

# **I-5-1-16 A. Participating in Administrative Law Judge Hearings By Using Privately Owned Video Teleconferencing (VTC) Equipment -- Pilot Program Protocol**

## **I. Purpose**

This supplement describes procedures to be followed in a pilot program in which the Social Security Administration (SSA) will offer claimant's representatives the opportunity to use privately owned VTC equipment to participate in hearings conducted by Administrative Law Judges (ALJs) of the Office of Hearings and Appeals (OHA). The purpose of the pilot program is to set out guidelines for the use of privately owned VTC equipment and to assess how such equipment can best be used with SSA's VTC network to provide efficient, cost effective, alternative ways for conducting video hearings and improving our service to the public. Representatives were provided notice of this pilot program and information about equipment requirements, rules of participation and how private video sites will be certified for participation by publication of a notice in the Federal Register (XXXXXXX)

The pilot program will be conducted in two phases with each lasting six months and subsequently followed by a 30 day evaluation period. The initial phase (1) will have up to 10 participants and the expansion phase (2) up to 30 participants. After the conclusion of the second phase of the pilot, a decision will be made regarding establishment of a permanent program. Certified private sites may continue to operate during any interim periods.

## **II. Authority**

ALJs will conduct video hearings in this pilot program under, and in accordance with, the provisions of 20 CFR §§ 404.936(c) and 416.1436(c), which provide that--

The administrative law judge will direct that the appearance of an individual be conducted by video teleconferencing if video teleconferencing technology is available to conduct the appearance, use of video teleconferencing to conduct the appearance would be more efficient than conducting the appearance in person, and the administrative law judge does not determine that there is a circumstance in the particular case preventing use of video teleconferencing to conduct the appearance.

In 2003, when SSA published regulations authorizing ALJs to conduct hearings using VTC technology, we noted that calling into SSA's VTC network from private facilities, such as facilities owned by a law firm, could be possible in the future. We also noted that, regardless of the type of facility used, we would make certain that--

- the individual has the same access to the hearing record when appearing by VTC as he or she would have if appearing in person before the ALJ;
- there is a means of transmitting and receiving additional evidence between all locations and all participants;
- an assistant is present at the VTC site to operate the equipment and provide other help, as required; and
- the audio/video transmission uses secure data lines and the individual's privacy is protected. (68, FR 5210, 5215, February 3, 2003; 68 FR 69003, 69005-69006, December 11, 2003.)

Those standards will apply in this pilot program. Representatives must agree to abide by the rules governing participation in the pilot program as published in the Federal Register (XXXXXX).

### **III. Site Certification**

Procedures for selection and certification of private VTC sites were provided in the Federal Register Notice. When a representative indicates that they are interested in having a private VTC site certified for participation in the pilot program, a member of the video workgroup will contact the representative to obtain site information. If the site is selected by the workgroup to participate, the representative will have a period of time within which to purchase equipment and arrange for a test of site connectivity. When the site is operational, the chief Administrative Law Judge's office will assign the site a CPMS site code (as a video-equipped permanent remote site) and certify it for participation in the pilot. This site code will consist of the letter "V" followed by a sequential 3 digit number between 001 and 999. The participating representative will be instructed to use this site code in all future communications with the hearing office when requesting or scheduling hearings.

Participating representatives are responsible for the maintenance and troubleshooting of their own equipment. Any ongoing technical difficulties determined to be caused by the equipment or connectivity at the private site may result in the site losing its certification.

## IV. Instructions for Scheduling Off-SSA-NET Video Calls

Private video sites certified for participation in the pilot program will be outside of the SSA communications network. To dial outside the network, the call must pass through a video gateway and on to the public communications network. To ensure that the call is properly routed and that technical support is available, certain site related information must be provided to the video help desk when the hearing is scheduled. During the certification process, we will assign each private video site a CPMS site code to assist in site identification and notice generation at the hearing office. The Office of Telecommunications and Systems Operations (OTSO) will also associate site information with that code to assist in call routing and troubleshooting. OTSO will also add certified private video sites to the video address book as unique menu selections. For purposes of collecting management information, we will also assign a case characteristic code to each case that will identify it as a pilot case in CPMS.

- It is the responsibility of the participating representative whose site has been certified for participation in the pilot program to inform the HO that he/she wishes to schedule a hearing using private VTC equipment. The representative may make this request by adding a comment in the comment block of the existing Request for Hearing (Form HA-501-U2) or by informing the scheduler when the scheduler contacts the representative about scheduling the hearing. The representative must provide the appropriate CPMS site code(s) for the certified private site(s) and indicate whether the call will be point- to- point (hearing office to representative office) or if there is a need to involve participants in additional locations (multi-point) within the SSA-NET or at off SSA-NET sites.
- Upon notification by the participating representative, the case intake specialist or scheduler will annotate the case folder “Representative Video Pilot” and enter the case characteristic code RPV1 (for phase one pilot site cases) or RPV2 (for phase two pilot site cases) into CPMS as well as entering the comment “point- to- point video” or “multipoint video” plus the CPMS site code for the private video site into the CPMS comment field.
- The scheduler must verify all participant locations by address and CPMS code as well as the time zones involved. All participant locations should be shown in CPMS as video equipped unless the participant is a witness, translator or other participant who will be calling into the proceeding using an analog telephone line.
- For **all** off-net calls involving private video sites (that is, all hearings involving pilot cases) the scheduler must provide the information shown below to the Office of Telecommunications and Systems Operations (OTSO). The scheduler may provide the information to OTSO by calling the help desk at 410-966-9300 or by e-mail to ^ Video Reservations. This information may be provided on a case by case (flow) basis or by means of a daily or weekly report.
  - The time, date and duration of call;
  - Whether the call is point-to point or multi-point. (Point to point calls can be direct dialed. Multi-point calls will require OTSO to schedule a video bridge);

- HO name;
- If the HO has more than one piece of video equipment, the 7 digit dial-up number (shown in the video address book) for the piece of equipment being scheduled.
- Name and phone number of the HO video contact);
- The CPMS codes and names of the certified site(s) that will be involved.
- The scheduler will verify that the notice of hearing is correctly generated and that all participants receive the correct reporting address and time (accounting for time zone) for the hearing.

## **V. The Hearing and Claimant Protections**

This pilot has no impact on the method in which hearings are conducted. Certified private video sites will be shown on the video address book and can be direct dialed for point to point connections in the same manner as an OHA remote site. Multi-point calls must be scheduled through the video help desk.

The basic claimant protections and certifications set forth in the Federal Register notice will apply in each individual hearing. The participating representative should certify in writing or on the record as a part of their opening statement that they are compliant with these requirements. A sample opening statement is provided at Attachment 1.

## **VI. Termination**

Procedures for termination of a pilot participant or site certification are set out in the Federal Register notice. Termination may be triggered by failure to comply with rules, instructions protocols or requirements regarding equipment, site, privacy or claimant protections set out in the Federal Register. The ALJ should provide the representative a reasonable opportunity to achieve compliance before referring the matter to the hearing office director or hearing office chief judge for possible termination. The local hearing office director or hearing office chief judge initiates the termination procedure which may be appealed to the regional chief judge. The regional chief judge's determination is final and not subject to further review.

## **VII. Evaluation**

Pilot program results will be evaluated by means of standard management information (using the case characteristic code), participant reports and contacts. The use of a case characteristic code will provide the ability to access all types of management information regarding this subset of cases. Participating representatives will be asked to respond to periodic oral or written inquiries concerning the pilot. Information collected will include some or all of the following:

- Participating representative and claimant satisfaction with the program
- ALJ satisfaction with the program
- Quality of reception and transmission
- Improvements in claimant service

- Cost savings to the agency and claimants
- Compliance with protocols
- Changes to business process, scheduling, providing contact names etc.
- Problems and resolution both technical and business
- Impact on the data network
- Ability to provide confidentiality

## **VIII. Inquiries**

Hearing Office personnel should direct any questions to their Regional Office. Regional Office personnel should contact the Special Projects Officer in the Office of the Chief Administrative Law Judge at (703) 605-8537. Headquarters personnel should contact the Office of Policy, Planning and Evaluation at (703) 605-8260.

## **IX. Attachment**

Attachment 1 – On-the-record, Opening Statement of Representative

## Attachment 1

### On-the-Record, Opening Statement of Representative

At the beginning of each pilot program hearing the participating representative will provide either a signed statement by FAX to be made part of the record or an oral opening statement on-the-record, that will --

- Provide the names of all persons present at the private VTC site and certify on the record that the only persons present will be those whose presence is necessary and proper to the proceeding (or they are observers as noted below).
- If any observers are present, other than the hearing participants, certify that their presence was agreed to in advance by the claimant and the ALJ.
- If any private audio recordings are being made, certify that you have obtained the advance approval of the ALJ and that you understand that private audio recordings are not the official record.
- Certify that no video recordings are being made of the proceeding.
- Certify that you are in compliance with all of the rules stated in Part V of this Temporary Instruction -- Rules For Participation
- Certify that you are responsible for, and capable of, providing the claimant with any technological assistance necessary for the claimant to testify at the proceeding.
- Certify that your private video site has been certified for participation in the pilot program.
- Certify that your equipment is operating properly.
- Certify on the record that the claimant has had an opportunity to review the evidence in his or her claims folder prior to the hearing.

If the participating representative does not provide or certify to the information above and cannot bring the private VTC site into compliance immediately, then the ALJ will adjourn the hearing and determine whether to give the representative time to become compliant or reschedule the hearing through an SSA VTC site or as an in person hearing.