

# Semiannual Report to Congress

Office of Inspector General  
U.S. Department of Labor



## A Message from the Inspector General

I am pleased to submit this Semiannual Report to the Congress, which highlights the most significant activities and accomplishments of the Department of Labor (DOL), Office of Inspector General (OIG), for the six-month period ending September 30, 2008. During this reporting period, our investigative work led to 292 indictments, 348 convictions, and \$36.6 million in monetary accomplishments. In addition, we issued 90 audits and other reports and questioned \$4.3 million in costs.

OIG audits, evaluations, and investigations continue to assess the effectiveness, efficiency, economy, and integrity of all DOL programs and operations, including those performed by its contractors and grantees. As a result of our work, we identified and testified on weaknesses in how the Department managed its grants under the High Growth Job Training Initiative. The OIG found that: grantees failed to achieve major performance goals; it was impossible to determine success because goals were so unclear; grantees did not provide required matching funds; and DOL disseminated unproven training and employment strategies.

We also focused attention on the integrity of the Foreign Labor Certification programs. OIG's audit of the Permanent Labor Certification system found that the Department's change in the process established to prevent approval of fraudulent applications limited the effectiveness of the fraud detection system and increased the risk that applicants may game the system. OIG investigations continued to reveal that the DOL's Foreign Labor Certification process continues to be compromised by unscrupulous attorneys, labor brokers, employers, and others. In one case, a company was sentenced for falsifying labor certifications in order to obtain employment-based visas for foreign nationals by charging them \$30,000-50,000 per application. We will continue to work with the Department to safeguard the integrity of the FLC programs.

In addition, our work revealed a number of shortcomings in Departmental management including information technology security deficiencies, ineffective controls over Federal records, and procurement actions that did not comply with Federal requirements.

In response to previous audit findings, the Department took steps during this reporting period to address serious deficiencies we identified with respect to MSHA's approval process for roof control plans, its statutory requirement to inspect all underground coal mines, its internal peer review process, and its process for determining whether fatalities are mining-related. In addition, during this reporting period, the Department, working with the National Finance Center, has corrected inaccuracies in employees' TSP accounts that we previously reported.

Our labor racketeering investigations yielded extraordinary results. For example, between July and September 2008, 60 of the 62 previously indicted Gambino members and associates pled guilty, and 36 have been sentenced. The defendants had been charged with racketeering conspiracy, embezzlement of union funds, and murder conspiracy. This investigation exposed the Gambino organized crime family's strong grip over one of the largest construction markets in the United States.

In addition, our three-year investigation of how the Colombo and Genovese Organized Crime Families influenced union representatives of the International Union of Operating Engineers-Local 14 culminated in the approval of a consent degree in July 2008. It provides for the appointment of union corruption officers to monitor Local 14's activities and permanently enjoins the Local from engaging in corrupt activity.

I would like to express my appreciation to the OIG staff for working diligently to identify program weaknesses and to prevent fraud, waste, and abuse. We look forward to continuing to work with the Department to this end.



Gordon S. Heddell  
Inspector General

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## Selected Statistics

Investigative recoveries, cost-efficiencies, restitutions, fines and penalties, forfeitures, and civil monetary action .....	\$36.6 million
Investigative cases opened .....	166
Investigative cases closed.....	257
Investigative cases referred for prosecution.....	143
Investigative cases referred for administrative/civil action.....	106
Indictments .....	292
Convictions .....	348
Debarments .....	20
Audit and other reports issued.....	90
Total questioned costs .....	\$4.3 million
Outstanding questioned costs resolved during this period .....	\$146.3 million
Allowed <sup>1</sup> .....	\$79.8 million
Disallowed <sup>2</sup> .....	\$66.5 million

1 Allowed means a questioned cost that the DOL has not sustained.

2 Disallowed means a questioned cost that the DOL has sustained or has agreed should not be charged to the government.

# Significant Concerns

*As part of our effort to focus attention on mission-critical management problems and their resolution, the OIG has identified the Department's top management challenges listed below. Detailed information on each of the top management challenges is found on page 50.*

## Department's Top Management Challenges

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- Protecting the Safety and Health of Workers
  - Improving Performance Accountability of Grants
  - Ensuring the Effectiveness of the Job Corps Program
  - Safeguarding Unemployment Insurance
  - Improving the Federal Employees' Compensation Act Program
  - Improving Procurement Integrity
  - Maintaining the Integrity of Foreign Labor Certification Programs
  - Securing Information Technology Systems and Protecting Related Information Assets
  - Ensuring the Security of Employee Benefit Plan Assets
  - Preserving Departmental Records
- 

The OIG has identified the following significant concerns related to the top management challenges—areas that are particularly vulnerable to mismanagement, fraud, waste, or abuse.

## Protecting the Health and Safety of Workers

**T**he OIG has consistently revealed a pattern of weak oversight, inadequate policies, and a lack of accountability on the part of the Mine Safety and Health Administration (MSHA) that has been exacerbated by years of resource shortages. Although Congress has allocated additional funding, it will take several years for the Department to be fully functional with these increased resources. Insufficient resources during a period of increasing mining activity made it difficult for the Department to ensure that it had enough resources in the right places to ensure the safety of miners. Our recent audits have documented the need for MSHA to improve its operating procedures and management oversight in a number of areas including roof control plans, mandatory inspections, internal peer reviews, and fatality investigations and determinations. Further, MSHA management must continue to implement our recommendations and monitor performance to ensure that its employees are following newly established procedures and documenting their activities.



## Improving Performance Accountability of Grants

**D**OL continues to face challenges in ensuring that discretionary grants are properly awarded and that the Department receives the quality of services that the taxpayers deserve. Successfully meeting the employment and training needs of citizens requires selecting the best service providers, making expectations clear to grantees, ensuring that success can be measured, providing active oversight, evaluating outcomes, and disseminating and replicating proven strategies and programs. Both the OIG and the Government Accountability Office (GAO) have found in the past year that the Employment and Training Administration (ETA) continues to have weaknesses in managing its grants to this end. For example, in our audits involving the High Growth Job Training Initiative, we found weaknesses including the lack of competition in awarding grants, grants that failed to achieve major performance goals, grant agreements with goals that were so unclear it was impossible to determine success or failure, and grants whose required matching funds were either not provided or documented. Moreover, ETA continues to be challenged to provide adequate oversight and monitoring of the grants it awards, as the agency lacks reliable and timely performance data that would allow identification of problems in time to correct them. Finally, ETA has not evaluated the usefulness of individual grant products or the overall effectiveness of its discretionary grant initiatives.

*“...we found weaknesses including the lack of competition in awarding grants, grants that failed to achieve major performance goals, grant agreements with goals that were so unclear it was impossible to determine success or failure...”*

## Ensuring the Effectiveness of the Job Corps Program

**O**ur work has consistently identified challenges to the effectiveness of the Department's Job Corps program. These challenges include ensuring the safety and health of students and having accurate, reliable data about the program's success.

A cornerstone of the Job Corps program is removing students from unsafe environments and placing them in a safe, residential training program. Ensuring maintenance of its facilities is a challenge for Job Corps. Unsafe conditions resulting from inadequate maintenance adversely impacts the overall success of the Job Corps program. Our audits have documented numerous health and

safety problems at certain centers, such as water-damaged and collapsing ceiling tiles; mold on student dormitory walls and ceilings; and missing or inoperable emergency exit signs. Further, Job Corps officials need to do more to address the reported problems of illegal drugs and violence at its facilities.

OIG audits continue to raise significant concerns about Job Corps's ability to report accurate and reliable financial and performance data. For example, over the past few years, we have identified shortcomings in the reporting of on-board strength and attendance at a number of centers, areas where we have consistently noted problems.

## Improving Procurement Integrity

**E**nsuring integrity in procurement activities is a continuing challenge for the Department. Our work continues to identify violations of Federal procurement regulations, preferential treatment in awards, procurement actions that were not in the government's best interest, and conflicts of interest in awards. For example, our audit of an employment and training contract raised concerns about preferential treatment in how work was directed to a specific subcontractor. Another audit found no evidence that DOL Contracting Officers were checking required sources before making General Services Administration Schedule procurements. These include existing government inventories of excess personal property or nonprofit agencies affiliated with the Committee for Purchase from People Who Are Blind or Severely Disabled.

In addition, our recent audit of procurements for Job Corps found that procurement personnel did not always comply with the Federal Acquisition Regulation in obtaining adequate justification for sole source contracts. We also determined that there was a lack of training and inadequate oversight during the contracting process. As a result, contracting integrity, as well as fair and open competition, could be compromised.

## Maintaining the Integrity of Foreign Labor Certification Programs

**M**aintaining the integrity of its FLC programs, while also ensuring a timely and effective review of applications to hire foreign workers, is a continuing challenge for the Department. OIG investigations, some of which have been initiated based on referrals from ETA, have identified fraud against these programs, and these investigations constitute the fastest growing area in our case inventory. OIG investigations continue to uncover schemes carried out by immigration attorneys, labor brokers, and transnational organized crime groups, some with possible national security implications. Further, OIG investigations have revealed schemes involving fraudulent applications that are filed

with DOL on behalf of fictitious companies—or applications using names of legitimate companies without their knowledge.

Our audit of the Permanent Labor Certification (PERM) system found that ETA had changed its methodology for selecting applications to audit. Furthermore, ETA had not conducted audits of all the applications selected for audit. As employers and representatives such as labor brokers and others learn which elements in an application are likely to trigger an audit, they may be able to structure applications in a way that could lessen the likelihood of applications being audited.

*“OIG investigations continue to uncover schemes carried out by immigration attorneys, labor brokers, and transnational organized crime groups, some with possible national security implications.”*

## Securing Information Technology Systems and Protecting Related Information Assets

**O**ur information technology audits have identified access controls, oversight of contractor systems, and the effectiveness of the Chief Information Officer’s oversight of the Department’s full implementation of mandatory, minimum information security controls as DOL’s most significant challenges. The OIG has reported on access control weaknesses over the Department’s major information systems since FY 2001. These weaknesses represent a significant deficiency over access to key systems and may permit unauthorized users to obtain or alter sensitive information, including unauthorized access to financial records and data.

Our FY 2008 Federal Information Security

Management Act (FISMA) audit found that the DOL security program did not fully implement minimum security controls. We identified pervasive and obvious weaknesses across DOL, including access controls, certification, accreditation and security assessment, configuration management, contingency planning, and incident response. The OIG has identified these same deficiencies in past years’ FISMA audits. The recurring cycle of the same weaknesses, especially obvious access control vulnerabilities, identified by the OIG since FY 2006 demonstrates that DOL’s information security program must improve its current effort to fully implement and monitor information security controls throughout the Department.







# Workforce Investment Act

*The goal of the Workforce Investment Act (WIA) is to increase employment, retention, and earnings of program participants. The OIG has conducted numerous audits of the WIA program and its grantees since WIA's enactment, including audits of state WIA expenditures, training and educational services provided to dislocated workers, and state-report performance data. The Department has implemented many of our recommendations to improve WIA program administration and performance. OIG investigations have resulted in the prosecution of individuals who illegally obtained WIA funds, thereby denying eligible persons the benefit from employment services. Our investigations have also documented conflict-of-interest issues involving program administrators.*

## Value of High Growth Job Training Initiative Grants Not Demonstrated

The High Growth Job Training Initiative (HGJTI) is a Presidential initiative created to prepare workers for employment in high-growth areas such as health care, financial services, and biotechnology. During the last semiannual reporting period, at the request of the Chairman of the Senate Appropriations Subcommittee on Labor, Health and Human Service, Education and Related Agencies, we conducted an audit of 39 high growth grants to determine if ETA followed proper procedures in noncompetitively awarding grants under this initiative. We found that ETA could not demonstrate that it followed proper procedures when it non-competitively awarded 35, or 90 percent, of high growth grants we reviewed, totaling \$57 million.

Phase two of our audit, completed during this semiannual reporting period, regarding this initiative was

a performance audit of 10 grants from our original 39 grant audit sample. Based on the Chairman's request, we designed this audit to answer three questions:

1. Did grantees accomplish their grant objectives?
2. Were additional matching funds or leveraged resources provided by grantees as required?
3. Did HGJTI grants result in expanded system capacity for skills training and competency development?

We found that grant objectives were often unclear. Specifically, seven grantees either did not meet all of their objectives or the objectives were so unclear that we could not determine whether the grantee delivered the performance they were funded to produce. Grantees did not meet objectives in the areas of training and placement goals; product

completion; product delivery; and required tracking of outcomes.

Second, the justification for noncompetitively awarding 9 of the 10 grants was based partly on grantees' commitment to provide additional resources of \$42.1 million. However, we found that grantees did not provide \$20.5 million of those funds in part because they could not provide documentation that they had done so. Therefore, the level of services provided by the grantees may have been significantly reduced from the levels indicated in the original grants.

Finally, ETA did not determine the usefulness of grant products and activities before disseminating them. As a result, ETA disseminated unproven products and strategies.

We recommended that ETA:

- Improve the grant writing, solicitation and award process by

*"ETA did not determine the usefulness of grant products and activities before disseminating them."*

developing a process that ensures that grant agreements delineate clear, concise, and measureable objectives that can be used to determine the success of grant performance.

- Improve grant monitoring and close out by adhering to its policy that each grant be monitored on an ongoing basis to identify and correct problems.

- Enhance the effectiveness of HGJTI by evaluating grant results prior to dissemination to the workforce investment system, and using the results of those evaluations to ensure that the most successful strategies are

replicated.

ETA generally disagreed with our findings regarding grant performance. Specifically, ETA took exception with our position that it was inappropriate to share knowledge gained and products developed without a formal evaluation of the quality of the products. Moreover, ETA stated that it does not have the expertise or resources to evaluate every product. ETA further stated that it was not “necessary or valuable to evaluate every High Growth deliverable” before sharing it with the workforce system.

Much can be learned from

this initiative that can be carried forward to improve ETA’s discretionary grant program. In order to meet the employment and training needs of workers in the 21st century, it is critical that ETA ensure that it selects the best service providers, makes goals and expectations clear to grantees, ensures that success can be measured, provides active oversight of its grantees, evaluates outcomes, and disseminates and replicates only those strategies and programs that have been proven to be successful. (Report No. 02-08-204-03-390, April 29, 2008)



## Former CIETC CEO Pleads Guilty to Misapplication of Funds

**R**amona Cunningham, the former CEO of the Central Iowa Employment and Training Consortium (CIETC), pled guilty on June 30, 2008, to conspiracy, fraud, misapplication of funds, and obstruction of an investigation. CIETC is a job training and educational entity. Jane Barto, the former deputy director at Iowa Workforce Development, and Karen Tesdell, a former chief accountant at CIETC, were convicted April 24, 2008. Barto was found guilty of obstruction of an investigation, and Tesdell was convicted of conspiracy, fraud, and misapplication of funds.

CIETC was a recipient of millions of dollars in Workforce Investment Act funds. Between 2003 and 2006, the defendants participated in a conspiracy to obtain government funds and pay about \$1.8 million in excessive salaries and bonuses to CIETC executives. Tesdell’s and Cunningham’s salaries were approved by Archie Brooks, a former

Des Moines city councilman and former chair of the CIETC board of directors, who pled guilty to misapplication of funds in October 2007.

In March 2008, a civil settlement agreement, separate from the criminal case, was entered into by the U.S. Attorney’s Office, DOL, the U.S. Department of Health and Human Services (HHS), and the State of Iowa, whereby the state agreed to repay \$1.3 million to the United States as a result of negotiations with the state over the alleged misappropriation of Federal funds provided to CIETC through WIA and the Temporary Assistance for Needy Families program.

This was a joint investigation with the Federal Bureau of Investigation (FBI), the Iowa State Auditor’s Office, the Iowa Department of Public Safety, the Iowa Division of Criminal Investigation, and HHS-OIG. *United States v. Cunningham, et al.* (S.D. Iowa)

## Individual Sentenced for Defrauding DOL of Disaster-Related Funds

**S**andra K. Howell was sentenced on June 6, 2008, after being previously found guilty of charges related to her involvement in a conspiracy scheme to defraud the Federal Emergency Management Agency (FEMA) and DOL of approximately \$30,000 in disaster-related benefits. She and her co-conspirators, Charles and Gregory Chaisson, claimed they were victims of Hurricanes Katrina and Rita. Howell was sentenced to 46 months in prison, 3 years of supervised released, ordered to pay \$25,175 in restitution, and a \$1,200 special assessment fee. Her co-conspirators were sentenced for their roles in the scheme in December 2007 and January 2008, respectively.

The three devised a scheme to defraud DOL through the Concho Valley Workforce Solutions,

a Texas-based organization that received and disbursed National Emergency Grant (NEG) funds for hurricane evacuees through a grant. The trio fraudulently applied for and received NEG funds of approximately \$7,000, and approximately \$23,000 from FEMA after Howell fraudulently claimed that her primary residence was in New Orleans. Both Howell and Charles Chaisson made false claims that their residence in Lafayette, Louisiana, was damaged by Hurricane Rita. In addition, they both made false claims for disaster relief on behalf of Gregory Chaisson.

This was a joint investigation with the FBI, the DHS-OIG, the United States Postal Inspection Service (USPIS), and the San Angelo Police Department. *United States v. Sandra Howell* (N.D. Texas)

## Three Plead Guilty in a WIA Conspiracy Fraud Scheme

**F**or their roles in a conspiracy to defraud the United States Government, Lafete Tucker, Janice Fultz-Gardner, and Gregory Vernon, former managers at the Louisiana Workforce Investment Act - District 20 (LWIA), pled guilty on August 18, 2008. In addition, Shirley Freeman pled guilty August 7, 2008, to theft of Workforce Investment Act employment and training funds.

Between 2002 and 2005, Tucker, who was also the owner of a social services facility, submitted false vouchers to DOL for services not rendered and expenses not incurred. Specifically, Tucker unlawfully received approximately \$104,000 from DOL and \$10,200 from HHS.

Gardner, who was also the owner of a facility providing parenting training and child care, submitted fraudulent vouchers alleging the lease of office equipment resulting in her unlawful receipt of approximately \$55,636. Additionally, Gardner submitted vouchers for payment regarding social services not rendered, resulting in unlawful receipt of approximately \$22,850 from DOL.

Vernon was entrusted with verifying and approving payment of child-care vouchers submitted

by a child-care facility owned by Shirley Freeman. Vernon authorized reimbursement for the vouchers submitted by Freeman to LWIA-20 knowing they were false and, in exchange, Vernon received several thousand dollars in kickbacks from Freeman between 2004 and 2005. Additionally, Vernon was an independent contractor who received approximately \$44,500 through fraudulent vouchers he submitted for payment to HHS for counseling services he never rendered.

Freeman, the owner of a child-care facility, submitted vouchers to DOL and HHS attesting that she provided care for the same children at the same time, thereby unlawfully obtaining approximately \$60,000 in duplicate child-care reimbursement from the DOL.

This case was investigated by the FBI, HHS-OIG; Internal Revenue Service (IRS)-Criminal Investigation Division; Louisiana Department of Social Services, Office of Family Support - Fraud and Recovery Section; and auditors for the Louisiana Workforce Investment Board. *United States v. Lafete Tucker, et al.* (E.D. Louisiana)

*"Gardner submitted vouchers for payment regarding social services not rendered, resulting in unlawful receipt of approximately \$22,850 from DOL."*

# Job Corps

*Job Corps operates 122 centers throughout the United States and Puerto Rico to provide occupational skills, academic training, job placement services, and other support services, such as housing and transportation, to approximately 60,000 students each year. Its primary purpose is to assist eligible at-risk youth who need intensive education and training services. The OIG is statutorily required to audit Job Corps Centers every three years.*

*Our audit work continues to reveal that some operators of Job Corps Centers overstate their performance results (i.e., student job placement, high school diploma attainment, attendance, and training records) in order to improve the centers' operating performance, which can result in the operating contractor receiving greater, performance-based, financial incentives.*

## Audits of Job Corps Operators Identify Health and Safety Concerns, and Financial and Performance Shortcomings

**W**e issued three performance audits involving the Job Corps Program. Our audits reviewed operations at 7 centers operated by 2 contractors and the U.S. Department of Agriculture Forest Service. These two contractors and the Forest Service operate a total of 35 centers.

### ***Performance Audit of Cleveland and Detroit Job Corps Center Operated by Applied Technology Service, Inc. (ATSI)***

**O**ur audit of ATSI operated centers in Cleveland and Detroit was conducted in response to a hotline complaint alleging that Detroit Job Corps Center officials improperly reported payroll expenses, improperly conducted GED testing, and did not address plumbing deficiencies. We did not substantiate these specific allegations; however, our audit of Job Corps centers operated by ATSI in Cleveland and Detroit found several deficiencies.

We found that financial management and reporting at the Cleveland and Detroit Center's was inadequate. Specifically, ATSI did not properly support approximately \$158,754 of expenses billed to Job Corps. In addition, Detroit did not follow Federal requirements for full and open competition when it awarded 10 of 11 contracts we reviewed. Our audit questioned \$519,889, the total amount

of 10 contracts awarded without competition. We also found that ATSI did not comply with Job Corps requirements for recording and reporting student attendance at these centers. As a result, on-board strength, a key performance measure, was overstated.

We made seven recommendations to Job Corps including that it request that ATSI reimburse the Department for unsupported costs it billed to Job Corps and for contracts awarded without full and open competition. We also recommended that ATSI implement procedures to ensure compliance with Job Corps requirements. The Office of Job Corps concurred with our recommendations and stated that it will coordinate with ATSI to provide an action plan to correct the problems we identified. (Report No. 26-08-005-01-370, September 30, 2008)



## ***Performance Audit of Laredo and New Haven Job Corps Centers Operated by Career Systems Development Corporation (CSD)***

**W**e also conducted a performance audit of CSD which is under contract with Job Corps to operate 10 centers. Our audit covered the Laredo, Texas, and New Haven, Connecticut, Job Corps centers. Our objectives were to determine whether CSD ensured compliance with Job Corps requirements for managing center safety programs, reporting performance, and managing and reporting financial activity.

We found unsafe or unhealthy conditions at New Haven. These conditions occurred because New Haven officials often did not conduct required safety inspections. When inspections were conducted and problems identified, New Haven officials did not ensure that the problems were corrected. Unsafe conditions included water damaged and collapsing ceiling tiles, mold on student dormitory walls, and missing or inoperable emergency exit signs. We found that in addition to not conducting the required safety inspections, New Haven officials also did not maintain a safety committee as required by Job Corps; or conduct on-site monitoring to identify and correct systemic non-compliance with Job Corps safety and performance reporting requirements.

We found that reported performance information at both the Laredo and New Haven Centers was inaccurate. Specifically, at Laredo on-board strength was overstated; student attendance and leave were not documented as required; and students were not separated due to unrecorded absences as required.

At the New Haven Center, we found that management reported that students with incomplete Training Achievement Records had completed vocational training. We found that incomplete on-site monitoring at both centers contributed to the inaccurate performance data both reported.

We made eight recommendations to the Job Corps National Director including requiring CSD to improve on-site monitoring and to identify overstatements of vocational completion rates and on-board strength at other centers it manages. We also recommended that CSD pay any liquidated damages required by its contract because of overstating its performance to the Department. Job Corps generally agreed with our recommendations and has shown that CSD has taken adequate corrective actions to improve its controls over center safety and performance reporting. However, Job Corps did not directly state that it would require CSD to identify on-board strength and vocational completion overstatement or to pay the liquidated damages related to those overstatements. (Report No. 26-08-001-01-360, September 30, 2008)



## ***Performance Audit of Schenck, Flatwoods, and Blackwell Job Corps Centers Operated by the USDA Forest Service***

**F**inally, we conducted a performance audit at three Job Corps centers operated by the Department of Agriculture's Forest Service. As with the centers operated by ATSI and CSD, we found that the Forest Service did not comply with Job Corps requirements for reporting performance and financial activity. At the Schenck, Flatwoods, and Blackwell Centers operated by the Forest Service, student achievement and on-board strength were overstated and none of the three centers could ensure that reported student attendance was reliable. We made 10 recommendations for improvement. Job Corps responded that it will consider the non-compliance and wasteful spending noted in our report when making future Forest Service budget decisions, and will coordinate with the Forest Service to provide an action plan to correct the problems we identified. (Report No. 26-08-004-01-370, September 30, 2008)

## Conclusion

Our findings from these Job Corps audits continue to reveal a pattern of inaccurate reporting of key performance measures by center operators that Job Corps relies on to evaluate contractor performance. We also continue to find unsafe and unhealthy conditions in centers that are unacceptable in a Federally run residential program.

*“Unsafe conditions [at the New Haven Job Corp Center] included water damaged and collapsing ceiling tiles, mold on student dormitory walls, and missing or inoperable emergency exit signs.”*

## Procurement Practices of Job Corps Contracts Need Improvement

We conducted an audit to determine the impact that the transfer of Job Corps from ETA to the Office of the Secretary had on Job Corps procurement and contracting practices. We found that the program’s transfer strengthened procurement controls by separating the procurement and program functions and that there were fewer contract and procurement deficiencies after the transfer. However, improvements are still needed to ensure contracts are competitively awarded and services are obtained at a reasonable cost.

Our audit covered 34 contracts—18 originated by ETA prior to the transfer and 16 by the Office of the Assistant Secretary for Administration and Management (OASAM) which became responsible for providing contracting support to Job Corps after the transfer. We found that nine contracts (26 percent) had deficiencies in the processing of the awards and/or in modifications to the awards. Specifically, 7 of ETA’s 18 contracts totaling more than \$110 million, and 2 of OASAM’s 16 contracts totaling \$3.9 million, did not demonstrate that they

were awarded in accordance with proper procurement procedures.

We identified a number of deficiencies including contract modifications that were not properly justified, reviewed, and approved and necessary documentation that was not available to support that the contracts were properly awarded. We concluded that these deficiencies occurred because of inadequate management oversight. We also found that contract staff did not have adequate training.

We recommended that the Assistant Secretary for Administration and Management take steps to ensure that management oversight of contract award and modification processing is conducted and to provide staff training to ensure that Federal acquisition and that DOL procedures are appropriately followed. The Department agreed with our recommendations, and the OASAM Deputy Assistant Secretary for Operations stated that there will be an increased emphasis on DOL’s procurement policy and oversight function. (Report No. 04-08-003-01-370, September 30, 2008)

## Audit Resolution: YWCA Repays \$303,870

Based on a 2006 OIG audit, in March 2008, the YWCA of Greater Los Angeles (YWCA) agreed to repay \$303,870 to DOL for unallowable costs incurred in operating the Los Angeles Job Corps Center (LAJCC). Our audit questioned \$300,870 after it found that the YWCA had charged the Office of Job Corps for the cost of developing two proposals for the operation of the Long Beach Job Corps Center and the LAJCC. Specifically, the YWCA charged this amount to Job Corps contract funds for several thousand hours of staff time spent preparing the proposals. Use of Job Corps contract funds for this purpose violated applicable cost principles. In addition, the audit questioned \$3,000 of annual insurance costs for a government vehicle that the CEO of the YWCA used for a three year period. LAJCC had billed the YWCA for the monthly use of the vehicle, but did not bill it for \$3,000 in related annual insurance costs. Instead, the Office of Job Corps incorrectly bore these costs. In June 2008, the YWCA repaid the full amount owed without further proceedings. (Report No. 09-06-005-01-370, issued September 29, 2006)

# Foreign Labor Certification Program

*The Employment and Training Administration's foreign labor certification programs allow U.S. employers to employ foreign labor to meet worker shortages by filing labor certification applications through ETA's foreign labor certification process. The H-1B Visa Specialty Workers Program requires employers who intend to employ foreign specialty occupation workers on a temporary basis to file labor condition applications with ETA stating that appropriate wage rates will be paid and workplace guidelines will be followed. The H-2B program established a means for U.S. nonagricultural employers to bring foreign workers into the U.S. for temporary employment. The Permanent Foreign Labor Certification program allows an employer to hire a foreign worker to work permanently in the United States.*

*OIG investigations have revealed that the foreign labor certification process continues to be compromised by unscrupulous attorneys, labor brokers, employers, and others.*

## Stronger Internal Controls Needed in Program Electronic Review Management Audit Process to Ensure Integrity of the Permanent Labor Certification Program

**T**he Program Electronic Review Management (PERM) system audit process, implemented in March 2005, was intended to ensure that applicants to the Foreign Labor Certification Program (FLC) met eligibility requirements. Through the PERM system employers can obtain permanent labor certification for foreign workers to fill permanent job vacancies in occupations for which qualified U.S. workers are unavailable. As part of the application process, employers must perform a "labor market test" to determine whether there are any U.S. workers able, willing, qualified, and available in the community where the job will be performed. Through the PERM system, ETA audits a sample of these applications to verify that employers properly made their determination. The OIG conducted a performance audit to determine whether the internal controls over the PERM system were adequate. We found that internal controls for the PERM audit system need to be stronger.

ETA discontinued certain types of audits in December 2005. We also found that ETA was not auditing many of the applications that had been selected for either a random or a targeted audit. Specifically, our review of 219 applications disclosed that ETA had not audited 63 of those applications. As a result, ETA may have certified fraudulent applications

or applications that did not meet required criteria. Certifying labor applications for foreign workers who were not eligible for employment in foreign labor programs could negatively affect the U.S. workforce by reducing the number of jobs available for U.S. workers.

Additionally we found that the Permanent Case Management System could not readily provide information on the progress of all applications. As a result, ETA may not know how effective its certification program or the PERM audit process are in ensuring that only eligible applications are approved.

We made three recommendations regarding the PERM system to: revise the methodology for selecting applications for audit; ensure all applications selected for audit are audited; and ensure that the Office of Foreign Labor Certification (OFLC) updates the Permanent Case Management System to provide readily available management reports for monitoring the progress of audited applications. ETA strongly disagreed with our methodology and specific conclusions regarding the impact of its decision to discontinue certain types of audits, but agreed to implement the report's three recommendations to correct the audit's findings. (Report No. 6-08-003-03-321, September 30, 2008)

## Window Manufacturer Sentenced for Submitting False Labor Certifications

**R**obert Mahood, who had been a fugitive in China, was sentenced on July 25, 2008, to 18 months incarceration and 36 months' probation for his involvement in an immigration fraud scheme involving the submission of more than 1,400 fraudulent labor certifications. Mahood is owner and manager of East Coast Fabricators (ECF), a window manufacturing company that sponsored more than 250 foreign workers and charged as much as \$90,000 for an approved labor certification. Global Recruitment & Immigration Services, a law firm whose owner was sentenced in December 2005 for his involvement in the scheme, filed the fraudulent labor certifications on behalf of ECF.

Mahood is the last of nine defendants, including an attorney and a former CIA agent, who have been convicted and sentenced in this investigation, which resulted in a total forfeiture of \$4.6 million. This was a joint investigation with the FBI. *United States v. Robert J. Mahood* (E.D. Virginia)



## Company Sentenced to Pay Nearly \$1 Million for Employment-Visa Scam

**T**he corporate entity, Overseas Employment and Information Service, Inc., doing business as EBI, was sentenced on August 22, 2008, in connection with its scheme to submit falsified labor certifications in order to obtain employment-based visas for aliens. The company was ordered to pay a combined total of \$800,000 in criminal fines and asset forfeiture, \$151,000 in victim restitution, and a \$400 special assessment. The criminal monetary penalty follows a \$200,000 civil settlement agreement in April 2008 by EBI's former vice president, Tricia Yoo Matuszak.

EBI had offices in Maryland and California, and provided immigration-related services primarily to the Korean and Chinese communities in the United States, Republic of Korea, and the People's Republic of China. Beginning in 1999, EBI conspired to file falsified labor certification applications that bore

the names, identifying information, and purported signatures of former EBI clients who had already obtained either their lawful permanent resident status or citizenship, and, therefore, had no need for a new labor certification application.

EBI used these approved labor certifications as the basis for the substitution of other aliens in the visa petition process. This served to shortcut the system and significantly reduce the waiting period for the substitute beneficiaries. EBI filed at least 25 such documents with DOL and the U.S. Citizenship and Immigration Services (USCIS) during the course of this conspiracy and charged immigrants \$30,000 to \$50,000 per application. This was a joint investigation with U.S. Immigration and Customs Enforcement (ICE). *United States v. Overseas Employment and Information Service, Inc.* (S.D. Maryland)

## Brothers Sentenced for Submitting Fraudulent Labor Certification Applications

**J**ohn Chikwon Hwang, owner and vice president of Brothers Construction Company (BCC), was sentenced on April 18, 2008, to 24 months' probation and a fine of \$5,000 for his involvement in a conspiracy with his brother to submit fraudulent labor certification documents to DOL and other government agencies. His brother, Chichan Hwang, who recruited individuals to apply for fraudulent labor documents,



was sentenced on April 11, 2008, to 33 months of imprisonment and 3 years of probation, and was ordered to forfeit \$300,000. The brothers submitted the fraudulent documents in an effort to obtain green cards for foreign nationals. The Hwangs charged the individuals more than \$27,000 to submit their visa applications. The brothers then arranged for BCC to provide fraudulent paychecks to the foreign nationals to demonstrate to DHS and other Federal agencies that the foreign nationals were employed by BCC. To this end, BCC generated more than \$1.1 million in fictitious payroll. This is a joint investigation with the Department of State-OIG (DOS-OIG), DOS-Diplomatic Security Services (DOS-DSS), U.S. Department of Homeland Security (DHS), and the Fairfax County (Virginia) Police Department. *United States v. John Chikwon Hwang and United States v. Chichan Hwang* (E.D. Virginia)

## Two Plead Guilty for Filing Fraudulent Labor Certification Applications

Ilya Zherelyev, a bodyguard for the indicted business owner of Lynn International (LI), pled guilty on August 26, 2008, to conspiracy, visa/asylum fraud, money laundering, conspiracy to commit money laundering, and failure to appear for a court hearing for his role in an asylum fraud conspiracy scam. Lynn International is purported to have been disguised as a translation service but instead it was used to prepare and file fraudulent labor certification applications and guaranteed its clients that they could lawfully obtain permanent residency status. Nelly Katsman, a translator, pled guilty on September 16, 2008, to conspiracy and visa fraud. Zherelyev and Katsman were previously charged July 29, 2008, with four other defendants. Their business, LI, is alleged to have filed at least 380 fraudulent labor certification applications for clients between 2003 and 2007.

The defendants allegedly assisted clients in making false claims of persecution to immigration authorities in order to obtain asylum. For this service, the clients were allegedly charged a fee of up to \$8,000 per individual and up to \$12,000 for a family. It is suspected that the company received at least \$3 million in proceeds from the fraudulent asylum business. This is a joint investigation with ICE, U.S. Department of Housing and Urban Development-OIG (HUD-OIG), DOS-DSS, the USCIS-Office of Fraud Detection and National Security (USCIS-FDNS), FBI, the Northampton Township, and the Upper Southampton Township (Pennsylvania) Police Departments. *United States v. David Lynn, Ilya Zherelyev, Nelly Katsman, et al.* (E.D. Pennsylvania)

*“Lynn International is purported to have been disguised as a translation service but instead it was used to prepare and file fraudulent labor certification applications...”*

## Labor Broker Enters Guilty Plea for Filing False H-1B Labor Applications

Daxesh Patel, the primary owner of Axar Systems, LLC (Axar), pled guilty on June 30, 2008, to conspiracy to commit visa fraud. On July 22, 2008, another Axar employee was indicted on identical charges. As part of the plea, Patel agreed to forfeit \$150,000 and dissolve Axar. In the scheme, Patel, via Axar, filed with DOL labor condition applications that contained false statements. A majority of the undocumented workers were employed at various locations throughout the United States, rather than the proposed place of employment submitted on the labor applications, and many were not working as computer programmers as stated on their labor applications. Many worked as convenience store clerks and made arrangements with their employer to contract with Axar in an effort to appear as though they were working in a valid consulting contract. The company used the funds from these individuals to maintain the individuals on its payroll. This is a joint investigation with ICE-Document and Benefit Fraud Task Force; U.S. Diplomatic Security Service-Visa Fraud, DHS-OIG, and DHS-SID. *United States v. Daxesh Patel* (N.D. Georgia)

## Business Owner Pleads Guilty to Conspiracy to Fraudulently Obtain Employment Visas

Charles Keith Viscardi, owner and operator of Viscardi Industrial Services, LLC (VIS), pled guilty on August 12, 2008, to conspiracy to induce and encourage illegal immigration. Viscardi and other conspirators recruited more than 80 Indian nationals who were each willing to pay tens of thousands of dollars in exchange for fraudulently obtained H-2B visas. Five other individuals were indicted March 31, 2008, for their alleged roles in the scheme.

As part of the scheme, the conspirators submitted Petitions for Nonimmigrant Worker and other documentation to DHS-Citizenship and Immigration Services (DHS-CIS), DOL, and other government

entities, falsely representing that the undocumented workers would be employed at VIS. The conspirators assisted the undocumented workers in completing the H-2B visas and in filing them with the DOL. After their arrival in the United States, Viscardi transported and temporarily housed them and they were granted H-2B visas. Viscardi and his co-conspirators accepted cash and other forms of payment from the undocumented workers. None of the undocumented workers was ever employed by VIS; instead they simply dispersed throughout the country after paying for their fraudulently obtained visas. *United States v. Charles Keith Viscardi* (S.D. Texas)

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## Senior Community Service Employment Program

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*The Senior Community Service Employment Program is a community service and employment training program for older workers that was originally authorized by the Older Americans Act of 1965. The program provides subsidized, part-time community service work based training for low-income persons age 55 or older.*

## ETA Needs to Ensure Grantees Are Aware of Their Responsibility to Safeguard Personally Identifiable Information

We conducted a performance audit of the SCSEP grant awarded to the National Able Network, Inc. (Able) in response to a hotline complaint alleging that Able reported inflated performance results. Our audit did not substantiate this allegation.

However, as part of our review, we found that Able could not locate SCSEP participant records containing personally identifiable information (PII) for 78 individuals served in California for more than a three-year period. These participant records contained PII used to establish eligibility for the program including names, Social Security numbers,

medical histories, and financial resources. We advised Able to alert ETA of the PII breach and seek guidance on how to respond. ETA and Able officials subsequently notified the affected participants.

We found that ETA has not informed grantees of their responsibilities for reporting the loss of PII records. As a result, other grantees may not have reported (or may not be reporting) incidents in which security over PII was compromised and therefore may not have notified individuals whose personal information may have been compromised.

The Department's Chief Information Officer has been notified of the loss of the PII records; however,

ETA has not yet notified grantees. In its response to our draft report, ETA stated that it will issue a Training and Employment Guidance Letter to grantees by December 31, 2008, to communicate PII requirements.

We recommended that ETA inform grantees of their responsibilities for safeguarding PII records and

for reporting incidents when PII security has been compromised; and provide training to ETA staff on handling PII security incident reports from grantees. ETA agreed with our recommendations and has planned or taken corrective action to address them. (Report No. 02-08-205-03-360, issued September 30, 2008)



## NAPCA Should Improve Oversight of Senior Community Service Employment Program

**W**e conducted a performance audit in response to a hotline complaint alleging that officials of the National Asian Pacific Center on Aging (NAPCA) allowed the Royal Cultural Foundation's (Foundation) Executive Director to enroll ineligible participants in the Senior Community Service Employment Program (SCSEP) in exchange for monetary payments.

While we did not substantiate that NAPCA officials received monetary payments for enrolling ineligible participants, we did identify a financial conflict of interest between NAPCA and the Foundation Director. Specifically, NAPCA leased office space from the Foundation Director at below market rates from 1997 to 2005. During that time NAPCA did not conduct all required monitoring visits and did not identify or correct

enrollment, training, and payroll deficiencies.

We also found that the Foundation's Executive Director enrolled four ineligible participants in SCSEP during program years 1994-2005. The ineligible participants were the Director's mother, father, and two people who worked for the Foundation. We questioned costs of \$182,178 for improper payments to these four ineligible participants.

Finally, we found that NAPCA could not demonstrate that enrollment and training requirements were met. We estimated that NAPCA did not obtain required documentation to support training for 382 of the 1,418 (27 percent) participants enrolled nation-wide from January 1, 2005, through March 31, 2007.

We recommended that ETA require NAPCA to: (1) reimburse

ETA \$182,178 in questioned costs for improper payments to the four Foundation participants; (2) develop policies and procedures to prohibit conflicts of interest; and (3) develop controls to effectively identify and correct non-compliance with SCSEP enrollment, training, and program management requirements. NAPCA disagreed with our findings and recommendations; however, it stated that it is planning to provide training and to ensure that it has controls to improve its ability to detect and correct non-compliance with SCSEP requirements. The Final Determination to be issued by the Grant Officer will provide ETA's decisions regarding the report's recommendations. (Report No. 09-08-001-03-360, issued September 30, 2008)







*The OIG at the DOL has a unique programmatic responsibility to investigate labor racketeering and/or organized crime influence against unions, employee benefit plans, and workers. The Inspector General Act of 1978 transferred responsibility for labor racketeering and organized crime–related investigations from the Department to the OIG. In doing so, Congress recognized the need to place the labor racketeering investigative function in an independent law enforcement office free from political interference and competing priorities. Since the 1978 passage of the Inspector General Act, OIG Special Agents, working in association with the Department of Justice’s Organized Crime and Racketeering Section, have conducted criminal investigations to combat labor racketeering in all its forms.*

**Traditional Organized Crime:** Traditionally, organized crime groups have been involved in benefit plan fraud, violence against union members, embezzlement, and extortion. Our investigations continue to identify complex financial and investment schemes used to defraud benefit fund assets, resulting in millions of dollars in losses to plan participants. The schemes include embezzlement or other sophisticated methods, such as fraudulent loans or excessive fees paid to corrupt union and benefit plan service providers. OIG investigations have demonstrated that abuses by service providers are particularly egregious due to their potential for large dollar losses and because they often affect several plans at the same time. As of September 30, 2008, the OIG’s inventory of more than 200 benefit plan cases included 64 service provider investigations that had more than \$1 billion in plan assets potentially at risk. The OIG is committed to safeguarding American workers against being victimized by labor racketeering and/or organized crime.

**Nontraditional Organized Crime:** Our current investigations are documenting an evolution of labor racketeering and/or organized crime corruption. We are finding that nontraditional organized criminal groups are engaging in racketeering and other crimes against workers in both union and nonunion environments. Moreover, they are exploiting DOL’s foreign labor certification and Unemployment Insurance (UI) programs.

**Impact of Labor Racketeering on the Public:** Labor racketeering activities carried out by organized crime groups affect the general public in many ways. Because organized crime’s exercise of market power is usually concealed from public view, millions of consumers unknowingly pay what amounts to a tax or surcharge on a wide range of goods and services. In addition, by controlling a key union local, an organized crime group can control the pricing in an entire industry.



The following cases illustrate our work in helping to eradicate both traditional and nontraditional labor racketeering in the nation’s labor unions, employee benefit plans, and workplaces.

# Benefit Plan Investigations

*The OIG is responsible for combating corruption involving the monies in union-sponsored benefit plans. Those pension plans and health and welfare benefit plans comprise hundreds of billions of dollars in assets. Our investigations have shown that the assets remain vulnerable to corrupt union officials and organized crime influence. Benefit plan service providers continue to be a strong focus of OIG investigations.*

## Sixty Gambino Organized Crime Family Members Plead Guilty

**S**ixty of the 62 previously indicted members and associates of the Gambino La Cosa Nostra (LCN) Organized Crime Family (including John D'Amico, acting boss; Domenico Cefalu, acting underboss; Joseph Corozzo, consigliere; and captain, Nicholas Corozzo), have pled guilty, and 36 were sentenced between July and September 2008. The guilty pleas and sentencings follow the February 8, 2008, indictments, on charges including racketeering conspiracy, extortion, theft of union benefits, mail fraud, false statements, loan sharking, embezzlement of union funds, money laundering, illegal gambling, and murder conspiracy. Sentences have included imprisonment of up to 63 months and fines of up to \$250,000.

Both construction industry principals and union officials were among those who pled guilty for crimes spanning more than three decades. Many of the construction companies involved paid a "mob tax" in return for protection and permission to operate. The convictions illustrate the extent of the Gambino family's control and influence over the construction industry in and around New York City. This involved the trucks that move construction material and debris around the New York City area, the cement that is poured to build house foundations in Staten Island, the general contractors responsible for building condominiums in New Jersey, and a proposed NASCAR raceway.

Ten of the defendants, all members and associates of the Gambino family, have pled guilty to racketeering conspiracy, which include acts involving murder, attempted murder, robbery, extortion, conspiracy to distribute cocaine and marijuana, securities fraud, mail fraud, loan sharking, theft of union benefits, illegal gambling, and bribery.

This investigation also identified corruption within Locals 731 and 325 of the Laborers International Union of North America (LIUNA). Louis Mosca, business manager for LIUNA Local 325, pled guilty on May 5, 2008, to conspiracy to commit mail fraud in connection with a scheme to purchase a Local 325 union book for the brother-in-law of Gambino Crime Family Captain, Lenny Dimaria. Michael King, a former construction company project supervisor and shop steward for LIUNA Local 731, pled guilty on August 1, 2008, to extortion conspiracy. King conspired, along with others, to extort money through the threat of loss of trucking contracts.

This ongoing OIG investigation is being conducted with the New York State Organized Crime Task Force, FBI, U.S. Department of Transportation (DOT), Internal Revenue Service (IRS), New York City Department of Investigation, New York City Business Integrity Commission, and the Metropolitan Transportation Authority. *United States v. Joseph Agate, et al.* (E.D. New York)

*"The guilty pleas and sentencings follow the February 8, 2008, indictments, on charges including racketeering conspiracy, extortion, theft of union benefits, mail fraud, false statements, loan sharking, embezzlement of union funds, money laundering, illegal gambling, and murder conspiracy."*

## Prominent Real Estate Developer Found Guilty of Charges Related to Defrauding of Teacher's Union Pension Plan

**A**ntoin "Tony" Rezko, a prominent real estate developer and owner of major restaurant franchises in the Midwest, was found guilty on June 4, 2008, of several charges, including mail fraud, wire fraud, bribery, and money laundering. The trial involved an ongoing criminal probe into pension kickback schemes involving the Illinois Teachers Retirement System (TRS), a \$30 billion Illinois state pension fund.

TRS, the primary defined pension plan for Illinois schoolteachers, serves approximately 325,000

members and beneficiaries. Most of the TRS beneficiaries are members of the Illinois Federation of Teachers union. The investigation revealed that Rezko schemed with a TRS board member to receive kickbacks from companies who wanted to secure contracts as TRS service providers. This was a joint investigation with the FBI, IRS, and the USPIS. *United States v. Antoin Rezko* (N.D. Illinois)

## Operators of Demolition Company Indicted for Defrauding LIUNA Pension and Employee Welfare Benefit Plans

**T**he two operators of a specialty demolition company were named in a 27-count Federal indictment on September 2, 2008, charging them with defrauding the pension and employee welfare benefit plans of the Laborers International Union of North America (LIUNA), Local Union 332 (Local 332), numerous income tax violations, and conspiracy.

One of the individuals, a party to a collective bargaining agreement (CBA) with LIUNA, allegedly used non-union night work crews in violation of the CBA. The defendant purportedly paid these workers at a substandard rate and intentionally omitted workers' hours on submissions to the benefit plans. As part of the alleged scheme, the company also submitted fraudulent certified

payroll forms to funding agencies and created fake payroll checks to conceal that employees were paid cash at rates well below the prevailing wage.

The indictment further alleged that the two individuals failed to withhold or pay corporate income taxes totaling approximately \$500,000 since 2004. This is a joint investigation with the IRS-CID and the FBI.



## Asbestos Abatement Contractors Sentenced to Prison for Stealing Employee Benefits

Three co-conspirators from two asbestos abatement and demolition companies, Interenvironmental, Inc., and Abcon Environmental, Inc., were sentenced for their roles in a conspiracy to alter payroll records and failure to make fringe benefit contributions of \$202,000 to the Connecticut Laborers Fund, of which Laborers' Local Union 455 is a part.

Mark Sergi, owner/operator of Abcon Environmental, Inc., was sentenced on May 27, 2008, to 24 months' imprisonment and 3 years of supervised release. Sergi was ordered to pay a fine in the amount of \$5,000. Michael Plisner, owner of Interenvironmental, Inc., was sentenced

on July 23, 2008, to 12 months' incarceration and 36 months' supervised release. Michael Plisner's nephew, Elvis Plisner, the signatory on the Collective Bargaining Agreement between Interenvironmental, Inc., and the Laborers' Local Union 455, was sentenced on April 18, 2008, to 10 months' incarceration and 36 months' supervised release. Elvis Plisner was ordered to pay a fine in the amount of \$5,000.

All three individuals were also ordered to pay restitution jointly and severally in the amount of \$202,000 to the Connecticut Laborers Fund. This was a joint investigation with the FBI. *United States v. Plisner* and *United States v. Sergi* (D. Connecticut)

## Business Owner Sentenced to Prison for Labor Embezzlement and Environmental Crimes

David Jacobs, president and owner of the former Northwestern Plating Works, Inc. (NPW), was sentenced on July 17, 2008, to 46 months' imprisonment after pleading guilty earlier this year to benefit fund embezzlement and environmental charges. He pled guilty to embezzling from an employee pension plan and to improperly storing and disposing of hazardous wastes. Jacobs was ordered to pay restitution of \$832,890 for the pension fraud and \$1,259,695 for the environmental crimes. Between 2001 and 2005, he used his role as sole trustee and administrator of NPW's employee profit sharing plan, which provided retirement income for NPW employees, to embezzle funds. This was a joint investigation with U.S. Environmental Protection Agency-CID and the Employee Benefits Security Administration (EBSA). *United States v. David Jacobs*. (N.D. Illinois)

*"Jacobs was ordered to pay restitution of \$832,890 for the pension fraud and \$1,259,695 for the environmental crimes."*

## Three Former HMO Officials Found Guilty of Fraud

The owner and the chief financial officer of The Oath of Louisiana (the Oath), a now-defunct health maintenance organization (HMO), were convicted on May 12, 2008, on fraud charges related to their operation of the HMO, Louisiana's third-largest HMO at the time of its failure. Barry Scheur, the Oath owner, was found guilty of conspiracy to commit mail and wire fraud. Robert McMillan, the chief financial officer, was found guilty of conspiracy, mail fraud and wire fraud. Rodney Moyers, the Oath's vice president, pleaded guilty on May 1, 2008, to conspiring to give insurance regulators financial reports that the HMO's liabilities exceeded its assets by about \$45 million, falsely said the HMO had enough money to pay the medical bills of its 82,000 members. Most of these Oath members were covered by ERISA-covered benefit plans. The Oath officials had devised a scheme using mail and bank wire transfers over more than two years to inflate the HMO's net worth and its ability to pay claims in reports submitted to the Louisiana Department of Insurance. By the time the Oath was put into receivership, the HMO's liabilities exceeded its assets by about \$45 million, representing the amount the Oath owed medical service providers. The defendants are now awaiting sentencing. This is a joint investigation with the USPIS and EBSA. *United States v. Scheur, et al.* (E.D. Louisiana)



# Internal Union Investigations

*Our internal union cases involve instances of corruption, including officers who abuse their positions of authority in labor organizations to embezzle money from union and member benefit plan accounts and defraud hard-working members of their right to honest services. Investigations in this area also focus on situations in which organized crime groups control or influence a labor organization, frequently to influence an industry for corrupt purposes or to operate traditional vice schemes. Following are examples of our work in this area.*

## Judge Approves Consent Decree for Union Local Controlled by the Colombo and Genovese Organized Crime Families

A U.S. District Judge in Brooklyn, New York, approved a consent decree on July 28, 2008, between Local 14 of the International Union of Operating Engineers (Local 14) and the United States. The consent decree provides for the appointment of union corruption officers to monitor the activities of Local 14 and permanently enjoins the local from engaging in corrupt activity. It also requires the local to institute measures ensuring it remains free from corruption and organized crime influence.

Local 14 is a 1,500-member union representing operating engineers working in the construction industry in New York City. The consent decree resolves prospective civil racketeering claims stemming from several criminal prosecutions. The criminal cases, which targeted the Colombo and Genovese organized crime families as well as former

top-level officers of Local 14, were the culmination of a three-year investigation conducted by the OIG with the Federal Bureau of Investigation (FBI) and the New York State Attorney General's Organized Crime Task Force.

The investigation established that the Colombo and Genovese families exerted control over union representatives to secure payments for no-show jobs for organized crime associates. The investigation also revealed that union members and officials received kickbacks from those jobs and accepted labor bribes from construction contractors. Ultimately, 48 defendants were convicted of racketeering, extortion, mail fraud, and unlawful labor payments, and related crimes. *United States v. Local 14-14B of the International Union of Operating Engineers*, AFL-CIO (E.D. New York)

*"The investigation established that the Colombo and Genovese families exerted control over union representatives to secure payments for no-show jobs for organized crime associates."*

## Crime Family Member and Former Local President Sentenced on RICO Charges

Salvatore "Hot Dogs" Battaglia, a member of the Genovese La Cosa Nostra (LCN) Family and the former president of Local 1181 of the Amalgamated Transit Union (Local 1181), was sentenced on June 26, 2008, to 57 months'

incarceration and 24 months' supervised release, and was ordered to pay \$255,000 in restitution, forfeiture, and fines. He previously pled guilty to RICO charges relating to extortion and unlawful payments from bus company owners servicing New York City schools.

Using both his position as president of Local 1181 (a union that represents approximately 15,000 bus employees) and as a member in the Genovese LCN Family, Battaglia peddled his influence for tens of thousands of dollars.

Battaglia received money from bus companies that contracted with the New York City Department of Education (DOE), in exchange for having the union not organize those companies. Battaglia also received payments from the owners and operators of a medical center in exchange for Local 1181's agreement to increase and pay reimbursements for services the medical center provided union members.

Four current and former employees of the New York City DOE Office of Pupil Transportation were indicted in May 2008 on charges of extortion,

bribery, and conspiracy. They allegedly solicited and accepted cash payments from bus company owners with transportation contracts with DOE. The suspected payments ranged from several hundred dollars to tens of thousands of dollars per year.

Geoffrey Berger and Jeffrey Dunat, New York City Board of Education inspectors, and Doron Winkler, a retired Chief Inspector of Busing, pled guilty in April 2008 to extortion, conspiracy, and theft or bribery concerning programs receiving Federal funds. All three received bribes from several bus companies which allegedly also paid bribes to Local 1181 union officials. This is an ongoing investigation with the FBI and DOL's Office of Labor Management Standards (OLMS). *United States v. Ianniello, et al.* (S.D. New York)



## Past President and CFO of Shasta County Company Pleads Guilty to Embezzlement and Tax Evasion

**P**eggy Kaye Witts, former president of Voorwood Company, Inc. (VCI), pled guilty on July 21, 2008, to wire fraud and tax evasion, arising from her embezzlement of more than \$850,000 from VCI's ERISA-covered Employee Stock Ownership Plan (ESOP), and failing to report the stolen money as income. She began her employment with VCI in 1991, later becoming the chief financial officer (CFO) and president. Witts admitted that she issued duplicate paychecks to herself for more than a four-

year period. She also issued company checks to herself, family members, and others to pay her personal expenses. Further, Witts also admitted to tax evasion consisting of her failure to report the embezzled money as income and pay the appropriate taxes owed. This is a joint investigation with the EBSA, the IRS-Criminal Investigation Division (CID) and the Anderson Police Department (California). *United States v. Peggy Kaye Witts.* (E.D. California)

## Electric Company Owner Guilty of Stealing More Than \$869,000 from Union Benefit Plan

**D**onald Dougherty Jr., owner of Dougherty Electric, Inc., pled guilty on May 19, 2008, to unlawful payments to a union official for performing more than \$115,000 of renovations on the personal residence of the business manager of International Brotherhood of Electrical Workers (IBEW) Local 98 (Local 98) for which the business manager did not pay. He had previously pled guilty April 15, 2008, to 98 other counts including theft of employee benefit plans, bank bribery, false statements relating to health care matters, tax evasion, and filing false and fraudulent tax returns.

Between 2001 and 2005, Dougherty stole more than \$869,000 from Local 98's employee benefit plans while maintaining an "under the table" cash payroll of more than \$2.6 million for himself and his employees. By operating a cash payroll, he avoided paying more than \$1.6 million in Federal, state, and local payroll taxes and the required employer contributions to Local 98's benefit plans. This was a joint investigation with the FBI, IRS, and EBSA. *United States v. Donald Dougherty, Jr.* (E.D. Pennsylvania)

*"By operating a cash payroll, [Dougherty] avoided paying more than \$1.6 million in Federal, state, and local payroll taxes and the required employer contributions to Local 98's benefit plans."*

## Custodian Convicted of Embezzling Thousands in Union Funds

**V**an T. Barnes, a maintenance worker employed by the International Brotherhood of Teamsters Local 705 (Local 705) in Chicago, pled guilty on July 30, 2008, to theft or embezzlement of union funds.

Barnes was hired in 1990 by Local 705 to maintain the union's properties, including an auditorium. In addition to maintenance of the auditorium, he was responsible for ensuring

that all rental proceeds were forwarded to the union's accounting department. In 1998, he set up a company, Step Time Productions, and listed himself as the company's registered agent. While employed by Local 705, Barnes illegally diverted \$97,661 in rental payments of the auditorium to himself and the company. This was a joint investigation with the FBI. *United States v. Van T. Barnes.* (N.D. Illinois)

## Former Union Bookkeeper Sentenced for Embezzling Funds from Local

**H**eather Lott, the former bookkeeper and executive assistant to the former president of the International Brotherhood of Teamsters Local Union 19 (Local 19) in Houston, Texas, was sentenced July 7, 2008, to 18 months' confinement and 3 years' supervised release and was ordered to pay \$140,952 in restitution, for embezzling funds from Local 19. Between 2003 and 2006, Lott used her position within the local to write several checks payable to herself, which she subsequently deposited into a personal bank account. She then falsified union journals, invoices, and vouchers to cover up the embezzlement. This was a joint investigation with the OLMS. *United States v. Heather Lott* (S.D. Texas)

# Labor-Management Investigations

*Labor-management relations cases involve corrupt relationships between management and union officials. Typical labor-management cases range from collusion between representatives of management and corrupt union officials to the use of the threat of “labor problems” to extort money or other benefits from employers.*

## Seven Mob Figures and Associates Pled Guilty to Running Criminal Enterprise

One of the Gambino LCN Organized Crime Family’s highest-ranking members in New Jersey (lead defendant), and 22 other made members and associates, including a made member of the Lucchese Crime Family, were charged on May 8, 2008, with running an enterprise that engaged in illegal gambling, extortion, fraud schemes, and labor racketeering.

In September 2008, seven of the defendants pled guilty. Michael Divivo, a member of LIUNA Local 1153 and a Gambino enforcer, pled guilty to Racketeer Influenced and Corrupt Organization (RICO) conspiracy. Erin Havens-Chock and India Fugate, Gambino associates, pled guilty to charges of wire fraud. Gambino associates Charles Russo, Gennaro Forte, and Eric and Carmine Maione pled guilty to operating an illegal gambling business.



Among other charges in the indictment, which details a pattern of racketeering activities by the defendants in New Jersey and elsewhere from about 2002 to the present, is a scheme to circumvent and ignore requirements of a CBA between a construction company and the International Union of Operating Engineers, Local 825 (Local 825). The lead defendant allegedly conspired with a Lucchese Organized Crime Family member and a business organizer of Local 825, by accepting approximately \$20,000 to allow non-union labor at a car dealership construction project.



*“The demolition company allegedly paid more than \$35,000 in cash to the Gambino associate who had been appointed as the job steward for Local 1153 at the construction site.”*

The indictment also alleges a similar scheme in which the lead defendant and a reputed Gambino associate conspired with a business agent of LIUNA Local 1153, to allow a demolition company to use non-union labor at a project, which violated its CBA with Local 1153. The demolition company allegedly paid more than \$35,000 in cash to the Gambino associate who had been appointed as the job steward for Local 1153 at the construction site.

Additionally, the lead defendant and another reputed high-ranking Gambino member in New Jersey are also charged with defrauding their employer, a construction company, at a bridge construction project. The two were purportedly paid for full-time employment, when, in fact, they alternated work weeks with each other, so that each of them was at work only part-time.

This is a joint investigation with the FBI, the New Jersey State Police, and the Union County, New Jersey, Prosecutor’s Office. *United States v. Andrew Merola et al.* (D. New Jersey)



## Twelve Union Officials and Members of Operating Engineers Local 17 Indicted

**T**welve union officers and members, including the president/business manager of IUOE Local 17, were charged on April 1, 2008, with several counts, including RICO conspiracy, Hobbs Act conspiracy, and extortion. Local 17 represents operators of heavy equipment and is involved in some of the largest construction projects in the Buffalo, New York, area. Those charged allegedly participated in a criminal enterprise with the wrongful intent of forcing contractors to use unwanted union labor. Construction company owners, who refused Local 17’s demands to hire its members, were subjected to significant vandalism at work sites, construction delays due to picketing activities, physical violence, and even death threats. As a result of the indictment, the General President of the IUOE placed Local 17 under International Supervision commencing on April 14, 2008, until further notice. This is a joint investigation with the FBI and the New York State Police.

## Construction Contractors and Union Officials Involved in Labor Bribes in Exchange for Allowing Nonunion Workers on New Jersey Construction Projects

The former president and several other high-ranking union officials of the International Union of Operating Engineers (IUOE), Local 825 (Local 825) pled guilty and were sentenced for their roles in conspiring to demand and receive bribes from construction contractors. Several of the contractors have also pled guilty and been sentenced in this extensive bribery scheme regarding Local 825's involvement in New Jersey construction projects.

This is a joint investigation with the FBI, IRS, and EBSA. *United States v. Craig Wask* (D. New Jersey)



Peter Stannemar, the former Local 825 president, was sentenced on September 16, 2008, to 27 months' incarceration, to be followed by 3 years of supervised release. He was further ordered to pay a \$20,000 fine for conspiring to receive bribes of at least \$112,000 from contractors.

Alan Cerra, president of Cerra Construction Inc., pled guilty on August 27, 2008, to conspiracy to violate the Taft-Hartley Act.

Manuel Pinto, president of Manny's Master Masonry, was sentenced on July 9, 2008, to 8 months' home confinement to be followed by 3 years of supervised release. Pinto was further ordered to pay a \$3,000 fine. Pinto bribed co-defendant Michael Giangrande, Local 825 lead engineer, to allow him to use non-union workers in violation of the CBA.

George Horbach, a former Local 825 lead engineer, pled guilty on July 7, 2008, for his role in the conspiracy to accept bribes from Frank Impeciati, while Horbach was the lead engineer on a construction project.

Frank Impeciati, owner of Blue Ridge Erectors, was sentenced on July 7, 2008, to 5 months' home confinement to be followed by 5 years of supervised release. Impeciati was also ordered to pay a \$13,500 fine.

The former business manager of Local 825 was named in an 18-count superseding indictment charging him on June 25, 2008, with multiple violations of the Taft-Hartley Act, embezzlement, and conspiracy.

Both Anthony Mann, a former Local 825 lead engineer, and Arthur Heimall, a retired Local 825 business agent, pled guilty in May 2008, to conspiracy to violate the Taft-Hartley Act for their role in accepting bribes from a contractor in exchange for allowing contractors to use non-union labor at a project.

George Coyne, owner of a construction company that had a CBA with Local 825, pled guilty on September 29, 2008, to conspiracy to violate the Taft-Hartley Act. Coyne's company was the main contractor at a golf course project in New Jersey. From 2003 to 2006, Coyne paid between \$70,000 and \$120,000 in cash bribes to Craig Wask, a former Local 825 business agent, in order for Coyne and his subcontractors to be permitted to use non-union operating engineers at the project. Coyne also paid Wask approximately \$6,000 to obtain union books for three of his employees.





# Unemployment Insurance Programs

*Enacted more than 60 years ago as a Federal-state partnership, the Unemployment Insurance (UI) program is the Department's largest income maintenance program. This multibillion-dollar program assists individuals who have lost their jobs through no fault of their own. While the framework of the program is determined by Federal law, the benefits for individuals are dependent on state law and are administered by State Workforce Agencies in 53 jurisdictions covering the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands under the oversight of ETA.*

*OIG audits conducted after the 2005 hurricanes demonstrated the importance of effective controls to ensure that unemployment benefits reach only eligible persons. After the hurricanes in 2005, the OIG focused attention on administration of the Disaster Unemployment Assistance (DUA) program. In addition to our audit work, the OIG actively performs criminal investigations and refers for prosecution cases that involve individuals who defraud unemployment benefit programs. Recent investigations have documented the manner in which criminals steal identities to file for fraudulent UI benefits.*

## More Than \$100 Million in Potential Overpayments of Hurricane-Related Unemployment Benefits

**H**urricanes Katrina and Rita devastated the Gulf Coast Region in the summer of 2005, forcing numerous local employers out of business and resulting in an unprecedented number of workers becoming unemployed. Individuals unemployed as a result of the hurricanes could claim benefits under one of two unemployment compensation programs delivered by the states in partnership with DOL: State UI or DUA.

In prior periods, we audited payments under the UI and DUA programs to assess internal controls over states' claims initiation and payment processes and to identify potential overpayments. We communicated

our interim results to ETA through a series of Management Letters. We also issued an audit report on potential overpayments in Louisiana because the State did not verify claimants' Social Security numbers.

Based on these audits, we previously recommended that ETA: improve overpayment prevention and detection; oversee states' efforts to recover erroneous payments; and ensure states take appropriate actions against claimants found to have obtained benefits fraudulently.

During this reporting period, we issued a summary report to provide a complete picture of the results of our work. This summary report made additional

recommendations that ETA: develop nationally coordinated contingency plans that provide alternatives for individual states to adopt in processing DUA and UI when normal processing is disrupted by disasters or other reasons; require states to suspend DUA and UI payments for a period of time for claimants who cannot provide adequate proof of employment; and promote data sharing among states to minimize duplicate payments. ETA generally agreed with our recommendations and has either planned or initiated corrective actions. (Report No. 06-08-001-03-315, issued June 12, 2008)



## Conspirator Establishes Fictitious Companies in Order to Collect UI Benefits

**R**obert Lee Ardis was sentenced on June 5, 2008, to 42 months' incarceration, 3 years' supervised release, and restitution of \$136,908. Ardis previously pled guilty to one count of mail fraud related to his orchestration of a fraudulent UI scheme that resulted in fraudulent claims being paid by the State of Michigan UI Agency. From 2004 to 2007, he established at least three fictitious companies. Ardis then recruited individuals, or stole their identities, in order to file fraudulent UI claims against wages he reported as having paid the individuals through the companies. Ardis filed quarterly earnings reports with the State of Michigan for these employees purporting to be full-time employees for the companies, and caused the benefit checks to be mailed to mailboxes he controlled.

In April 2008, 18 co-conspirators who received fraudulent UI benefits as a result of their participation in the scheme were administratively charged by the State of Michigan. There was a restitution order of \$121,535 as well as penalties of \$485,885 in this case. This was a joint investigation with the State of Michigan Unemployment Insurance Agency. *United States v. Robert Lee Ardis* (E.D. Michigan)

## Several Sentenced for Stealing UI Benefits from the Texas Workforce Commission

**A**lbert Henson, Jr., Latisha Slaughter, Theresa Sowels, and Mernika Thomas were sentenced between June and August 2008 on several charges for their roles in a UI and identity theft fraud scheme. The defendants and two other accomplices, Lonnie Oliver, Jr., and Pamela Sowels, illegally obtained UI benefits from the Texas Workforce Commission (TWC) by stealing the identities of several victims and filing fraudulent UI claims using the stolen identities. They obtained names, Social Security numbers, and dates of birth of individuals without their knowledge. They further provided TWC with names of bogus last employing units and addresses, as well as claimant mailing addresses, which they controlled. They used

the money from the UI benefits to pay for goods and services for themselves. Henson was sentenced to 70 months' incarceration and 3 years of supervised release, and was ordered to pay \$102,727 in restitution. Thomas was sentenced to 3 years' probation and 240 days of home confinement, and was ordered to pay \$24,708 in restitution. Slaughter was sentenced to 3 years probation and was ordered to pay \$1,770 in restitution. Sowels was sentenced to 5 years' probation with 6 months' home confinement and was ordered to pay \$9,296 in restitution. This was a joint investigation with the Texas Workforce Commission and the USPIA. *United States v. Lonnie Oliver, Jr., et al.* (N.D. Texas)

## Individual Sentenced for Defrauding Disaster Unemployment Assistance Program

**M**ichael Harris was sentenced on July 11, 2008, to 18 months' incarceration and 2 years of supervised release, and ordered to pay \$50,717.18 in restitution for fraudulently filing for and receiving DUA benefits relating to the Hurricane Katrina disaster. Harris's girlfriend and co-conspirator, Kenya Batiste, was sentenced in January 2008. Batiste, who used identities from a previous scheme in which she acted as an identity broker, implicated Harris in the DUA theft. The two were linked to approximately 20 separate claims that went to two addresses in Texas. Harris's Federal sentence will begin at the completion of his state sentence of 5 years of hard labor on an unrelated weapons and drug conviction. *United States v. Michael Harris* (N.D. Texas)

## Grocer Sentenced for Money Laundering

**A**bdulla Kasem Ahmed Muthana (Muthana), the owner of Ranchito Markets, was sentenced on June 2, 2008, to 30 months in prison and 36 months of supervised release, ordered to forfeit \$220,306, and to pay a special assessment fee of \$600, as a result of his previously pleading guilty to money laundering charges. Between 2005 and 2007, Muthana used his business to launder approximately \$350,000 in monies that were the proceeds of an UI benefits fraud scheme. Muthana accepted scores of checks that were proceeds of fraud, collected his transaction fee (\$50 per check or 12 percent of

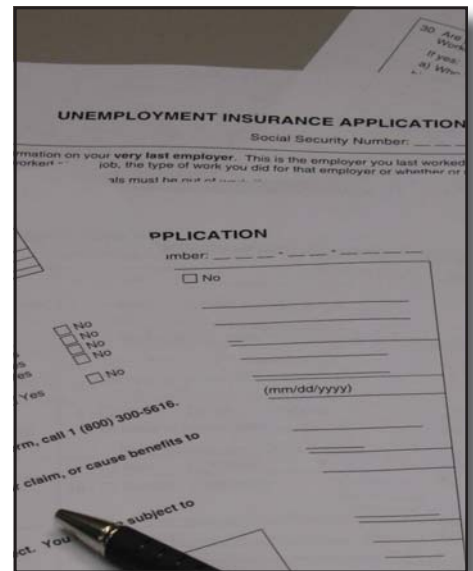
the amount laundered), and remitted the remaining proceeds back to the person in cash. In November 2006, after Muthana was initially indicted for money laundering, he transferred approximately \$55,000 in monies that were proceeds of illegal activity to a bank account located in Bahrain, which was, in fact, an undercover bank account.

This was a joint investigation with the Fresno FBI Office Joint Terrorism Task Force and the California Employment Development Department (EDD). *United States v. Abdulla Kasem Ahmed Muthana* (E.D. California)

*“Between 2005 and 2007, Muthana used his business to launder approximately \$350,000 in monies that were the proceeds of an UI benefits fraud scheme.”*

## California Man Steals More Than 500 Identities to Defraud UI Program

**C**ruz Mendoza, also known as “Carlos Espindola,” was sentenced on July 7, 2008, to 30 months in prison and 36 months of supervised release, and ordered to pay \$590,450 in restitution for his scheme to defraud the UI program in the State of California. Mendoza obtained and used stolen personal identity information to file fraudulent UI claims with the California EDD, and caused the mailing of thousands of fraudulent UI checks to be sent to addresses he controlled. The UI scheme involved more than 500 stolen identities of unknowing individuals obtained from stolen payroll lists and stolen credit applications from southern and central California companies. This was a joint investigation with the California EDD and USPS. *United States v. Carlos Espindola* (E.D. California)



# Wage and Hour Programs

*The Davis-Bacon Act and related acts, such as the Copeland “Anti-Kickback” Act, require the payment of prevailing wage rates and fringe benefits on federally financed or assisted construction. The McNamara-O’Hara Service Contract Act requires the payment of prevailing wage rates and fringe benefits to service employees on federally financed service contracts. The OIG selectively focuses on investigating violations by contractors engaged in Federal construction projects who submit falsified certified payroll records in violation of the Copeland Act.*

## Construction Company Officials Plead Guilty to Copeland Anti-Kickback Act Violations

**R**omeo Palma Cruz, the owner of Marikina Construction Corporation (Marikina), pled guilty on August 28, 2008, to charges of mail fraud and conspiracy related to his role in one of the largest fraud schemes ever perpetrated against the Federal Disadvantaged Business Enterprise (DBE) program. Timothy Hubler, the general manager of Schuylkill Products, Inc. (SPI), pled guilty on April 15, 2008, to conspiracy to defraud the U.S. Department of Transportation the Pennsylvania Department of Transportation (PENNDOT), and various general contractors in connection with the DBE program. Cruz and Hubler prepared phony certified payroll reports to the general contractor and to DOL falsely indicating that Marikina employees had performed

work that they had not performed. In addition, the two conspired to orchestrate illegal payments between Marikina and CDS Engineers, a wholly owned subsidiary of SPI.

The scheme involved 347 DBE subcontracts on bridge projects awarded through PENNDOT. Between 1994 and 2007, Marikina became PENNDOT’s largest recipient of DBE-designated funds. Marikina was used as a front company to obtain PENNDOT contracts valued at \$121 million under the DBE program.

This is a joint investigation with the FBI, DOT-OIG, and the IRS Criminal Investigation Division. *United States v. Timothy G. Hubler* and *United States v. Romeo P. Cruz* (M.D. Pennsylvania)



## Hospital Transport Company Enters Guilty Plea for Benefit Plan Embezzlement

**M**ercy Regional Health Systems, Ltd. (Mercy), pled guilty on August 21, 2008, to false statements relating to embezzlement from an employee benefit plan, health care fraud, and mail fraud. On that same date, Clayton W. Hobbs, who operated Mercy from 2002 to 2008, pled guilty to failure to pay Federal employment taxes.

Hobbs and Mercy contracted with the U.S. Department of Veterans Affairs (V.A.) to provide ambulance and hired car services based out of a V.A. hospital in Illinois. Mercy's contract with the V.A. required the payment of prevailing wage and fringe benefits as mandated by the Service Contract Act. Hobbs and Mercy failed to pay the prevailing wage and fringe benefits required by the contract. They also failed to make contributions to

employees' benefit plans as required. In addition, false statements made by Hobbs regarding health insurance premiums caused employees to file medical claims of more than \$100,000 that have not been paid. Additionally, they failed to pay approximately \$1.7 million in Federal taxes. After Hobbs' arrest, the judge appointed a receiver to operate Mercy until such time as its assets can be sold to provide restitution to employees.

This case was investigated by members of the Health Care Taskforce for the Southern District of Illinois, including IRS-CID, HHS-OIG, EBSA, FBI, USPIS, the Franklin County (Illinois) Sheriff's Department, and the Illinois State Police. *United States v. Clayton W. Hobbs* and *United States v. Mercy Regional Health Systems, Ltd.* (S.D. Illinois)



*"False statements made by Hobbs regarding health insurance premiums caused employees to file medical claims of more than \$100,000 that have not been paid. Additionally, [Hobbs and Mercy] failed to pay approximately \$1.7 million in Federal taxes."*



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# Office of Workers' Compensation Programs

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*The Employment and Standards Administration's Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA) program and three other disability compensation programs, which provide wage replacement benefits, medical treatment, vocational rehabilitation, and other benefits to certain workers for work-related injuries or occupational disease. The FECA benefits are charged to the employing Federal agencies that rely upon OWCP to adjudicate claims eligibility and to pay compensation benefits and medical expenses. OWCP has similar responsibilities for Black Lung, Longshore and Harbor Workers, and Energy Employees Occupational Illness Compensation programs financed by a combination of Federal and industry funds.*

## Former Postal Carrier Sentenced to Jail and More Than \$71,000 Restitution

**B**enjamin Colbert, a former letter carrier with the United States Postal Service (USPS), was sentenced on April 10, 2008, to 30 months' incarceration and 3 years' supervised release, and ordered to pay restitution in the amount of \$71,514, after pleading guilty in January 2008 to making false statements to obtain FECA benefits. Colbert worked for USPS from 1987 until he sustained a job-related injury in March 2004. He subsequently began receiving FECA benefits in September 2004. Colbert and his physician reported to OWCP that his disability was permanent and that he was unable to perform his job due to constant lumbar

pain that radiated into his legs. He claimed physical limitations related to sitting, walking, reaching, bending, stooping, operating a motor vehicle, lifting, and squatting.

An anonymous complaint was received by USPS-OIG regarding the claimant's activities in the community, including playing golf at a local course. While at the golf course, Colbert was observed swinging golf clubs, carrying heavy bags of equipment, and driving golf carts. This was a joint investigation with the USPS-OIG. *United States v. Benjamin F. Colbert* (M.D. Georgia)

## FECA Claimant Pleads Guilty for Falsely Obtaining and Selling Pain Medication

**A**nnell Johns, a former USPS employee, pled guilty on July 1, 2008, to one count of fraud to obtain FECA benefits after being indicted in April 2008 for a scheme in which she sold prescribed pain medication she received as a FECA benefit recipient. Johns injured her neck, back, and face in December 1992 while working for the USPS. The claimant concealed the fact that she was prescribed large amounts of narcotic pain medication by her OWCP physician while receiving identical drugs in large quantities from two other physicians. This was a joint investigation with USPS-OIG. *United States v. Annell Johns* (M.D. Florida)

## Son Steals Benefits by Forging DOL Forms With His Deceased Father's Signature

**D**irulislam Bilal Abdullah pled guilty on August 5, 2008, to theft of government property and making a false statement to obtain \$144,366 in FECA compensation to which he was not entitled. In 1979, Abdullah's father, a Defense Department employee who suffered from asbestosis, began receiving approximately \$2,500 per month in FECA benefits until his death in November 1999. Following his father's death, Abdullah completed and forged his father's signature on DOL forms to continue receiving benefits. The funds were deposited into a checking account to which Abdullah had access. The benefits were terminated in January 2004, when bank officials notified OWCP of the death of Abdullah's father. *United States v. Dirulislam Bilal Abdullah* (E.D. California)

## Doctor Sentenced for Submitting More Than \$5 Million in Fraudulent Claims

**M**artin R. McLaren, an anesthesiologist and owner of the Pain Management Center (PMC), was sentenced on July 11, 2008, to 37 months of incarceration and ordered to pay \$5 million in restitution, forfeiture, and a civil settlement for making false statements to obtain payment for services he did not provide. From 2000 to 2006, he defrauded various health care benefit programs, including OWCP by billing for medical services, when, in fact, no such services

were rendered. McLaren submitted thousands of fraudulent claims that totaled in excess of \$5 million, of which \$1.75 million was fraudulently billed to OWCP. Several of the codes used to bill the programs required equipment PMC did not own. In other cases, he billed the programs for patient consultations he had not provided. This was a joint investigation with the FBI, HHS-OIG, and Office of Personnel Management-OIG. *United States v. Martin R. McLaren* (D. of Columbia)

*"McLaren submitted thousands of fraudulent claims that totaled in excess of \$5 million, of which \$1.75 million was fraudulently billed to OWCP."*

## Individual Sentenced for Defrauding Black Lung Program

**L**inda Allen, the daughter of a former Federal Black Lung Benefits recipient who died in January 1998, was sentenced on April 1, 2008, to 6 months' home detention and 36 months' probation, and ordered to pay \$48,524 in restitution in connection with her conviction of fraudulently obtaining Black Lung Disability Trust Fund benefits in 2007. Allen forged her mother's signature on forms she submitted to OWCP after her mother's death in order to continue receiving her mother's benefits. She perpetrated this scheme between 1998 and 2006, causing benefit payments to be electronically transferred to her mother's bank account to which she had access. *United States v. Linda Allen* (N.D. Alabama)





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# Mine Safety and Health Administration

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## Audit Resolution: Departmental Actions To Implement OIG Recommendations To Improve Miner Safety

During the previous semiannual period, we completed audits of the Department's Mine Safety and Health Administration's (MSHA) process used to approve the roof control plan at Utah's Crandall Canyon Mine, MSHA's statutory mandate to inspect underground coal mines, and MSHA's process for determining whether fatalities are mining related. Each of these audits disclosed shortcomings that could jeopardize miners' safety.

MSHA took significant steps to address our recommendations during this semiannual reporting period. In response to our recommendations to improve its process for approving roof control plans, MSHA now requires documentation explaining the rationale to support roof control approval decisions and associated six-month plan reviews. Documentation is to be maintained in the mine's roof control plan file.

In addition, MSHA issued a memorandum to all District Managers regarding rescue and non-rescue personnel restricting underground access to mine employees and contractors, state and Federal mining officials, labor representatives, mine rescue teams, and necessary consultants.

MSHA has also been active in addressing the recommendations made in our audit of its underground coal mine inspection process. In response to direction from Congress, MSHA stated that it has hired more than 360 additional enforcement personnel as of September 30, 2008, and that it intends to continue hiring additional enforcement personnel to maintain an enforcement level of 757 inspectors. Further, MSHA has reported that it completed 100 percent of the required inspections for FY 2008.

MSHA revised its Accountability Program, a peer

review program intended to provide reasonable assurance that MSHA consistently complies with all policies and procedures, and that it completes all mission critical enforcement activities. The Accountability Program is now risk-based and designed to more effectively evaluate and improve the overall performance of MSHA enforcement personnel and their activities.

MSHA revised its General Coal Mine Inspection Procedures and Inspection Tracking System Handbook. The revised Handbook contains documentation requirements for all General and Regular Safety and Health Inspection Procedures, and requires supervisory certifications.

MSHA generally agreed to the seven recommendations in our audit on chargeable fatalities and has stated that it will complete the revision of its Accident/Investigations Handbook by January 1, 2009. MSHA has stated that policy changes will include developing and implementing a standard protocol for first responders, developing policies and procedures to require that the initial chargeability determination for all reported fatalities be made by an individual outside the District, establishing and requiring a standard investigative protocol, and establishing a system to ensure that all facts and information used to reach a chargeability decision are supported by documentation.

MSHA has started posting information of all reported fatalities, both chargeable and non-chargeable mining deaths, on its Web site. MSHA is continuing to work toward implementing the OIG's recommendation that MSHA's Fatality Review Committee include a member who is not a current or former employee of either DOL or a mine operator.





# Departmental Management

## Stronger Controls Over Sole Source Procurement Needed

**W**e conducted an audit to determine if the Department followed proper procurement procedures when it awarded sole source contracts. Our audit reviewed contracts awarded by the Office of Administrative Services and Management (OASAM), MSHA, BLS, and ETA. In FY 2007, the Department awarded 809 sole source contracts totaling over \$47 million. Our audit sample contained 62 sole source contracts. We found that the majority of sole source contracts in our sample, 41 contracts totaling \$15.4 million, lacked sufficient justification or documentation required for sole source awards.

As a result of relying on sole source contracts and not following required contracting procedures, the Department could not demonstrate that it made the best decisions in awarding these contracts to carry out DOL activities.

In addition, OASAM could not locate five contract files we requested because it did not have an adequate inventory control system in place. Without these files, DOL cannot provide a complete history of the procurement actions or the basis for its decisions and would also be unable to provide information for other purposes such as Congressional and Freedom of Information Act requests.

We recommended the Assistant Secretary for Administration and Management develop and implement policies and procedures requiring supervisory reviews for all contracting actions and conduct post-award quality control reviews. We further recommended that OASAM implement a procurement action file inventory control system that provides accountability for all procurement

*Specifically, we found:*

- *Justifications to award sole source contracts were missing, inadequate or lacked required reviews and approvals (21 occurrences);*
- *Documentation of the fair and reasonable price determination for sole source contracts was not sufficient (29 occurrences);*
- *Required conflict of interest certifications were not obtained from program officials requesting the sole source contract for any of the 62 contracts in our sample;*
- *No evidence that the contracting officer submitted the offering notice to the Small Business Administration for an 8(a) sole source award (1 occurrence).*

actions. The OASAM Deputy Assistant Secretary for Operations disagreed with our conclusions about the lack of approvals for a sole source justification for a \$1 million contract and the lack of conflict of interest certifications for program officials requesting the sole source contract as he believed that OASAM had complied with DOL policy. Nevertheless, he stated that guidance to address our recommendations would be issued in FY 2009. (Report No. 03-08-002-07-711, September 30, 2008)

## Controls Over DOL's Records Management Program Should Be Strengthened

**T**he Federal Records Act of 1950 requires that each Federal agency establish and maintain an active records management program. The Department's records management program consists of records creation, maintenance and use, and disposition of records to achieve adequate and proper documentation of the Department's policies and transactions.

We conducted an audit of the records management program to determine whether DOL has sufficient controls to ensure that records are preserved in accordance with Federal regulations and whether the Department has sufficient controls to preserve e-mail and electronic documents, as a result of legal holds; for example, discovery requests, and other litigation considerations, and Freedom of Information Act (FOIA) requests.

We found that DOL could not demonstrate that its controls were sufficient to ensure that Federal records were preserved as required. While the Department established records management policies and procedures, it did not follow all its procedures. Specifically, DOL had not performed comprehensive evaluations of its records management program; it had not provided records management training to all employees, and DOL agencies had not followed Departmental guidance for disposing of transitory documents that do not have legal retention requirements. As result, DOL cannot ensure that employees are entering Federal records into the appropriate record keeping system and maintaining, using, and disposing of these records in accordance with Federal regulations.

We also found that DOL did not have an effective record keeping and document management system to manage e-mail and electronic files in response to FOIA and other requests. As a result, the Department may not be able to provide such files in a timely and complete manner when these files are required in conjunction with litigation and FOIA requests.

We made five recommendations to the Department to implement an effective evaluation process of its records management program. The Department generally agreed with the recommendations and has either planned or implemented the necessary corrective actions. The Department also noted that all employees and managers were required to complete mandatory records management training during the period June to August 2008. This action was taken in response to a recommendation the OIG made in a previously issued Management Letter. (Report No. 23-08-002-50-598, issued September 15, 2008)



## DOL Faces Challenges in Maintaining Full Compliance With FISMA

In the Department's FY 2008 FISMA report to OMB, we cited a number of challenges preventing the Department from fully implementing the minimum security controls required by FISMA. These challenges involve access controls, configuration management, and security controls monitoring and testing.

For example, our testing found that employees who had separated from the agency still had access to departmental information systems, and we noted multiple cases where individuals accessed systems after their listed separation date. Preventing

unauthorized users system access will decrease the risk that confidential or sensitive data could be inappropriately released or altered.

We also found weaknesses in configuration management controls with system security settings not being appropriately configured or continuously monitored. These configuration management weaknesses provide avenues for malicious users to launch attacks on DOL systems. Establishing consistent configuration management practices will help ensure the availability and integrity of sensitive data.



In the area of security controls monitoring and testing, we found that although DOL agencies were identifying security weaknesses, they were not always documenting those weaknesses. Failure to document identified security weaknesses could prevent the mitigation of security risks. Establishing strong remediation efforts will protect the integrity of data generated and stored by DOL systems, including personally identifiable and other sensitive

information.

The recurring cycle of many of these weaknesses, especially access control vulnerabilities identified since FY 2006, demonstrates the need for improved management oversight of information security. Without such oversight, DOL may not be able to protect the confidentiality, integrity, and availability of its information systems. (23-08-018-07-001, September 16, 2008)

## State Workforce Agencies Need Reliable IT Contingency Plans to Ensure That Recipients Receive Unemployment Benefits

We conducted a performance audit at State Workforce Agencies (SWAs) in California, Texas, New York, and Louisiana to determine whether ETA is providing sufficient oversight of information technology (IT) contingency planning to support the Unemployment Insurance program. We selected these four states because they were high risk based on the frequency of disasters declared in each state, as recorded by FEMA.

We found that ETA needs to strengthen its oversight of IT contingency planning at the SWAs. Our audit disclosed that while ETA requires workforce agencies to develop and implement disaster recovery plans, it does not verify that the plans are actually developed and tested. We found that three of the four SWAs may not be able to recover the UI tax and benefit systems necessary to maintain operational capability in a timely, orderly

manner or to perform essential functions during a situation that may disrupt normal operations. As a result, ETA cannot be certain that these SWAs will be able to provide UI program benefits to eligible claimants in the event of a disaster or service disruption.

It is critical for all SWAs to have IT contingency plans for delivery of unemployment benefits to ensure individuals who rely on these benefits receive this vital support in a time of need and uncertainty, such as a hurricane or other disaster.

We recommended that ETA implement a monitoring and review process to verify that SWAs develop and test IT contingency plans necessary to sustain the UI program, and identify and address any weaknesses found in SWA IT contingency plans. ETA agreed with our recommendations. (Report No. 23-08-004-03-315, September 29, 2008)

## Evaluation of DOL's Privacy Impact Assessment

We conducted an evaluation of the Department's Privacy Impact Assessment (PIA) process. The PIA is an analysis of how information is handled to: (1) ensure handling conforms to applicable privacy requirements (2) determine the risks and effects of collecting, maintaining, and disseminating information in identifiable form in an electronic information system, and (3) evaluate protections and alternative processes for handling information to mitigate potential privacy risks. The requirements for implementing PIA are contained in the OMB Memorandum, OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002.

We found that the overall PIA process within the Department was satisfactory and that the Department has taken positive steps to address OMB requirements. However, we noted that the Department is challenged with timely and complete adherence to the PIA process in implementation of the screening process for personally identifiable information (PII), in execution of the security approval process, and in completion of the PIA questionnaire process.

We concluded that the Department needs to continue its efforts to ensure that the component agencies complete their PIAs and post redacted versions of them to the departmental Web site in a timely manner. The Department should also continue to monitor component agencies in their completion of both PII screening forms and PIA questionnaires to ensure each is complete and accurate. We did not make any recommendations to the Department based on our report. (Report No. 23-08-003-07-001, August 4, 2008)



## Internal Controls Over Commission for Labor Cooperation Secretariat Activities Should Be Strengthened

We conducted a performance audit of expenditures incurred by the Commission for Labor Cooperation (CLC) Secretariat during 2004 through 2006 in response to the findings in an internal CLC review and Congressional concerns that followed the review. Our objectives were to determine whether CLC's internal controls were adequate to ensure that the CLC Secretariat activities and expenditures supported its mission and to determine what contributed to the decline in the CLC General Fund balance. We found that the CLC General Fund balance declined primarily as a result of assessment credits granted to the funding countries.

The CLC is a tri-national, not-for-profit organization created in 1994 to promote cooperative activities and research labor standards, labor law, and human resource development. Its leadership, which oversees activities of the CLC, consists of a Ministerial Council comprising the U.S. and Mexico Secretaries of Labor and Canada's Minister of Labor; and an Office of the Secretariat. The CLC Secretariat is an international organization whose officers and employees enjoy diplomatic immunity from criminal and civil matters under the International Organizations Immunities Act. In August 2004, the Ministerial Council appointed Mark Knouse to be executive director of the Secretariat. In October 2006, Mr. Knouse resigned after an internal review identified issues regarding his leadership, staff practices, and the inappropriate use of funds during his tenure.

Our audit found that CLC's internal controls were not adequate to ensure the CLC Secretariat activities and expenditures supported the CLC mission. We found the CLC Secretariat:

- could not demonstrate that contracts and vendor payments totaling about \$1 million were used to support the CLC mission or that it actually received the goods or services for which it paid; and
- could not demonstrate that travel expenditures of \$9,930, hospitality and representation expenditures totaling \$18,020, or employee relocation expenditures totaling \$12,669, were appropriate uses of CLC funds.

Moreover, we found the CLC Secretariat did not specify minimum qualifications required for staff positions or provide documentation of specific duties assigned to contract research assistants and interns, and thereby was unable to show that these individuals were used to support CLC's mission. Further, the CLC Secretariat Executive Director did not regularly submit required quarterly financial reports and the reports that he did submit provided only summary financial data that did not include sufficient details for an adequate Ministerial Council review of Secretariat activities.

The OIG did not make any investigative referrals related to the questionable expenditures we found because Mr. Knouse, as the executive director of the Secretariat, was entitled to diplomatic immunity from prosecution, and the CLC did not respond to the OIG's request to waive this immunity.

We recommended the Secretary of Labor ask the Ministerial Council to take 10 specific corrective actions to improve internal controls at the CLC in the areas of contracting, allowable expenditures, documentation, human resources, and financial reporting. We also recommended the Ministerial Council be more proactive in monitoring CLC Secretariat activities and expenditures. The Deputy Under Secretary for International Affairs agreed with the recommendations and stated that she will work closely with her counterparts in Canada and Mexico to undertake our recommended actions. (Report No. 21-08-002-01-070, April 7, 2008)

## The Department Should Improve Web Application Security

The Department operates publicly accessible Web applications that provide a wide range of information about its programs. Ensuring these Web applications are secure and information is current and readily accessible supports the mission of the Department. We conducted a performance audit of DOL Web application security after the Department discovered that one of its information databases had been defaced by external hackers. We found that the Department was not effectively managing security over its Web applications and that the agencies we sampled did not ensure compliance with policies and procedures. In addition, we identified deficiencies at five of the six agencies in our sample, indicating a systemic control weakness.

We determined that the Department has

established computer incident-response policies and procedures, but was not adequately enforcing them to ensure Web application intrusions were promptly discovered, reported, and effectively mitigated. We also found that agencies' contingency plans were not adequate to minimize service disruptions and recovery of some Web applications because the agencies were not ensuring compliance with the Department's related policies and procedures.

We recommended that the DOL Chief Information Officer and the Assistant Secretary for Public Affairs coordinate efforts to secure the Department's Web applications. The Department agreed with our recommendations and has either planned or initiated corrective actions. (Report No. 23-08-002-50-598, September 30, 2008)







# Legislative Recommendations

*The Inspector General Act requires the OIG to review existing or proposed legislation and regulations and to make recommendations in the semiannual report concerning their impact on the economy and efficiency of the Department's programs and on the prevention of fraud and abuse.*

## Allow DOL Access to Wage Records

To reduce overpayments in employee benefit programs, including UI and FECA, the Department and the OIG need legislative authority to easily and expeditiously access state UI wage records, SSA wage records, and employment information from the National Directory of New Hires (NDNH), which is maintained by the Department of Health and Human Services. The DOL and the SSA currently have a memorandum of understanding (MOU) in place that allows State Workforce Agencies to access Social Security data on individuals who apply for UI. The MOU is a good first step.

In addition, a provision in the State Unemployment Tax Authority (SUTA) Dumping Prevention Act of 2004 (Public Law 108-295) enables state agencies responsible for the administration of unemployment compensation programs to obtain access to the

NDNH. By cross-matching UI claims against this new-hire data, states can better detect overpayments to UI claimants who have gone back to work but who continue to collect UI benefits. However, this law does not provide DOL or the OIG with access to the NDNH. To make the new hire data even more useful for this purpose, legislative action is needed requiring employers to report a new hire's first day of earnings and provide a clear, consistent, nationwide definition for this date. Moreover, access to SSA and UI data would allow the Department to measure the long-term impact of employment and training services on job retention and earnings. Outcome information of this type for program participants is otherwise difficult to obtain.

## Amend Pension Protection Laws

Legislative changes to ERISA and criminal penalties for ERISA violations would enhance the protection of assets in pension plans. To this end, the OIG recommends the following:

**Expand the authority of EBSA to correct substandard benefit plan audits and ensure that auditors with poor records do not perform additional plan audits.** Changes should include providing EBSA with greater enforcement authority over registration, suspension, and debarment and the ability to levy civil penalties against employee benefit plan auditors. The ability to correct substandard audits and take action against auditors is important because benefit plan audits help protect participants and beneficiaries by ensuring the proper value of plan assets and computation of benefits.

**Repeal ERISA's limited-scope audit exemption.** This provision excludes pension plan assets invested in banks, savings and loans, insurance companies, and the like from audits of employee benefit plans. The limited scope prevents independent public accountants who are auditing pension plans from rendering an opinion on the plans' financial statements in accordance with professional auditing standards. These "no opinion" audits provide no substantive assurance of asset integrity to plan participants or to the Department.

**Require direct reporting of ERISA violations to DOL.** Under current law, a pension plan auditor who finds a potential ERISA violation is responsible for reporting it to the plan administrator, but not directly to DOL. To ensure that improprieties are addressed, we recommend that plan administrators or auditors be required to report potential ERISA violations directly to DOL. This would ensure the timely reporting of violations and would more actively involve accountants in safeguarding pension assets, providing a first line of defense against the abuse of workers' pension plans.

**Strengthen criminal penalties in Title 18 of the United States Code.** Three sections of Title 18 serve as the primary criminal enforcement tools for protecting pension plans covered by ERISA. Embezzlement or theft from employee pension and welfare plans is prohibited by Section 664, making false statements in documents required by ERISA is prohibited by Section 1027, and giving or accepting bribes related to the operation of ERISA-covered plans is outlawed by Section 1954. Sections 664 and 1027 subject violators to 5 years' imprisonment, while Section 1954 calls for up to 3 years' imprisonment. We believe that raising the maximum penalties to 10 years for all three violations would serve as a greater deterrent and would further protect employee pension plans.

## Provide Authority to Ensure the Integrity of the Foreign Labor Certification Process

If DOL is to have a meaningful role in the H-1B specialty occupations foreign labor certification process, it must have the statutory authority to ensure the integrity of that process, including the ability to verify the accuracy of information provided on labor condition applications. Currently, DOL is statutorily required to certify such applications unless it determines them to be "incomplete or obviously inaccurate." Our concern with the Department's limited ability to ensure the integrity of the certification process is heightened by the results of OIG analysis and investigations that show the

program is susceptible to significant fraud and abuse, particularly by employers and attorneys.

The OIG also recommends that ETA should seek the authority to bar employers and others who submit fraudulent applications to the Foreign Labor Certification program.

The OIG recommends that DOL consider, in conjunction with U.S. Citizenship and Immigration Services (USCIS), a legislative proposal that would require foreign nationals to have their eligibility determined by USCIS before the employer's labor certification application is reviewed by DOL.



## Enhance the WIA Program Through Reauthorization

The reauthorization of the WIA provides an opportunity to revise WIA programs to better achieve their goals. Based on our audit work, the OIG recommends the following:



**Improve state and local reporting of WIA obligations.** A disagreement between ETA and the states about the level of funds available to states drew attention to the way WIA obligations and expenditures are reported. The OIG's prior work in nine states and Puerto Rico showed that obligations provide a more useful measure for assessing states' WIA funding status if obligations accurately reflect legally committed funds and are consistently reported.

**Modify WIA to encourage the participation of training providers.** WIA participants use individual training accounts to obtain services from approved eligible training providers. However, performance reporting and eligibility requirements for training providers have made some potential providers unwilling to serve WIA participants.

**Support amendments to resolve uncertainty about the release of WIA participants' personally identifying information for WIA reporting purposes.** Some training providers are hesitant to disclose participant data to states for fear of violating the Family Education Rights and Privacy Act.

**Strengthen incumbent worker guidance to states.** Currently no Federal criteria define how long an employer must be in business or an employee must be employed to qualify as an incumbent worker, and no Federal definition of "eligible individual" exists for incumbent worker training. Consequently, a state could decide that any employer or employee can qualify for a WIA-funded incumbent worker program.

## Improve the Integrity of the FECA Program

The OIG continues to support reforms to improve the integrity of the FECA program. Implementing the following changes would result in significant savings for the Federal government:

- Move claimants into a form of retirement after a certain age if they are still injured.
- Return a 3-day waiting period to the beginning of the 45-day continuation-of-pay process to require employees to use accrued sick leave or leave without pay before their benefits begin.
- Grant authority to DOL to directly and routinely access Social Security wage records in order to identify claimants defrauding the program.



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U.S. Department of Labor

Office of Inspector General  
Washington, D.C. 20210



OCT 16 2008

MEMORANDUM FOR THE SECRETARY

FROM:

*Gordon S. Heddell*  
GORDON S. HEDDELL  
Inspector General

SUBJECT:

Top DOL Management Challenges

On September 3, 2008, the Office of Inspector General (OIG) transmitted the Top DOL Management Challenges to the Department. Since that date, we have made revisions based on agency comments. I am attaching the final version of this report.

I would be pleased to meet with you concerning any aspect of this report.

Attachment

cc: Howard Radzely  
Richard French

*Working for America's Workforce*

## 2008 TOP MANAGEMENT CHALLENGES FACING THE DEPARTMENT OF LABOR

*The Department's FY 2008 Top Management Challenges identified by the Office of Inspector General (OIG) are below. For 2008, the OIG considers workplace protection, accountability, integrity of benefit programs, and the delivery of goods and services as the most serious management and performance challenges facing the Department. The OIG assessed the Department's progress in these areas and continues to review and monitor how these complex issues are addressed.*

For each challenge, the OIG presents an overview of the challenge, a description of the challenge, and the OIG's assessment of the Department's progress in addressing the challenge.

- Protecting the Safety and Health of Workers
- Improving Performance Accountability of Grants
- Ensuring the Effectiveness of the Job Corps Program
- Safeguarding Unemployment Insurance
- Improving the Federal Employees' Compensation Act Program
- Improving Procurement Integrity
- Maintaining the Integrity of Foreign Labor Certification Programs
- Securing Information Technology Systems and Protecting Related Information Assets
- Ensuring the Security of Employee Benefit Plan Assets
- Preserving Departmental Records

### **CHALLENGE: Protecting the Safety and Health of Workers**

**OVERVIEW:** The Department of Labor administers the Federal Mine Safety and Health Act of 1977 (Mine Act) as amended by the Mine Improvement Emergency Response Act of 2006 and the Occupational Safety and Health Act of 1970. The workplace safety and health of our nation's workers depends on DOL's strong enforcement of these laws.

**CHALLENGE FOR THE DEPARTMENT:** The OIG has consistently revealed a pattern of weak oversight, inadequate policies, and a lack of accountability on the part of MSHA made more of a challenge by years of resource shortages. Congress has allocated additional funding. However, it will take several years for the Department to be fully functional with these increased resources. Insufficient resources during a period of increasing mining activity made it difficult for the Department to ensure that it had enough resources in the right places to ensure the safety of miners. These resource issues further reemphasize the need for MSHA to have adequate procedures in place for carrying out its mission. Further, MSHA management must monitor performance to ensure that its employees are following those procedures and documenting their activities.

The OIG's recent audits have documented the need for MSHA to improve its operating procedures and management oversight. For example, an OIG report on MSHA inspections found that MSHA did not complete 147 required safety inspections at 107 underground coal mines where approximately 7,500 miners worked during FY 2006. In an OIG audit of MSHA's process for approving the roof control plan at Utah's Crandall Canyon Mine, the OIG found that MSHA was negligent in its review, approval, and oversight of the roof control plan.

Likewise, the Independent Review Team established to evaluate MSHA's actions prior to the August 2007 accident at the Crandall Canyon Mine and during the subsequent rescue activities, identified many serious deficiencies in MSHA's actions, including inadequate evaluation of the engineering data to justify mining in the North and South Barriers and inadequate oversight of the plan evaluation and approval process by MSHA management. The review concluded that MSHA's failure to adequately evaluate the roof control plans contributed to the August accident.

An OIG audit of how MSHA determines whether a fatality is mining-related found that investigators and decision makers lacked independence and investigative documentation was not always complete. The OIG also found that decisions about the cause of a fatality were sometimes made on a manager's preliminary assessment and a full investigation was not done.

OSHA's mission is to prevent work-related injuries, illnesses, and deaths and to ensure that every working man and woman in the nation has safe and healthful work conditions; however, work-related fatalities reported in the BLS Census of Fatal Occupational Injuries were 5,764 in 2004, 5,734 in 2005, 5,840 in 2006, and 5,488 in 2007.\* Because it is impossible for OSHA to inspect the more than seven million workplaces in the nation, it is essential that OSHA target its limited resources to inspect workplaces with the highest risk of hazardous conditions or which have a

history of causing significant injuries or fatalities. Recent fatal workplace accidents involving cranes, combustible dust, and refineries highlight this challenge. In addition, OSHA must ensure that voluntary compliance programs are effective.

OSHA's Consultation Program was designed to encourage employers to volunteer for an inspection and then resolve work place safety and health issues without the use of enforcement fines and penalties. However, an OIG audit found that consultation program officials seldom ensured that interim protection was in place before granting employers' requests for extensions to correct serious hazards, and employers who did not complete corrective actions in a timely fashion were seldom referred for enforcement actions. The OIG recommended that OSHA establish a performance measure that benchmarks and reports the percentage of serious hazards corrected by the initial correction due date.

In response to concerns about the effectiveness of OSHA's enforcement program, the OIG is conducting an audit to determine whether OSHA has accurately identified high-risk employers based on OSHA's definition of these employers under its Enhanced Enforcement Program.

**OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS:** MSHA and OSHA have made progress in addressing this challenge. For example, with supplemental funding provided by Congress, MSHA has hired more mine inspectors to improve completion of statutorily required inspections. However, MSHA needs to ensure that its recently hired inspectors are properly trained. While new inspectors are trained, MSHA has re-allocated current resources by rotating inspectors into understaffed districts for two week intervals to assist in completing all mandated inspections. MSHA has also increased and clarified the documentation required to support mine inspection activities and defined specific steps for reviewing mine plans.

Further, MSHA has issued guidance to standardize its roof control plan approval process and has developed checklists to detail required information and documentation when inspectors review roof control plans. To address concerns about independence of decisions about mining fatalities, the Fatality Review Committee now includes a representative outside of MSHA. However, this individual is still a DOL employee.

MSHA also needs to remain vigilant to ensure that approvals of roof control plans are done in accordance with its new procedures. The OIG continues to believe that an individual who is not employed by the Department will provide a greater degree of independence and integrity to the work of the Fatality Review Committee.

In response to an OIG report on OSHA's Consultation Program, OSHA has implemented measures to ensure that employers are referred for enforcement action when serious safety hazards are not corrected in a timely manner. OSHA has also established a new performance measure tied to the initial hazard correction due date to ensure that serious hazards are corrected in a timely manner without the need for granting time extensions to correct the hazard.

*\* These numbers include fatalities not under OSHA jurisdiction, such as deaths among miners, transportation workers, domestic workers, some public employees, and the self-employed, as well as fatalities that fall outside of OSHA's definition of work-relatedness.*

#### **CHALLENGE: Improving Performance Accountability of Grants**

**OVERVIEW:** In FY 2007, the Department's Employment and Training Administration (ETA), issued \$5.5 billion in formula grants and almost \$1 billion in discretionary grants for job training and employment services. Since 2001, ETA has spent nearly \$900 million in discretionary grant funds on the High Growth Job Training Initiative (High Growth), Community-Based Job Training Initiative (Community Based), and the Workforce Innovation in Regional Economic Development (WIRED). These initiatives were designed to give greater emphasis to the employment and training needs of high-growth, high-demand industries.

All state and local government and nonprofit recipients that expend \$500,000 or more in Federal assistance in one year are required by the Single Audit Act to obtain an annual audit by an independent public accountant. The Act mandates the examination of a recipient's financial records, financial statements, federal award transactions and expenditures, the general management of its operations, the systems of internal control, and the federal assistance itself received during the audit period. ETA grants are awarded to state and local governments and other non-DOL organizations. The Department relies on audits conducted under the Single Audit Act to provide oversight of its grants, both formula and discretionary.

**CHALLENGE FOR THE DEPARTMENT:** DOL continues to face challenges in ensuring that discretionary grants are properly awarded and that the Department receives the quality of services that the taxpayers deserve. Successfully meeting the employment and training needs of citizens requires selecting the best service providers, making expectations clear to grantees, ensuring that success can be measured, providing active oversight, evaluating outcomes, and disseminating and replicating proven strategies and programs. Both OIG and GAO have found in the past year that ETA continues to have weaknesses in managing its grants to this end. In audits involving the



High Growth, Community Based, and WIRED initiatives, these weaknesses have included the lack of competition in awarding grants, grants that failed to achieve major performance goals, grant agreements with goals that were so unclear it was impossible to determine success or failure, and grants whose required matching funds were not provided. Moreover, ETA continues to be challenged to provide adequate oversight and monitoring of the grants it awards, as the agency lacks reliable and timely performance data that would allow identification of problems in time to correct them. Finally, ETA has not evaluated the usefulness of individual grant products or the overall effectiveness of its discretionary grant initiatives.

Another challenge for the Department related to both formula and discretionary grants is that grantees' audits conducted under the Single Audit Act by independent public accountants are not always completed timely and information from single audits is not always reliable. The OIG has found serious deficiencies in these audits that demonstrate that the Department is not receiving timely, accurate, reliable information that will assist it making the best possible program and funding decisions.

**OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS:** As a result of the audits by the OIG and GAO, ETA has recently increased the emphasis placed on awarding discretionary grants competitively, developed procedures designed to better document decisions and discussions that lead to grant actions, implemented new procedures to ensure the proper justification of any future non-competitive awards, and provided training to agency grant officers on these new procedures. ETA has also stated that future agreements for pilots and demonstration grants will require grantees to obtain an independent evaluation of grant results. While these actions should help to improve performance accountability, ETA needs to focus its future efforts on determining how best to prioritize its available resources to adequately monitor grant performance and how to evaluate grants to ensure desired results are achieved.

The Department has implemented procedures requiring written notifications be sent to grantees when single audit reports are submitted more than three months past the due date. The notifications serve to remind the grantees of the timeframes established in OMB Circular A-133, to ensure awareness that the reports were submitted untimely, and to prevent future untimely submissions.

#### **CHALLENGE: Ensuring the Effectiveness of the Job Corps Program**

**OVERVIEW:** The purpose of the Job Corps program is to assist eligible at-risk youth who need intensive education and training services in a safe, residential environment. Job Corps has contracts with private companies to operate 98 centers and interagency agreements with the Departments of Interior and Agriculture to operate 28 centers. The program was appropriated nearly \$1.6 billion in FY 2008.

**CHALLENGE FOR THE DEPARTMENT:** The OIG's work has consistently identified challenges to the effectiveness of the Department's Job Corps program. These challenges include ensuring the safety and health of students and having accurate, reliable data about the program's performance. A cornerstone of the Job Corps program is removing students from unsafe environments and placing them in a safe residential training program. Ensuring maintenance of its facilities is a challenge for Job Corps. Unsafe conditions resulting from inadequate maintenance adversely impacts the overall success of the Job Corps program.

OIG audits have documented numerous health and safety problems at certain centers, such as water-damaged and collapsing ceiling tiles; mold on student dormitory walls and ceilings; and missing or inoperable emergency exit signs. Further, Job Corps officials need to do more to address the problems of illegal drugs and violence at its facilities.

OIG audits have also found that contractors have manipulated performance data to inflate their success. The OIG has repeatedly found problems with the reporting of student outcomes, on-board strength and attendance. This is a particular challenge for Job Corps when centers are operated by contractors through performance-based contracts which tie incentive fees and bonuses directly to contractor performance largely measured by on-board strength, attendance, and outcomes. Under such contracts, there is a risk that contractors will inflate their performance reports so they can continue to operate centers. It is essential for Job Corps to have reliable, accurate, and timely data, so that the Department can evaluate how well student needs are being met.

**OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS:** Job Corps has addressed a number of student safety and health issues and indicated that it will provide more rigorous monitoring of all centers. Also, Job Corps has taken action to improve financial and performance data reliability at all centers. Although, each center will conduct mandatory audits of student records concurrent with annual center quality assessments, more needs to be done to resolve problems with inaccurate performance data.

Although Job Corps is continuing its efforts to maintain a safe and healthy environment for its students, it must be held accountable to monitor and verify that all centers are being managed and maintained to ensure safe and healthy environments.

**CHALLENGE: Safeguarding Unemployment Insurance**

**OVERVIEW:** The Department partners with the states to administer unemployment benefit programs. State Unemployment Insurance (UI) provides benefits to workers who are unemployed and meet eligibility requirements established by their respective states. UI benefits are financed through employer taxes imposed by the states and collected by the Internal Revenue Service, which holds them in the Unemployment Trust Fund (UTF) until needed to pay benefits.

The Department funds State Workforce Agencies (SWAs) which administer the UI program through grant agreements. These grant agreements are intended to ensure that SWAs administer the UI program efficiently and that they comply with Federal laws and regulations. In addition, the SWAs are required to have disaster contingency plans in place to enable them to administer benefits in the aftermath of a disaster such as a hurricane.

Disaster Unemployment Assistance (DUA) is a Federally funded program that provides financial assistance to individuals who lose their jobs as a direct result of a major disaster and are ineligible for other UI.

**CHALLENGE FOR THE DEPARTMENT:** Reducing and preventing UI and DUA overpayments, combating fraud against these programs, and timely detecting and recovering overpayments that do occur remains a major challenge for the Department and states. In FY 2007, the Department reported more than \$3 billion in UI overpayments—a slight drop from \$3.1 billion in FY 2006. However, the Department did not meet its target goal of identifying and establishing for recovery 60 percent of UI overpayments in FY 2007.

OIG work following Hurricanes Katrina and Rita identified potential benefit overpayments as a result of claimants concurrently filing under the UI and DUA programs; states not timely verifying eligibility for DUA; and other reasons. For example, the OIG found that Louisiana paid unemployment benefits to claimants when the National Directory of New Hires (NDNH) database reported those individuals as having obtained jobs. This one example represented potential overpayments of \$51 million. Following the 2005 hurricanes, the OIG opened over 300 cases of potential UI and DUA fraud resulting in 142 indictments and 86 convictions. To date, 240 of these cases have been closed.

It is a challenge for the Department, other Federal agencies, and the states to have systems and controls in place to quickly prevent or respond to improper payments during national emergencies or disasters. The Department needs to promote states' use of the National Directory of New Hires (NDNH) database to prevent and timely detect overpayments. The Department also needs to ensure that SWAs have adequate Information Technology (IT) Contingency Plans that will enable them to continue to pay UI benefits in the event of a disaster such as a hurricane. It is critical that all SWAs have IT contingency plans for UI to ensure individuals who rely on these benefits receive this vital support in a time of need and uncertainty.

Preventing fraud against the UI program is also a challenge. The OIG investigates fraud committed by individuals who do not report or underreport outside income while receiving UI benefits. In addition to single claimants and fictitious employer-related schemes, OIG investigations have uncovered schemes in which individuals have used identity theft to illegally obtain benefits and schemes in which UI benefits have been paid to ineligible claimants.

**OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS:** The Department has taken some measures to reduce and prevent UI and DUA overpayments. The Department stated in its FY 2006 Performance and Accountability Report that it has developed a new core performance measure on overpayment detection. Although the Department implemented this new performance measure two years ago, there has been only a slight drop in the UI overpayment rate. The Department is also working with state agencies to encourage the use of the NDNH database, which will improve the states' efforts to detect overpayments early. The OIG is currently conducting an audit to assess the states' use of this tool.

In coordination with other Federal partners and the National Association of State Workforce Agencies, the Department has developed action plans using lessons learned from recent disasters. The Department has also brought together Federal partners to develop a resource guide to facilitate coordination and streamline the delivery of services in the event of a major disaster.

The OIG is working with UI's state partners to more effectively provide training to detect and prevent UI fraud.

**CHALLENGE: Improving the Federal Employees' Compensation Act Program**

**OVERVIEW:** The Federal Employees' Compensation Act (FECA) Program provides income and pays medical expenses for covered Federal civilian employees injured on the job or who have work-related occupational diseases, and dependents of employees whose deaths resulted from job-related injuries or occupational diseases. This program is administered by the Department and impacts employees and budgets of all Federal agencies. FECA benefit expenditures totaled \$2.6 billion in 2007. Most of these costs were charged back to individual agencies for reimbursement to the Department's Office of Workers' Compensation Programs (OWCP).

**CHALLENGE FOR THE DEPARTMENT:** The structure and operation of the FECA program is both a Departmental and a government-wide challenge. All Federal agencies rely upon OWCP to adjudicate the eligibility of claims, to manage the medical treatment of those claims, and to make compensation payments and to pay medical expenses. Ensuring proper payments while being responsive and timely to eligible claimants is a challenge for OWCP. Among these challenges are moving claimants off the periodic rolls when they can return to work or their eligibility ceases, preventing ineligible recipients from receiving benefits, and preventing fraud by service providers and by individuals who receive FECA benefits while working.

The OIG recognizes that it is difficult to identify and address improper payments and/or fraud in the FECA program. Another difficulty is that OWCP does not have the legal authority to match FECA compensation recipients against social security wage records. Currently, OWCP must obtain permission from each individual claimant each time in order for it to check records. Being able to do the match would enable OWCP to identify individuals who are collecting FECA benefits while working and collecting wages.

**OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS:** The Department has taken several steps to improve the administration of FECA. The Department completed the roll-out of its new FECA benefit payment system, Integrated Federal Employee Compensation System, which tracks due dates of medical evaluations; revalidates eligibility for continued benefits; uses data mining to prevent improper payments; boosts efficiency; and promises improved customer satisfaction.

The Department needs to continue to seek legislative reforms to the program. The OIG supports the Department's efforts to seek legislative reforms to the FECA program which would enhance incentives for employees who have recovered to return to work, address retirement equity issues, discourage unsubstantiated or otherwise unnecessary claims, and make other benefit and administrative improvements. Through the enactment of these proposals, the Department estimates savings to the government over ten years to be \$384 million. These legislative reforms would assist the Department to focus on improving case management and to ensure only eligible individuals receive benefits.

To help ensure proper payments in the FECA program, the Department is seeking legislative authority to easily and expeditiously access SSA wage records.

The OIG continues to provide training to DOL and to other Federal agencies in the detection and prevention of fraud against the FECA program. In addition, the OIG has started an audit to determine whether OWCP is complying with Federal regulations and internal policies and procedures when assessing the wage earning capacity of FECA periodic roll claimants.

#### **CHALLENGE: Improving Procurement Integrity**

**OVERVIEW:** The Department contracts for many goods and services to assist in carrying out its mission. In FY 2007, the Department's acquisition authority exceeded \$1.8 billion and included over 10,700 acquisition actions.

**CHALLENGE FOR THE DEPARTMENT:** Ensuring integrity in procurement activities is a continuing challenge for the Department. The OIG's work continues to identify violations of Federal procurement regulations, preferential treatment in awards, procurement actions that were not in the government's best interest, and conflicts of interest in awards. For example, an OIG audit of an employment and training contract raised concerns about preferential treatment in how work was directed to a specific subcontractor. Another audit found no evidence that DOL Contracting Officers were checking required sources – existing government inventories of excess personal property or nonprofit agencies affiliated with the Committee for Purchase from People Who Are Blind or Severely Disabled, before making GSA Schedule procurements.

The Services Acquisition Reform Act (SARA) of 2003 requires that executive agencies appoint a Chief Acquisition Officer (CAO) whose primary duty is acquisition management. However, the Department's current organization is not in compliance with this requirement, as the Assistant Secretary for Administration and Management is serving as the CAO while retaining other significant non-acquisition responsibilities. Until procurement and programmatic responsibilities are properly separated and effective controls are put in place, the Department will be at risk for wasteful and abusive procurement practices.

In addition, a recent OIG audit of procurements for Job Corps found that procurement personnel did not always comply with the Federal Acquisition Regulation in obtaining adequate justification for sole source contracts. The OIG also determined that there was a lack of training and inadequate oversight during the contracting process. As a result, contracting integrity, as well as fair and open competition, could be compromised.

**OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS:** The Department has taken preliminary steps to implement SARA. In January 2007, the Secretary issued Order 2-2007, which formally established the position of CAO within DOL. This Order

specifically stated that the CAO will have acquisition management as a primary duty. Further, the Order emphasized that the CAO will report to the Secretary with day-to-day guidance from the Deputy Secretary and that the CAO will have responsibility for overseeing other Department acquisition activities. Unfortunately, the Department still has not satisfied the full intent of SARA, as the delegated CAO continues to perform many other duties unrelated to acquisition management, such as serving as the Department's Chief Information Officer and overseeing the Department's budget operations.

#### **CHALLENGE: Maintaining the Integrity of Foreign Labor Certification Programs**

**OVERVIEW:** The Department's Foreign Labor Certification (FLC) programs provide United States (U.S.) employers access to foreign labor to meet worker shortages under terms and conditions that do not adversely affect U.S. workers. The Permanent Foreign Labor Certification Program allows an employer to hire a foreign worker to work permanently in the U.S., if a qualified U.S. worker is unavailable. The H-1B program allows the Department to certify employers' applications to hire temporary foreign workers in specialty occupations such as medicine, biotechnology, and business. The H-2B program permits employers to hire foreign workers to come temporarily to the U.S. and perform temporary non-agricultural labor on a one-time, seasonal, peak load, or intermittent basis.

In March 2005, ETA created the PERM (Permanent Electronic Review Management) system which removed the states from a direct role in reviewing and auditing applications for foreign labor certification, eliminated the 100 percent review of such applications, and established a random sampling and targeted approach to auditing applications to ensure compliance with the law and program requirements.

**CHALLENGE FOR THE DEPARTMENT:** Maintaining the integrity of its FLC programs, while also ensuring a timely and effective review of applications to hire foreign workers, is a continuing challenge for the Department.

OIG investigations, some of which have been initiated based on referrals from ETA, have identified fraud against these programs, and is the fastest growing area of OIG investigations. OIG investigations continue to uncover schemes carried out by immigration attorneys, labor brokers, and transnational organized crime groups, some with possible national security implications. Further, OIG investigations have revealed schemes involving fraudulent applications that are filed with DOL on behalf of fictitious companies—or applications using names of legitimate companies without their knowledge.

An OIG audit of the PERM system found that ETA had changed its methodology for selecting applications to audit. Furthermore, ETA had not conducted audits of all the applications selected for audit. As employers and representatives such as labor brokers and others learn what elements in an application are likely to trigger an audit, they may be able to structure applications in a way that could lessen the likelihood of applications being audited.

**OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS:** The Department has instituted measures to reduce fraud in its FLC programs. As a result of OIG investigations repeatedly demonstrating the need to eliminate the practice of substituting a new foreign worker for the one originally named on a permanent labor certification application, in July 2007 the Department enacted the Fraud Rule which prohibited the practice of substitution.

In addition, the OIG and the Department have been working collaboratively to identify and reduce fraud in the FLC process by providing training and instruction to ETA personnel on better and more creative ways of identifying and referring to the OIG possible labor-related visa fraud. In March 2008, ETA's OFLC launched its Fraud Detection and Protection Unit designed to recognize visa fraud and more expeditiously respond to OIG requests for program-related information. The OIG continues to work closely with ETA's fraud unit.

#### **CHALLENGE: Securing Information Technology Systems and Protecting Related Information Assets**

**OVERVIEW:** It is essential for the Department to ensure that its information systems are secure. These systems contain vital sensitive information that is central to the Department's mission and to the effective administration of its programs—systems and information that provide the nation's leading economic indicators such as the Consumer Price Index, unemployment rate, injury and illness rates, workers' compensation benefits, participant pension and welfare plan information and job and training services. The Congress and the public have voiced concerns over the ability of government agencies to provide effective information security and to protect critical data.

**CHALLENGE FOR THE DEPARTMENT:** Security of information technology (IT) systems is a government-wide challenge and is a continuing challenge for DOL. Keeping up with new threats and IT developments, providing assurances that information technology systems will function reliably, and safeguarding information assets will continue to challenge the Department today and in the future.

The OIG's IT audits have identified access controls, oversight of contractor systems, and the effectiveness of the Chief Information Officer's oversight of the Department's full implementation of mandatory, minimum information security



controls as DOL's most significant challenges. The OIG has reported on access control weaknesses over the Department's major information systems since FY 2001. These weaknesses represent a significant deficiency over access to key systems and may permit unauthorized users to obtain or alter sensitive information, including unauthorized access to financial records and data.

Another challenge for the Department is ensuring that information systems operated by contractors have the same level of IT security controls as systems operated by the Department. Our audit work has disclosed security deficiencies in contractor operated systems.

An OIG FY 2008 Federal Information Security Management Act (FISMA) audit found that the DOL security program did not fully implement minimum security controls. The OIG identified pervasive and obvious weaknesses across DOL, including access controls, certification, accreditation and security assessment, configuration management, contingency planning, and incident response. The OIG has identified these same deficiencies in past years' FISMA audits. The recurring cycle of the same weaknesses, especially obvious access control vulnerabilities, identified by the OIG since FY 2006 demonstrates that DOL's information security program must improve its current effort to fully implement and monitor information security controls throughout the Department.

In light of these challenges, the OIG continues to recommend the creation of an independent Chief Information Officer (CIO) to provide exclusive oversight of IT issues. Accountability can be further enhanced by developing and implementing new reporting lines of communication for the Chief Information Security Officer (CISO) and the Component Program Information Security Officers (CPISO). These new communication lines will require the CISO to report directly to both the CIO and an Executive in the Secretary's Office dealing with major security matters, including progress on maintaining an effective Department-wide information security program. The CPISOs would continue to report directly to their respective component program Assistant Secretary while also reporting to DOL's CISO. These steps will help to establish a greater degree of accountability for an overall effective information security program.

**OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS:** In efforts to fully comply with FISMA, the Department is taking steps to improve the security of its information systems by focusing on access controls, policies and procedures, account management, and system authorization. The Department's Chief Information Officer plans to improve upon the testing and monitoring of system security, focusing on those agencies identified as having greater identified vulnerabilities/risks. Finally, the Department has required all employees to complete Computer Security Awareness Training annually.

#### **CHALLENGE: Ensuring the Security of Employee Benefit Plan Assets**

**OVERVIEW:** The Department's mission is to protect the security of retirement, health and other private sector, employer-provided benefits for America's workers, retirees and their families. These benefit plans consist of approximately \$5.6 trillion in assets covering more than 150 million workers and retirees. EBSA is charged with overseeing the administration and enforcement of the fiduciary, reporting, and disclosure provisions of Title I of the Employee Retirement Income Security Act (ERISA).

**CHALLENGE FOR THE DEPARTMENT:** Protecting these benefit plan assets against fraud is a challenge for the Department. OIG labor racketeering investigations demonstrate the continued vulnerability of plan assets to criminal activity.

Employer benefit plan audits by independent public accountants provide a first-line defense for plan participants against financial loss. Ensuring that audits by independent public accountants meet quality standards adds to the Department's challenge in providing adequate oversight. However, DOL's authority to require plan audits to meet standards remains limited because the Department does not have the authority to suspend, debar, or levy civil penalties against employee benefit plan auditors. The Department must obtain legislative change to correct substandard benefit plan audits and ensure that auditors with poor records do not perform additional plan audits.

Other legislative changes recommended by OIG include the repeal of ERISA's limited scope audit exemption that prevents independent public accountants from rendering an opinion on the plans' financial statements or assets held in other regulated entities such as financial institutions, requiring plan administrators or auditors to report potential ERISA violations directly to DOL, and strengthening criminal penalties in Title 18 of the U.S. Code to provide a stronger fraud deterrent.

Another challenge is the Department's responsibility for regulatory oversight of ERISA health care provisions. DOL needs to continue to work closely with State insurance commissioners and the Department of Justice to assist in the identification and prosecution of fraudulent Multiple Employer Welfare Arrangements.

The OIG is planning an audit to determine how EBSA evaluates the effectiveness of its National enforcement projects and uses this information to direct future enforcement activities. Further, the OIG is beginning an audit to evaluate whether EBSA's Rapid ERISA Action Team project proactively identifies employers facing financial hardships in order to protect

the rights and benefits of pension and health plan participants when the plan sponsor faces severe financial hardship.

**OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS:** While the Department has sought the recommended legislative changes, these changes have not been enacted.

DOL continues to utilize a multi-pronged strategy to help ensure compliance with ERISA Title I. EBSA has also reached out to other Federal enforcement agencies to broaden its enforcement efforts. A Memorandum of Understanding (MOU) was signed on July 29, 2008, between EBSA and the Securities and Exchange Commission. The MOU establishes a process for both agencies to share information and meet regularly on matters of mutual interest, including findings and trends, enforcement cases, and regulatory requirements.

#### **CHALLENGE: Preserving Departmental Records**

**OVERVIEW:** The Federal Records Act of 1950 requires that the head of each Federal agency establish and maintain an active records management program. The National Archives and Records Administration has oversight responsibilities for Federal records management programs. The Department's Assistant Secretary for Administration and Management is responsible for managing the Department's records and for providing overall policy direction for the Department's records management program. The Department's records management program consists of records creation, maintenance and use, and disposition of records to achieve adequate and proper documentation of the Department's policies and transactions.

**CHALLENGE FOR THE DEPARTMENT:** It is a challenge for the Department to ensure that it preserves records in accordance with laws and regulations, and properly disposes of those records it is not required to keep. It is also a major challenge for the Department to have an effective recordkeeping and document management system to manage e-mails and electronic file needs. DOL may be at risk of not being able to address in a timely and complete manner e-mail and electronic file needs required as a result of legal hold orders and litigation discovery.

An additional challenge is the proper handling for both hard copy and electronic records that do not have legal retention requirements. Although these documents and files are not considered long-term Federal records, they may be subject to legal holds, Congressional requests, and requests under the Freedom of Information Act. It is therefore important that they are disposed of in accordance with an appropriate records management program.

The OIG's recent audit of the Department's Records Management Program found that the Department had not conducted comprehensive periodic evaluations of its records management program, provided records management training to all staff, or effectively managed transitory records or documents that have no legal retention requirements.

**OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS:** Records management is an emerging challenge for the Department and agencies government-wide, particularly as reliance on electronic documents continues to increase. In FY 2008, the Department implemented mandatory Records Management Training for all its employees. The Department will conduct periodic evaluations of agency's records management programs over a five year cycle beginning in FY 2009. The Department has undertaken other efforts to improve its records management program, including issuing guidance and specific instructions on how to handle electronic records, issuing an updated Records Management Handbook, and updating agency records schedules. The Department has also stated that it will update its cost-benefit analysis regarding the establishment of an electronic recordkeeping and document management system. Such a system would provide capabilities for storing, indexing, locating and tracking e-mails that are Federal records and addresses the unnecessary retention of e-mails that are transitory records or non-records.

#### **EMERGING CHALLENGE**

Congress enacted the Energy Employees Occupational Illness Compensation Program Act to provide timely, uniform, and adequate compensation to civilian men and women suffering from cancer and other illnesses incurred as a result of their work in the nuclear weapons production and testing programs of the Department of Energy and its predecessor agencies. As of August of this year, the Department had received 167,018 claims, and issued decisions to approve or deny benefits on nearly 82 percent of these claims. The Department had approved slightly more than 39 percent of claims and paid nearly \$3.8 billion in compensation plus more than \$200 million in medical reimbursements.

Recent inquiries by several members of Congress and the public have raised concerns as to whether the Department unfairly denies too many claims and whether claims decisions are timely.

In response to concerns about the Energy workers' program, the OIG is conducting an audit to determine whether claim decisions issued by the Department complied with applicable law and regulations, and whether the Department has a system in place to ensure that claims are adjudicated as promptly as possible and claimants are kept informed.

# AUDIT AND INVESTIGATIVE SCHEDULES

<b>Funds Put to Better Use Agreed to by DOL</b>		
	Number of Reports	Dollar Value (\$ millions)
For which no management decision had been made as of the commencement of the reporting period	2	1.2
Issued during the reporting period	0	0.0
<b>Subtotal</b>	<b>2</b>	<b>1.2</b>
For which management decision was made during the reporting period:		
• Dollar value of recommendations that were agreed to by management		0.4
• Dollar value of recommendations that were not agreed to by management		0.8
For which no management decision had been made as of the end of the reporting period		0.0

<b>Funds Put to Better Use Implemented by DOL</b>		
	Number of Reports	Dollar Value (\$ millions)
For which final action had not been taken as of the commencement of the reporting period	5	438.5
For which management or appeal decisions were made during the Reporting period	2	0.3
<b>Subtotal</b>	<b>7</b>	<b>438.8</b>
For which final action was taken during the reporting period:		
• Dollar value of recommendations that were actually completed		0.0
• Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed		428.2
For which no final action had been taken by the end of the period	5	10.6

<b>Resolution Activity: Questioned Costs</b>		
	Number of Reports	Questioned Costs (\$ millions)
For which no management decision had been made as of the commencement of the reporting period (as adjusted)	24	160.5
Issued during the reporting period	16	4.3
<b>Subtotal</b>	<b>40</b>	<b>164.8</b>
For which a management decision was made during the reporting period:		
• Dollar value of disallowed costs		66.5
• Dollar value of costs not disallowed		79.8
For which no management decision had been made as of the end of the reporting period	17	18.5
For which no management decision had been made within six months of issuance	2	14.2

<b>Resolution Activity: Disallowed Costs</b>		
	Number of Reports	Disallowed Costs (\$ millions)
For which final action had not been taken as of the commencement of the reporting period (as adjusted)*	70	23.0
For which management or appeal decisions were made during the reporting period	22	67.2
<b>Subtotal</b>	<b>92</b>	<b>90.2</b>
For which final action was taken during the reporting period:		
• Dollar value of disallowed costs that were recovered		50.0
• Dollar value of disallowed costs that were written off by management		1.0
• Dollar value of disallowed costs that entered appeal status		0.0
For which no final action had been taken by the end of the reporting period	84	39.2

\* These figures are provided by DOL agencies and are unaudited. Does not include \$2.1 million of disallowed costs that are under appeal. Partial recovery/write-offs are reported in the period in which they occur. Therefore, many audit reports will remain open awaiting final recoveries/write-offs to be recorded.



## FINAL AUDIT AND ATTESTATION REPORTS ISSUED

<u>Program Name</u> Name of Report	# of Nonmonetary Recommendations	Questioned Costs (\$)	Other Monetary Impact (\$)
<b>Employment and Training Programs</b>			
<b>Disability Employment Program</b>			
Single Audit: Private Industry Council of San Francisco, Inc.; Report No. 24-08-512-01-080; 04/15/08	5	0	0
<b>United States Employment Service</b>			
Single Audit: State of Georgia; Report No. 24-08-516-03-320; 05/05/08	2	0	0
<b>Job Corps Program</b>			
Transfer of Job Corps Program Strengthened; Report No. 04-08-003-01-370; 09/30/08	2	0	0
Procurement Processing But Improvements Are Needed to Ensure Fair and Open Competition Career Systems Development Corporation: Controls Over Center Operations Were Not Effective; Report No. 26-08-001-01-370; 09/30/08	7	21,750	0
Performance Audit of USDA Forest Service Job Corps Centers; Report No. 26-08-004-01-370; 09/30/08	10	0	0
Performance Audit of Applied Technology System, Inc., Job Corps Centers; Report No. 26-08-005-01-370; 09/30/08	4	680,098	0
<b>Older Workers Program</b>			
NAPCA Needs to Improve Oversight of Senior; Report No. 09-08-001-03-360; 09/30/08	2	182,178	0
Single Audit: The Workplace, Inc.; Report No. 24-08-509-03-360; 04/11/08	3	0	0
Single Audit: Quality Career Services; Report No. 24-08-550-03-360; 09/18/08	1	0	0
Single Audit: Senior Service America, Inc. ; Report No. 24-08-556-03-360; 09/30/08	1	0	0
<b>Seasonal Famworkers Program</b>			
Single Audit: Black Hills Special Services Cooperative; Report No. 24-08-520-03-365; 07/07/08	5	0	0
Single Audit: Illinois Migrant Council; Report No. 24-08-540-03-365; 09/03/08	4	0	0
<b>Workforce Investment Act</b>			
Selected High Growth Job Training Initiative Grants: Value Not Demonstrated; Report No. 02-08-204-03-390; 04/29/08	12	2,557,887	0
ETA Needs to Ensure Grantees are Aware of Their Responsibilities for Reporting the Loss of Personally Identifiable Information; Report No. 02-08-205-03-390; 09/30/08	1	0	0
Single Audit: Goodwill Industries of Central Arizona, Inc. ; Report No. 24-08-507-03-390; 04/11/08	5	0	0
Single Audit: Seminole Nation of Oklahoma; Report No. 24-08-510-03-390; 04/11/08	0	123,392	0
Single Audit: Alamo Community College District; Report No. 24-08-511-03-390; 04/11/08	1	20,200	0
Single Audit: State of Utah; Report No. 24-08-515-03-390; 04/30/08	10	4,215	0
Single Audit: Span, Inc.; Report No. 24-08-517-03-390; 06/16/08	4	0	0
Single Audit: SER-Jobs for Progress National, Inc. ; Report No. 24-08-518-03-390; 06/18/08	10	0	0
Single Audit: Central Texas Workforce Development Board, Inc. ; Report No. 24-08-523-03-390; 07/21/08	2	0	0
Single Audit: Sisseton-Wahpeton Oyate; Report No. 24-08-524-03-390; 07/22/08	0	29,612	0
Single Audit: State of Alabama; Report No. 24-08-530-03-390; 08/27/08	3	0	0
Single Audit: The Latino Coalition for Faith and Community Initiatives; Report No. 24-08-534-03-390; 08/27/08	5	0	0
Single Audit: State of Maine (Fiscal Year 2006) ; Report No. 24-08-537-03-390; 09/03/08	1	0	0
Single Audit: The Chicago Technology Park Corporation; Report No. 24-08-538-03-390; 09/03/08	3	0	0
Single Audit: The Navajo Nation; Report No. 24-08-539-03-390; 09/03/08	10	159,989	0

<b>Program Name Name of Report</b>	<b># of Nonmonetary Recommendations</b>	<b>Questioned Costs (\$)</b>	<b>Other Monetary Impact (\$)</b>
Single Audit: State of Michigan Department of Labor And Economic Growth Unemployment Insurance Agency Administration Fund (Fiscal Year 2006) ; Report No. 24-08-541-03-390; 09/18/08	1	0	0
Single Audit: The Community Transportation Development Center; Report No. 24- 08-544-03-390; 09/10/08	1	59,645	0
Single Audit: State of Hawaii Department of Labor And Industrial Relations; Report No. 24-08-545-03-390; 09/10/08	2	0	0
Single Audit: State of Maine (Fiscal Year 2007); Report No. 24-08-548-03-390; 09/18/08	6	0	0
Single Audit: Metro United Methodist Urban Ministry; Report No. 24-08-549-03-390; 09/18/08	2	0	0
Single Audit: Saint Regis Mohawk Tribe; Report No. 24-08-552-03-390; 09/26/08	1	0	0
Single Audit: The Metropolitan Community College; Report No. 24-08-553-03-390; 09/26/08	1	0	0
Single Audit: State of West Virginia; Report No. 24-08-554-03-390; 09/26/08	10	0	0
Single Audit: Worksystems, Inc. ; Report No. 24-08-555-03-390; 09/30/08	1	0	0
Single Audit: Chicago Women In Trades; Report No. 24-08-557-03-390; 09/26/08	1	0	0
Single Audit: The Computing Technology Industry Association Educational Foundation, Inc. ; Report No. 24-08-558-03-390; 09/26/08	1	0	0
Single Audit: Wildcat Service Corporation; Report No. 24-08-559-03-390; 09/30/08	1	0	0
Single Audit: San Carlos Apache Tribe Workforce Investment Act Program; Report No. 24-08-560-03-390; 09/30/08	6	0	0
Single Audit: State of New Mexico Office of Workforce Training and Development; Report No. 24-08-561-03-390; 09/30/08	4	0	0
<b>Veterans Employment and Training Services</b>			
Single Audit: Minnesota Assistance Council for Veterans; Report No. 24-08-531-02- 001; 08/27/08	3	0	0
Single Audit: Crisis Ministries; Report No. 24-08-508-02-001; 04/11/08	2	0	0
Single Audit: Way Station, Inc.; Report No. 24-08-521-02-001; 07/10/08	5	0	0
Single Audit: State of California (Fiscal Year 2007) ; Report No. 24-08-528-02-001; 08/27/08	1	0	0
<b>Goal Totals (45 Reports)</b>	<b>162</b>	<b>3,838,966</b>	<b>0</b>
<b>Worker Benefit Programs</b>			
<b>Unemployment Insurance Service</b>			
Lack of Contingency Plan Contributed to More Than \$100 Million in Potential Overpayments of Hurricane-Related Unemployment Benefits; Report No. 06-08- 001-03-315; 05/30/08	3	0	0
The Federal/State Unemployment Insurance Partnership Needs Enhanced Federal Oversight To Establish Reliable IT Contingency Plans; Report No. 23-08-004-03- 315; 09/29/08	4	0	0
Single Audit: Government of the United States Virgin Islands; Report No. 24-08-506- 03-315; 04/15/08	7	0	0
Single Audit: State of Michigan Department of Labor and Economic Growth Unemployment Insurance Agency Unemployment Compensation Fund (Fiscal Year 2007) ; Report No. 24-08-533-03-315; 09/02/08	4	0	0
Single Audit: State of Connecticut; Report No. 24-08-551-03-315; 09/24/08	2	0	0
<b>Goal Totals (5 Reports)</b>	<b>20</b>	<b>0</b>	<b>0</b>
<b>Worker Safety, Health, and Workplace Rights</b>			
<b>International Labor Affairs</b>			
Internal Controls Over Commission of Labor Cooperation Secretariat Activities Need Strengthening; Report No. 21-08-002-01-070; 04/07/08	1	0	0
<b>Foreign Labor Certification</b>			
Internal Controls in the Program Electronic Review Management Audit Process Need Improvement To Ensure Integrity of the Permanent Labor Certification Program; Report No. 06-08-003-03-321; 09/30/08	3	0	0

<b>Program Name Name of Report</b>	<b># of Nonmonetary Recommendations</b>	<b>Questioned Costs (\$)</b>	<b>Other Monetary Impact (\$)</b>
<b>Occupational Safety and Health</b>			
Single Audit: State of California (Fiscal Year 2007) ; Report No. 24-08-527-10-001; 09/02/08	10	174,196	0
<b>Goal Totals (3 Reports)</b>	<b>14</b>	<b>174,196</b>	<b>0</b>
<b>Departmental Management</b>			
<b>ETA Management</b>			
Single Audit: State of Montana; Report No. 24-08-513-03-001; 05/02/08	5	0	0
Single Audit: State of Florida; Report No. 24-08-514-03-00104/30/08;	14	230,899	0
Single Audit: South Carolina Employment Security Commission; Report No. 24-08- 519-03-001; 06/26/08	5	0	0
Single Audit: State of Michigan Department of Labor and Economic Growth Unemployment Insurance Agency Unemployment Compensation Fund (Fiscal Year 2006) ; Report No. 24-08-525-03-001; 09/03/08	11	4,607	0
Single Audit: State of California (Fiscal Year 2007) ; Report No. 24-08-526-03-001; 08/27/08	6	15,339	0
Single Audit: State of Louisiana; Report No. 24-08-529-03-001; 08/27/08	4	30,029	0
Single Audit: State of Arizona; Report No. 24-08-535-03-001; 09/18/08	4	0	0
Single Audit: State of Illinois; Report No. 24-08-536-03-001; 09/10/08	10	5,475	0
Single Audit: NAF Multicultural Human Development Corporation; Report No. 24-08- 542-03-001; 09/24/08	2	0	0
Single Audit: Commonwealth of Puerto Rico Department of Labor and Human Resources; Report No. 24-08-543-03-001; 09/18/08	47	0	0
Single Audit: State of Alaska; Report No. 24-08-546-03-001; 09/24/08	2	0	0
Single Audit: New Mexico Department of Labor; Report No. 24-08-547-03-001; 09/18/08	1	0	0
<b>Office of the Assistant Secretary for Administration and Management</b>			
The Department of Labor's Records Management Program Controls Need Strengthening; Report No. 03-08-001-07-001; 09/15/08	5	0	0
The Department of Labor's Control Over Sole Source Procurements Need Strengthening; Report No. 03-08-002-07-711; 09/30/08	5	0	0
<b>Multi-Agency Programs</b>			
The Department 's Web Application Security and Related Controls Can Be Improved; Report No. 23-08-002-50-598; 09/30/08	2	0	0
<b>Goal Totals (15 Reports)</b>	<b>123</b>	<b>286,349</b>	<b>0</b>
<b>Final Audit and Attestation Report Totals (68 Reports)</b>	<b>319</b>	<b>4,299,511</b>	<b>0</b>

**NOTE:** All single audit reports shown in the above schedule represent audits of States, local governments and nonprofit organizations conducted, in accordance with generally accepted government auditing standards, by independent public accounting firms and/or state and local government auditors under the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996. Upon receipt of the Single Audit report, OIG reviews the report to identify findings and recommendations directed at DOL programs. OIG then issues a report to the funding agency that summarizes the DOL findings and recommendations, and requests that the funding agency take resolution action on the recommendations within 6 months of the date of the OIG report.

## OTHER REPORTS ISSUED

<u>Program Name</u> Name of Report	# of Nonmonetary Recommendations	Questioned Costs (\$)	Other Monetary Impact (\$)
<b>Employment and Training Programs</b>			
<b>Trade Adjustment</b>			
Quality Control Review: Single Audit of the Alamo Workforce Development, Inc., for the Fiscal Year Ended June 30, 2004 and 2005; Report No. 24-08-004-03-330; 04/11/08	0	0	0
<b>Workforce Investment Act</b>			
Quality Control Review: Single Audit of the Private Industry Council of San Francisco, Inc., Financial Statements and OMB Circular A-133 Reports for the Two Year Period Ended June 30, 2005; Report No. 24-08-006-03-390; 08/06/08	6	0	0
Quality Control Review: Single Audit of the Seattle-King County Workforce Development Council Auditor's Reports and Financial Statements for the Year Ended June 30, 2005; Report No. 24-08-007-03-390; 08/08/08	2	0	0
<b>Veterans Employment and Training Services</b>			
Status of Recommendations Provided to VETS In Notifications of Findings and Recommendations Cited in the Audit Report: Department of Labor Needs to Remedy Significant Security Control Deficiencies in Access Controls and in the VETS, USERRA Information Management System; Report No. 23-08-016-02-001; 09/30/08	65	0	0
<b>Bureau of Labor Statistics</b>			
Notifications of Findings and Recommendations Related To the Federal Information Security Management Act Audit of: Current Employment Statistics System; Report No. 23-08-005-11-001; 08/26/08	6	0	0
Status of Recommendations Provided to ETA In Notifications of Findings and Recommendations Cited in the Audit Report: Department of Labor Needs to Remedy Significant Security Control Deficiencies in Access Controls and in the VETS, USERRA Information Management System; Report No. 23-08-013-11-001; 08/25/08	0	0	0
<b>Goal Totals (6 Reports)</b>	<b>79</b>	<b>0</b>	<b>0</b>
<b>Worker Benefit Programs</b>			
<b>Federal Employees Compensation Act</b>			
Service Auditors' Report on Integrated Federal Employees' Compensation System and Service Auditors' Report on the Medical Bill Processing System for the Period 10/1/07-3/31/08; Report No. 22-08-008-04-431; 08/18/08	0	0	0
<b>Employee Benefit Security Program</b>			
Notifications of Findings and Recommendations Related To the Federal Information Security Management Act Audit of: Employee Retirement Income Security Act Filing Acceptance System; Report No. 23-08-006-12-001; 08/29/08	19	0	0
Status of Recommendations Provided to EBSA In Notifications of Findings and Recommendations Cited in the Audit Report: Department of Labor Needs to Remedy Significant Security Control Deficiencies in Access Controls and in the VETS, USERRA Information Management System; Report No. 23-08-015-12-001; 09/25/08	5	0	0
<b>Goal Totals (3 Reports)</b>	<b>24</b>	<b>0</b>	<b>0</b>
<b>Worker Safety, Health, and Workplace Rights</b>			
<b>Mine Safety and Health</b>			
Notifications of Findings and Recommendations Related To the Federal Information Security Management Act Audit of: MSHA General Support System; Report No. 23-08-009-06-001; 08/26/08	16	0	0
Status of Recommendations Provided to MSHA In Notifications of Findings and Recommendations Cited in the Audit Report: Department of Labor Needs to Remedy Significant Security Control Deficiencies in Access Controls and in the VETS, USERRA Information Management System; Report No. 23-08-014-06-001; 09/25/08	0	0	0



<b>Program Name Name of Report</b>	<b># of Nonmonetary Recommendations</b>	<b>Questioned Costs (\$)</b>	<b>Other Monetary Impact (\$)</b>
<b>Occupational Safety and Health</b>			
Notifications of Findings and Recommendations Related To the Federal Information Security Management Act Audit of: OSHA General Support System; Report No. 23-08-011-10-001; 08/28/08	16	0	0
<b>Goal Totals (3 Reports)</b>	<b>32</b>	<b>0</b>	<b>0</b>
<b>Departmental Management</b>			
<b>Administrative Law Judges</b>			
Notifications of Findings and Recommendations Related To the Federal Information Security Management Act Audit of: OALJ's Case Tracking System; Report No. 23-08-010-01-001; 08/29/08	18	0	0
<b>ETA Management</b>			
Status of Recommendations Provided to ETA In Notifications of Findings and Recommendations Cited in the Audit Report: Department of Labor Needs to Remedy Significant Security Control Deficiencies in Access Controls and in the VETS, USERRA Information Management System; Report No. 22-08-012-03-001; 09/12/08	3	0	0
Notifications of Findings and Recommendations Related To the Federal Information Security Management Act Audit of: Foreign Labor Certification System; Report No. 23-08-008-03-001; 08/29/08	15	0	0
<b>ESA Management</b>			
Status of Recommendations Provided to ESA In Notifications of Findings and Recommendations Cited in the Audit Report: Department of Labor Needs to Remedy Significant Security Control Deficiencies in Access Controls and in the VETS, USERRA Information Management System; Report No. 22-08-011-04-001; 09/12/08	3	0	0
Notifications of Findings and Recommendations Related To the Federal Information Security Management Act Audit of: Central Bill Processing System; Report No. 23-08-007-04-001; 08/27/08	9	0	0
<b>OASAM Management</b>			
Status of Recommendations Provided to OASAM In Notifications of Findings and Recommendations Cited in the Audit Report: Department of Labor Needs to Remedy Significant Security Control Deficiencies in Access Controls and in the VETS, USERRA Information Management System; Report No. 22-08-013-07-001; 09/30/08	2	0	0
Evaluation of the Department of Labor's Privacy Impact Assessment Process; Report No. 23-08-003-07-001; 08/04/08	0	0	0
Notifications of Findings and Recommendations Related to the Federal Information Security Management Act; Report No. 23-08-017-07-001; 09/17/08	2	0	0
Inspector General's Fiscal Year 2008 Federal Information Security Management Act OMB Template and Appendix; Report No. 23-08-018-07-001; 09/16/08	0	0	0
<b>Office of the Chief Financial Officer</b>			
Status of Recommendations Provided to ESA In Notifications of Findings and Recommendations Cited in the Audit Report: Department of Labor Needs to Remedy Significant Security Control Deficiencies in Access Controls and in the VETS, USERRA Information Management System; Report No. 22-08-010-13-001; 09/08/08	1	0	0
<b>Goal Totals (10 Reports)</b>	<b>53</b>	<b>0</b>	<b>0</b>
<b>Other Report Totals (22 Reports)</b>	<b>188</b>	<b>0</b>	<b>0</b>

## UNRESOLVED AUDIT REPORTS OVER SIX MONTHS OLD

Agency/ Program	Name of Audit	# of Recommendations	Questioned Costs (\$)
<b>Nonmonetary Recommendations and Questioned Costs</b>			
<b>OIG Conducting Followup Work During FY 2008 Financial Statement Audits</b>			
CFO/Admin	FY 2007 Consolidated Financial Statements Management Advisory Comments; Report No. 22-08-006-13-001; 03/20/08	2	0
<b>Final Management Decision Issued by Agency Did Not Resolve; OIG Negotiating with Program Agency</b>			
OASAM/DIRM	Award and Management of Contracts for Encryption Software Were Significantly Flawed; Report No.05-05-005-07-720; 03/31/05	1	0
MSHA/Admin	MSHA Procurements Showed a Pattern of Disregard for Federal and Department of Labor Acquisition Rules and Requirements ; Report No.25-05-001-06-001; 10/29/04	1	0
MSHA/Admin	Coal Mine Hazardous Condition Complaint Process Should Be Strengthened; Report No.05-06-006-06-001; 09/29/06	1	0
MSHA/Admin	MSHA Roof Control Plan at Crandall Canyon Mine; Report No.05-08-003-06-001; 03/31/08	2	0
<b>Issues Being Elevated to Department's Audit Resolution Official</b>			
MSHA/Admin	MSHA Chargeable Fatalities; Report No.05-08-002-06-001; 01/11/08	1	0
<b>Final Management Decision Not Yet Issued—Agency Awaiting Response from Internal Revenue Service</b>			
EBSA	Improved Oversight of Cash Balance Plan Lump Sum Distributions Is Needed; Report No.09-02-001-12-121; 03/29/02	2	0
<b>Final Management Decision Not Issued by Agency by Close of Period</b>			
OSEC/JCC	Single Audit: YWCA of Greater Los Angeles; Report No. 21-06-543-01-370; 08/06/06	12	0
<b>Agency Has Requested Additional Time to Resolve</b>			
ETA/WIA	Consortium for Workers Education Earmark Grant; Report No.02-08-203-03-390; 02/29/08	5	11,264,554
ETA/WIA	Single Audit: State of New York; Report No.24-08-504-03-390; 03/25/08	2	2,945,825
<b>Total Nonmonetary Recommendations, Questioned Costs</b>		<b>29</b>	<b>14,210,379</b>
<b>Cost Efficiencies</b>			
<b>Total Cost Efficiencies</b>		<b>0</b>	<b>0</b>
<b>Total Audit Exceptions and Cost Efficiencies</b>		<b>29</b>	<b>14,210,379</b>

## INVESTIGATIVE STATISTICS

	Division Totals	Total
<b>Cases Opened:</b>		166
Program Fraud	114	
Labor Racketeering	52	
<b>Cases Closed:</b>		257
Program Fraud	200	
Labor Racketeering	57	
<b>Cases Referred for Prosecution:</b>		143
Program Fraud	104	
Labor Racketeering	39	
<b>Cases Referred for Administrative/Civil Action:</b>		106
Program Fraud	98	
Labor Racketeering	8	
<b>Indictments:</b>		292
Program Fraud	224	
Labor Racketeering	68	
<b>Convictions:</b>		348
Program Fraud	205	
Labor Racketeering	143	
<b>Debarments:</b>		20
Program Fraud	4	
Labor Racketeering	16	
<b>Recoveries, Cost Efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions:</b>		\$36,593,344
Program Fraud	\$25,585,706	
Labor Racketeering	\$11,007,638	

<b>Recoveries:</b> The dollar amount/value of an agency's action to recover or to reprogram funds or to make other adjustments in response to OIG investigations	\$1,935,704
<b>Cost-Efficiencies:</b> The one-time or per annum dollar amount/value of management's commitment, in response to OIG investigations, to utilize the government's resources more efficiently	\$5,170,187
<b>Restitutions/Forfeitures:</b> The dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations	\$25,404,706
<b>Fines/Penalties:</b> The dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations	\$3,621,256
<b>Civil Monetary Actions:</b> The dollar amount/value of forfeitures, settlements, damages, judgments, court costs, or other penalties resulting from OIG civil investigations	\$461,491
<b>Total</b>	<b>\$36,593,344</b>

## OIG HOTLINE

The *OIG Hotline* provides a communication link between the *OIG* and persons who want to report alleged violations of laws, rules, and regulations; mismanagement; waste of funds; abuse of authority; or danger to public health and safety. During the reporting period April 1, 2008, through September 30, 2008, the *OIG Hotline* received a total of 2,096 contacts. Of these, 1,527 were referred for further review and/or action.

<b>Complaints Received (by method reported):</b>		<b>Totals</b>
Telephone		1,703
E-mail/Internet		184
Mail		162
Fax		44
Walk-In		3
<b>Total</b>		<b>2,096</b>
<b>Contacts Received (by source):</b>		<b>Totals</b>
Complaints from Individuals or Nongovernmental Organizations		2,004
Complaints/Inquiries from Congress		31
Referrals from GAO		6
Complaints from Other DOL Agencies		27
Incident Reports from DOL Agencies and Grantees		5
Referrals from OIG Components		7
Complaints from Other (non-DOL) Government Agencies		16
<b>Total</b>		<b>2,096</b>
<b>Disposition of Complaints:</b>		<b>Totals</b>
Referred to OIG Components for Further Review and/or Action		117
Referred to DOL Program Management for Further Review and/or Action		692
Referred to Non-DOL Agencies/Organizations		741
No Referral Required/Informational Contact		569
<b>Total</b>		<b>2,119*</b>

\* During this reporting period, the *OIG Hotline* office referred several individual complaints simultaneously to multiple offices or entities for review. (i.e. two *OIG* components, or to an *OIG* component and *DOL* program management and/or non-*DOL* agency)



Office of Inspector General  
United States Department of Labor

## *Report Fraud, Waste and Abuse*



Call the Hotline

202.693.6999

800.347.3756

Email: [hotline@oig.dol.gov](mailto:hotline@oig.dol.gov)

Fax: 202.693.7020

The OIG Hotline is open to the public and to Federal employees 24 hours a day, 7 days a week to receive allegations of fraud, waste and abuse concerning Department of Labor programs and operations.

OIG Hotline  
U.S. Department of Labor  
Office of Inspector General  
200 Constitution Avenue, NW  
Room S-5506  
Washington, DC 20210

Office of Inspector General, U.S. Department of Labor  
200 Constitution Avenue, NW  
Room S-5506  
Washington, DC 20210

Report Fraud, Waste and Abuse by calling or emailing the  
OIG Hotline  
(800) 347-3756 or [hotline@oig.dol.gov](mailto:hotline@oig.dol.gov)

