead to an Administrative Conference recommendation that will improve government
- The cost of the proposal (although the other factors are more important)

Failure to follow the above instructions may result in your proposal not being considered. Including the exact phrase “ACUS Project Proposal” in the subject line of your e-mail is important so that your proposal can be easily located.

Those submitting proposals should understand that an ACUS project will require many hours of work on the part of the consultant. In addition to the work involved in researching and writing the consultant’s report, the consultant will need to work with ACUS staff and ACUS committees as the Conference considers a recommendation based on the report. The consulting fee is not designed to match the consultant’s normal consulting rates. It is a significant public service to serve as an ACUS consultant.