

VA Office of Inspector General

OFFICE OF AUDITS AND EVALUATIONS



# Veterans Benefits Administration

*Review of  
Alleged Inappropriate  
Prioritization of Appeals at  
VA Regional Office  
Roanoke, Virginia*

April 19, 2016  
15-02384-212

# ACRONYMS

BVA	Board of Veterans Appeals
FY	Fiscal Year
NOD	Notice of Disagreement
OIG	Office of Inspector General
SOC	Statement of the Case
VA	Department of Veterans Affairs
VARO	Veterans Affairs Regional Office
VACOLS	Veterans Appeals Control and Locator System
VBA	Veterans Benefits Administration

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# Highlights: Review of VBA's Alleged Inappropriate Prioritization of Appeals at VARO Roanoke, VA

## Why We Did This Review

The Office of Inspector General (OIG) received an anonymous allegation that staff at the Roanoke VA Regional Office (VARO) were prioritizing the processing of newer appeals before older appeals, resulting in thousands of incomplete appeals dating back from 2010 to 2013.

## What We Found

We substantiated the allegation that Roanoke VARO appeals staff focused on completing newer appeals instead of processing older appeals. As of June 4, 2015, Roanoke VARO had 12,890 appeals pending at various stages of the appeals process, of which 3,350 dated back from October 2008 through FY 2013.

We interviewed 14 of Roanoke's 23 appeals staff and 13 of them stated they primarily focused their FY 2014 efforts on working the newer appeals with fewer issues. Another indicator that Roanoke VARO appeals staff focused on completing newer appeals was the number of completed appeals that were less than a year old.

At the Roanoke VARO, the number of appeals completed in less than a year increased by 16 percent, from 66 percent in FY 2013 to 82 percent of the appeals completed in FY 2014. This compared to an increase of 1 percent at the Atlanta VARO, 2 percent at the St. Petersburg VARO, and 4 percent at the Winston-Salem VARO.

This occurred because Roanoke VARO leadership did not follow workload management plans, which required that

appeals staff prioritize their work based on the appeals with the longest days pending. Instead, as directed by the Southern Area Office Director to reduce appeals inventory, the Roanoke VARO's management implemented a Notice of Disagreement reduction plan that focused on processing less complex, newly initiated appeals.

## What We Recommended

We recommended that the Roanoke VARO Director ensure that leadership and appeals staff follow the workload management plan to prioritize work based on the appeals pending the longest.

## Management Comments

The Roanoke VARO Director concurred with our finding and recommendation. Based on actions already implemented, we considered the recommendation closed.

A handwritten signature in blue ink that reads "Gary K. Abe".

**GARY K. ABE**  
Acting Assistant Inspector General  
for Audits and Evaluations

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## RESULTS AND RECOMMENDATIONS

### **Allegation**      **Roanoke VA Regional Office Staff Prioritized Processing Newer Appeals Before Older Appeals**

**Assessment**      We substantiated the allegation that Roanoke VA Regional Office (VARO) staff prioritized the processing of newer appeals. As a result, veterans with older appeals waited longer to have their appeals processed.

**What We Did**      We evaluated allegations that staff at the Roanoke VARO were prioritizing the processing of newer appeals before older appeals, resulting in thousands of incomplete appeals dating back from 2010 to 2013. To do this, we reviewed the Roanoke VARO's appeals policies and procedures, workload management plans, and systematic analysis of operations for appeals. We reviewed completed and pending appeals data from the Veterans Appeals Control and Locator System (VACOLS). We interviewed Roanoke VARO leadership and 14 of the 23 appeals staff, which included the appeals coach. We also interviewed the Southern Area Director<sup>1</sup> and VBA's Office of Field Operations staff.

**What We Found**      VARO leadership prioritized the processing of newer appeals with fewer issues before older appeals workload. This occurred because VARO leadership did not follow approved workload management plans that directed the appeals staff to focus on the oldest appeals. Also, on October 25, 2013, the Southern Area Director sent an email to the Southern Area VAROs directing the implementation of a goal to reduce each VARO's overall appeals inventory by 50 percent by the end of FY 2014. The VARO's reduction plan prioritized the processing of appeals based on the Notice of Disagreements (NOD) with the least number of issues, instead of the approved workload management plan to work the oldest appeals first.

As a result, the delay in getting veterans a response to their appeal continued to increase for those who had been waiting the longest. As of June 4, 2015, the average age for the 3,350 appeals pending from October 2008 through FY 2013 was 1,051 days or nearly 3 years.

**Newer Appeals Were Prioritized Over Older Appeals**      Of the 14 appeals staff we interviewed, 13 told us that, during FY 2014, the appeals staff's priority was to process newer appeals with fewer issues because staff could complete those appeals more quickly. The only exception arose if Congress or VA Central Office requested them to process an older appeal or a priority appeal, such as for a homeless or terminally ill veteran. As of June 4, 2015, Roanoke VARO had 12,890 appeals pending.

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<sup>1</sup> As of July 1, 2015, VBA placed the Roanoke VARO under the North Atlantic District Office's jurisdiction.

The appeals were pending in one of three stages:

- NOD stage – The veteran had submitted his/her NOD and was awaiting VARO staff to take action by either granting full benefits or providing a statement of the case (SOC) explaining why they did not grant the benefits.
- SOC stage – The VARO staff did not initially grant full benefits but issued an SOC, which provides the veteran a complete understanding of the decision and assists in the preparation of a substantive appeal. This stage included the time needed by the VARO to review any new information to determine whether to grant any benefits on appeal.
- Form 9 stage – The veteran disagreed with the VARO's decision and decided to submit a Form 9 certifying the appeal to the Board of Veterans Appeals (BVA). VARO staff needed to prepare the appeal for certification to BVA.

Of the 12,890 appeals pending, 3,350 dated back to the October 2008 through FY 2013 time frame. These 3,350 pending appeals had not been completed or advanced to the next appeal stage. The average age for the 3,350 pending was 1,051 days or nearly 3 years. The Table summarizes the 3,350 pending appeals inventory per stage and fiscal year.

**Table. Number by Stage of Pending Appeals  
From October 2008 through FY 2013 (as of June 4, 2015)**

<b>FY</b>	<b>Notice of Disagreement Received – Awaiting Decision or Statement of the Case</b>	<b>Statement of the Case Completed</b>	<b>Form 9 Received From Veteran – Awaiting Certification to Board of Veterans Appeals</b>	<b>FY Total</b>
2009	0	0	2	2
2010	1	15	354	370
2011	4	20	381	405
2012	104	31	612	747
2013	1,324	50	452	1,826
<b>Totals</b>	<b>1,433</b>	<b>116</b>	<b>1801</b>	<b>3,350</b>

*Source: OIG analysis of VACOLS data*

We reviewed information recorded in VACOLS to determine what actions have occurred for 55 of these older pending appeals. We determined that appeals staff logged little to no activity through June 4, 2015, for all 55 of these sample appeals in the various NOD, SOC, and Form 9 stages.

Further explanation regarding the delays for 2 of the 55 sample appeals reviewed is provided in these two examples.

*Example 1*

*A veteran filed an NOD on June 30, 2010. Notes in VACOLS indicated VARO staff had all the information they needed on November 24, 2012, to decide on the appeal. However, staff did not prepare and send the SOC to the veteran until July 15, 2015, which was 5 years after the Roanoke VARO received the NOD. There were no other actions or notes to explain the significant delay.*

*Example 2*

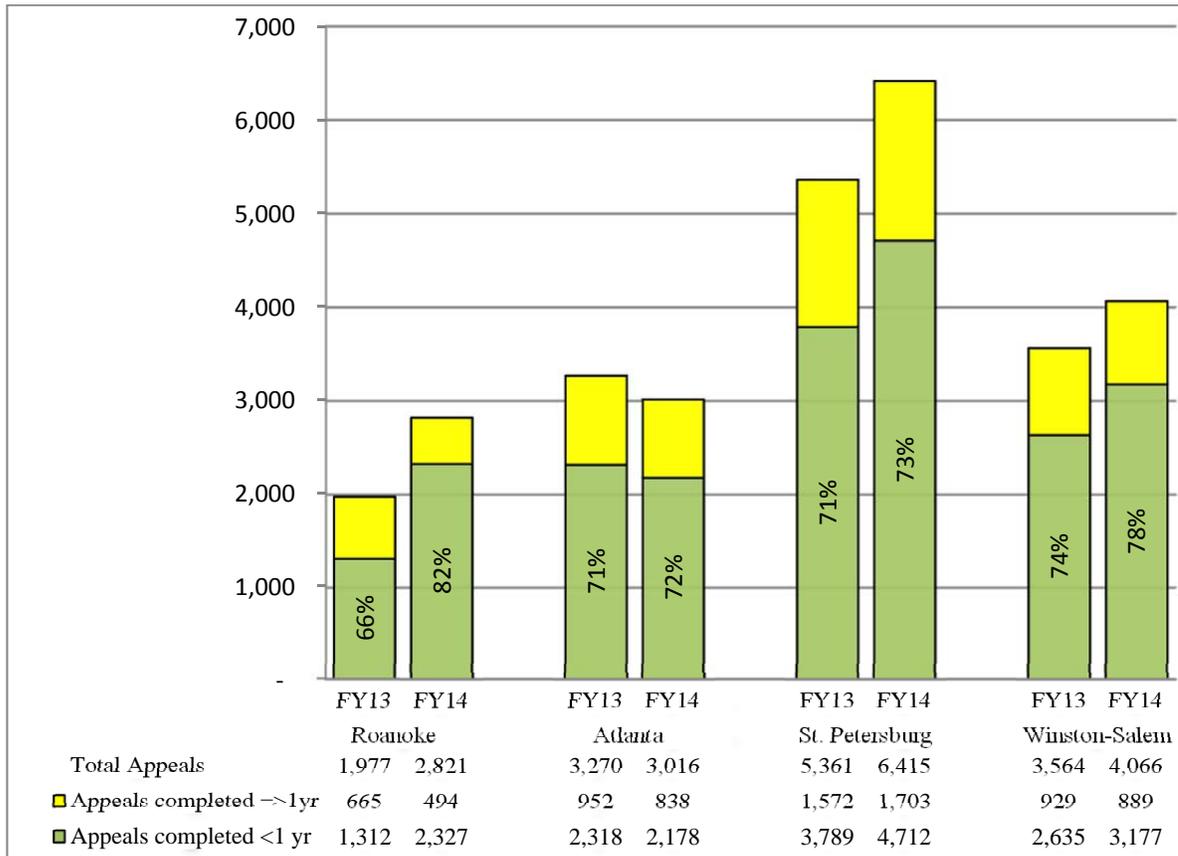
*A veteran filed an NOD on January 29, 2010. On March 24, 2010, appeals staff scheduled a hearing for September 9, 2010. Following the hearing, on October 12, 2010, appeals staff sent the veteran an SOC denying the appeal on his claim. The veteran submitted a Form 9 to the VARO on December 13, 2010, requesting that staff forward his appeal to BVA for additional review. As of June 4, 2015, appeals staff had not taken any other action on this veteran's appeal.*

The lack of priority placed on older appeals caused already significant delays to worsen for the thousands of veterans who had been waiting the longest for a decision on their appeal.

*Completing  
Newer Appeals*

We reviewed VACOLS information for appeals completed in FYs 2013 and 2014 for the Roanoke, Atlanta, St. Petersburg, and Winston-Salem VAROs. According to VACOLS data, the appeals completed at Roanoke that were less than a year old increased by 16 percent from 66 percent in FY 2013 to 82 percent of the appeals completed in FY 2014. This compared to an increase of 1 percent at the Atlanta VARO, 2 percent at the St. Petersburg VARO, and 4 percent at the Winston-Salem VARO during the same period and as displayed in the following chart.

**Chart. Percentages of Completed Appeals Less Than a Year Old for FY 2013 and FY 2014 at Four VAROs**



Source: OIG analysis of completed appeals from VACOLS

Note: Appeals information came from the VA Regional Offices in Roanoke, VA; Atlanta, GA; St. Petersburg, FL; and Winston-Salem, NC.

The percentages highlight the changes in the appeals completed that were less than a year old during FY 2013 and FY 2014. All but 1 of the 14 Roanoke appeals staff we interviewed told us that rather than working the NODs in the order the VARO received them, leadership prioritized appeals workload based on the newer, easier appeals. This significant shift in workload priorities occurred because the Southern Area Director ordered the implementation of an NOD reduction plan for all Southern Area Regional Offices. He intended to reduce the NOD inventories by working new appeals so the workload was not just getting older. The Southern Area Director stated that if all you work is the old appeals then all you have is old appeals.

**VARO  
Workload  
Management  
Plans Were  
Ignored**

VARO leadership did not follow approved workload management plans that stated the appeal staff's focus should be on the oldest appeals. Workload management plans outline the VARO's targets and goals, as well as how staff will process their workload to achieve those goals. The Roanoke VARO's April 2012 workload management plan showed that the appeals

coach would prioritize workload for staff assignments based on the week's 25 oldest NODs and Form 9s, 10 oldest BVA remands, and all remands that the court sent back to the VARO with instructions to take certain actions to help decide the appeal. In March 2014, VARO leadership approved a new workload management plan that stated that appeals staff should prioritize their work based on the appeals with the longest days pending unless they identified an appeal as a priority case.

However, on February 4, 2014, in response to the Southern Area Director's tasking to reduce appeals inventory, VARO leadership implemented an NOD reduction plan. Roanoke VARO staff followed this plan throughout FY 2014 that prioritized appeals based on the NODs with the least number of issues instead of the approved workload management plans that emphasized working the oldest appeals first. Other Southern Area VAROs designed inventory reduction plans that balanced the processing of both newer and older appeals. For example, the Atlanta VARO's inventory reduction plan stated they would identify traditional NODs quickly to result in the issuance of an SOC and decision review officers will be responsible for balancing the processing of old and new NODs. Whereas, Winston Salem VARO's inventory reduction plan stated they would target NODs older than 300 days and paperless NODs regardless of age.

While the Southern Area Director believed the appeals inventory reduction plan was a success at some of the Southern Area's VAROs, he stated that he only planned the initiative through the end of FY 2014. The Roanoke VARO Director needs to ensure that leadership and appeals staff follow the workload management plan to prioritize work based on the appeals pending the longest.

### **Conclusion**

We substantiated the allegation that Roanoke VARO appeals staff focused on completing newer appeals instead of processing older appeals. As of June 4, 2015, Roanoke VARO had 12,890 appeals pending at various stages of the appeals process. Among those pending appeals, 3,350 dated back from October 2008 through FY 2013. VARO leadership ignored workload management plans and implemented an NOD reduction plan, which focused their efforts on newer appeals with a lesser number of issues in FY 2014. As a result, the 3,350 veterans with appeals pending since before FY 2014 had been waiting an average of almost 3 years for their appeal decision.

### **Recommendation**

1. We recommended that the Roanoke VA Regional Office Director ensure that leadership and appeals staff follow the workload management plan to prioritize work based on the appeals pending the longest.

### **Management Comments**

The Roanoke VARO Director concurred with our finding and recommendation. They acknowledged the VARO had ensured that the

leadership and appeals staff were following the workload management plan to prioritize work based on the appeals pending the longest. They also implemented a Standard Operating Procedure on August 20, 2015. This provided guidance for individual and team workload to process appeals that have been pending the longest. The VARO has also added 11 personnel to focus on processing the oldest appeals workload.

**OIG  
Response**

The Director's planned corrective actions were acceptable. Based on corrective actions already implemented, we considered the recommendation closed. The full text of the Roanoke VARO Director's comments is provided in Appendix B.

## Appendix A Scope and Methodology

<b>Scope</b>	We conducted our review from February 2015 through February 2016. Our focus was on Roanoke VARO's appeals management processes for FY 2014 and FY 2015, appeals workload completed in FY 2014 and pending appeals as of June 4, 2015.
<b>Methodology</b>	<p>To conduct our review, we examined the Roanoke VARO's appeals policies and procedures. We assessed the 2012 and FY 2014 workload management plans, the FY 2014 NOD reduction plan, and the Systematic Analysis of Operations for appeals completed 2012 – 2014. We interviewed Roanoke VARO leadership, appeals management and staff, Southern Area Director and staff, and VBA's Office of Field Operations staff.</p> <p>We obtained and analyzed the pending appeals workload from VACOLS for the Roanoke VARO as of June 4, 2015, to identify an appeal's current stage and the date it was last advanced in the appeal process. We reviewed a judgmental sample of 55 of the oldest pending appeals from FY 2009 through FY 2013 to determine the reasons for the delays.</p> <p>We obtained and analyzed completed appeals data from four Southern Area Offices: Roanoke VA; Atlanta, GA; St. Petersburg, FL; and Winston Salem, NC, to identify changes in their inventory production due to the NOD reduction plan implemented in FY 2014. To evaluate the changes in inventory production, we calculated the amount of time from the last appeal action to the decision. Specifically, we calculated the time from the last SOC, or NOD if staff decided the appeal without a SOC, which can occur for reasons such as when staff fully grant benefits; the veteran withdraws his or her appeal; or dies before staff made a decision.</p>
<b>Data Reliability</b>	We reviewed appeals data received from VACOLS to evaluate completed and pending appeals from FY 2009 to FY 2015 (as of June 4, 2015). We assessed the reliability of these data for the various appeal and decision dates. We concluded that the VACOLS data used were sufficiently reliable for the purpose of our review.
<b>Government Standards</b>	We conducted this review in accordance with the <i>Quality Standards for Inspection and Evaluation</i> published by the Council of Inspectors General on Integrity and Efficiency.

## Appendix B Management Comments

### Department of Veterans Affairs

### Memorandum

**Date:** March 18, 2016  
**From:** Director, Roanoke Regional Office (314)  
**To:** Director, Kansas City, Audit Operations Division (52)  
**Subj:** Inspection of the VA Regional Office, Roanoke, Virginia

1. The Roanoke VA Regional Office's comments are attached regarding the OIG Draft Report; Inspection of the VA Regional Office, Roanoke Virginia
2. If you have any questions or concerns regarding this response, please contact me at 540.597.1120, or Dave Svirsky, Veterans Service Center Manager, at 540.597.1150.

*(original signed by:)*

KEITH M. WILSON

Attachment

**Veterans Benefits Administration (VBA)  
Comments on Office of Inspector General (OIG) Draft Report Inspection of  
the VA Regional Office, Roanoke Virginia**

**The following general comments are submitted in response to the OIG draft report:**

The Southeast District always strives to improve service delivery and customer service to our nation's Veterans. It is important to note that there is an important distinction between RO processing of Appeals and the way that the Board of Veterans Appeals (BVA) is required to work appeals in docket order.

In Fiscal Year (FY) 2014, the Southeast District challenged its Regional Offices (ROs) to improve the timeliness of their Appeals output for the Veterans served in the District. The District Office provided best practices from ROs that had been successful in improving their timeliness in Appeals. While Roanoke did process newer appeals, it also balanced this with processing older appeals. As shown in the data on page 4 of the OIG draft report, the Roanoke RO only processed 171 fewer appeals that were over 1 year old in FY14 (when under the Appeals NOD reduction plan) than they did the prior year (FY13). In total, the Roanoke RO served 844 more Veterans in FY14 than they did in FY13.

The Southeast District appeals reduction plan was a short term plan to continue a focus on appeals during the year of reducing the rating backlog.

**The following comments are submitted in response to the recommendation in the OIG draft report:**

**OIG Recommendation 1:** We recommended that the Roanoke VA Regional Office Director ensure that leadership and appeals staff follow the workload management plan to prioritize work based on the appeals pending the longest.

**Roanoke RO Response:** Concur. The VA Roanoke Regional Office has ensured that the leadership and appeals staff are following the workload management plan to prioritize work based on the appeals pending the longest.

Subsequent to OIG's inspection, on August 20, 2015, the Roanoke VA Regional Office implemented a Standard Operating Procedure (SOP) for processing workload on the appeals team. The SOP provides guidance for individual and team workload processing appeals that have been pending the longest. A copy of the SOP is being provided for your reference (attached\*).

In addition, since the OIG's inspection the Roanoke VA Regional Office has added an additional 11 personnel to process the appeals workload. Those additional resources are focused on working the oldest appeals in the various stages focusing on the FY16 Appeals goals in the Director's Performance Plan. We request closure of this recommendation based on the evidence provided.

*\*OIG Note: The attachment referred to here was not included in this report and may be obtained by contacting the OIG Information Officer.*

## **Appendix C      **OIG Contact and Staff Acknowledgments****

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OIG Contact	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
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Acknowledgments	Larry Reinkemeyer, Director C. Russell Lewis Ken Myers
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