Semiannual Report to Congress

Office of Inspector General for the U.S. Department of Labor

Volume 64

April 1 - September 30, 2010

OFFICE OF INSPECTOR GENERAL
E PLURIBUS UNUM
UNITED STATES
DEPARTMENT OF LABOR

A Message from the Acting Inspector General

I am pleased to submit this Semiannual Report to Congress, which highlights the most significant activities and accomplishments of the U.S. Department of Labor (DOL), Office of Inspector General (OIG) for the six-month period ending September 30, 2010. During this reporting period, our investigative work led to 175 indictments, 158 convictions, and $85 million in monetary accomplishments. In addition, we issued 38 audit and other reports which, among other things, recommended that more than $1.3 billion in funds be put to better use.

OIG audits and investigations continue to assess the effectiveness, efficiency, economy, and integrity of DOL's programs and operations. For example, during this reporting period, we found that in 32 years, the Mine Safety and Health Administration has never successfully exercised its Pattern of Violation authority.

We also found that the Occupational Safety and Health Administration has not effectively evaluated the impact of hundreds of millions of dollars in penalty reductions as an incentive for employers to improve workplace safety and health. Moreover, we found that employers with a history of serious violations continue to receive reduced penalties and that up to $127 million in penalty reductions may have been inappropriate.

Finally, we issued five audit reports related to the American Recovery and Reinvestment Act of 2009 during this semiannual period.

Our investigations continue to combat labor racketeering and/or organized crime in internal union affairs, union-sponsored benefit plans, and labor management relations. For example, one major OIG investigation resulted in the sentencing of the former national president of the Brotherhood of Locomotive Engineers and Trainmen and former president of the International Brotherhood of Teamsters Rail Division to 18 months' incarceration after he pled guilty to bribery in connection with a Federally-funded program and to interstate travel to carry on unlawful activity.

Another investigation led to an investment advisor being ordered to serve more than nine years of imprisonment and pay restitution of more than $26 million to several union-sponsored pension funds after pleading guilty to charges of embezzlement and wire fraud.

OIG investigations also identified vulnerabilities and fraud in DOL programs. One investigation resulted in a massage therapist being ordered to serve 78 months in prison and pay $1.6 million in restitution for her role in a health care fraud scheme involving the Office of Workers' Compensation Programs.

The OIG remains committed to promoting the integrity, effectiveness, and efficiency of DOL. I would like to express my gratitude to the professional and dedicated OIG staff for their significant achievements during this reporting period. I look forward to continuing to work with the Department to ensure the integrity of programs and the protection of the rights and benefits of workers and retirees.

Daniel R. Petrole
Acting Inspector General

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Selected Statistics

Investigative recoveries, cost-efficiencies, restitutions, fines and penalties, forfeitures, and civil monetary action[1]	$85 million
Investigative cases opened	246
Investigative cases closed	278
Investigative cases referred for prosecution	190
Investigative cases referred for administrative/civil action	83
Indictments	175
Convictions	158
Debarments	19
Audit and other reports issued	38
Funds recommended for better use	$1.3 billion
Outstanding questioned costs resolved during this period	$4.3 million
Allowed[2]	$35.2 million
Disallowed[3]	$30.1 million

1 These accomplishments do not include the following amounts that have been recovered as a result of the OIG's investigative efforts in multi-agency investigations:

- Restitution of $11,847,420 for victims in an investigation involving labor trafficking and related violations. The court-ordered restitution includes payment of victim's wages during their servitude, as calculated under the Fair Labor Standards Act. *United States* v. *Akouavi Kpade Afolabi*
- A civil monetary penalty in the amount of $1,033,362 assessed by Immigration and Customs Enforcement as a result of a company's routine use of undocumented workers on their job sites.

2 *Allowed* means a questioned cost that DOL has not sustained.

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

Significant Concerns

The OIG works with the Department and Congress to provide information and recommendations that will be useful in their management or oversight of the Department. The OIG has identified areas that we consider particularly vulnerable to mismanagement, error, fraud, waste, or abuse. These issues form the basis of our annual Top Management Challenges report required under the Reports Consolidation Act of 2000.

For FY 2010, these challenges are:

- **Achieving the Goals and Protecting the Investment Provided by the American Recovery and Reinvestment Act**
- **Protecting the Safety and Health of Workers**
- **Improving Performance Accountability of Workforce Investment Act Grants**
- **Ensuring the Effectiveness of the Job Corps Program**
- **Safeguarding Unemployment Insurance**
- **Improving the Management of Workers' Compensation Programs**
- **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**
- **Ensuring DOL's New Core Financial Management System Produces Reliable, Accurate, and Timely Financial Information**

The recently issued Top Management Challenges report is found in its entirety in the appendices of the Semiannual Report to Congress. The following is a synopsis of our specific concerns in each area.

Achieving the Goals and Protecting the Investment Provided by the American Recovery and Reinvestment Act

Ensuring program effectiveness and meeting Recovery Act requirements to stimulate the economy are significant challenges for the Department. Our audits have identified large amounts of unspent Recovery Act funds and questionable expenditures of other such funds. For example, our March 2010 audit of the Health Coverage Tax Credit (HCTC) National Emergency Grants found that just $8 million of the $150 million designated for the program had been awarded to states since the Recovery Act was signed into law on February 17, 2009. Congress has now rescinded $110 million of the $150 million appropriated for HCTC National Emergency Grants, leaving about $26 million available for future grants. Similarly, as part of our September 2010 audit of UI modernization grants, nine states indicated in response to an OIG survey that they were unlikely to apply for $1.3 billion of UI modernization benefits.

Additionally, our audit work over the past year found that the Employment and Training Administration (ETA) has announced, evaluated, and issued Recovery Act grants

in accordance with relevant criteria. However, funds provided by the Act for monitoring Recovery Act grants have expired as of September 30, 2010. This impacts ETA's ability to execute its Recovery Act grantee monitoring and oversight responsibilities and may increase the risk that a portion of the $717 million in Recovery Act grant funds may not be spent for their intended purposes. To address this need, ETA has asked for funding to support an increase in grant monitoring staff as part of its FY 2011 budget request.

Protecting the Safety and Health of Workers

Of continuing concern for the OIG is the safety and health of our nation's workers. Over the last several years, we have documented a pattern of weak oversight, inadequate policies, and a lack of accountability on the part of the Mine Safety and Health Administration (MSHA). MSHA's challenge involves effectively managing existing resources and utilizing existing authorities to maximize its enforcement efforts while fulfilling other important duties. As detailed in a recent audit report, the OIG is concerned that in 32 years MSHA has not successfully exercised its Pattern of Violations authority to identify mine operators with the worst compliance records. Other areas of concern for MSHA include its ability to recruit and maintain a properly trained cadre of mine inspectors, the backlog of cases currently before the Federal Mine Safety and Health Review Commission, and the rising trend of Black Lung disease cases.

The OIG is also concerned with the Occupational Safety and Health Administration's (OSHA's) ability to best target its resources and measure the impact of its efforts. Since OSHA can reach only a fraction of the seven million entities it regulates, it must strive to target the most egregious and persistent violators while protecting the most vulnerable worker populations. However, a recent OIG audit found that OSHA has not effectively evaluated the impact of hundreds of millions of dollars in penalty reductions as incentives to reducing workplace hazards.

Another OIG audit found that OSHA did not always ensure that complainants received appropriate investigations under the whistleblower program.

Improving Performance Accountability of Workforce Investment Act Grants

The Department is challenged to ensure that Workforce Investment Act (WIA) grants accomplish program objectives. 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, and disseminating and replicating proven strategies and programs. As detailed in a recent audit report, the OIG is concerned with the Department's ability to provide adequate oversight and monitoring of $717 million in WIA grants awarded under the Recovery Act. As previously stated, funds provided by the Recovery Act for the monitoring of grants expired on September 30, 2010, and this may impact the Department's ability to execute its Recovery Act grantee monitoring and oversight responsibilities. We are also concerned with recent audit findings that not all State Workforce Agencies conduct evaluations of the Title IB workforce investment activities for the Adult, Dislocated Worker, and Youth programs, and when they do, they don't report the identified best practices to ETA.

Ensuring the Effectiveness of the Job Corps Program

The OIG's work has consistently identified challenges to the effectiveness of the Job Corps program. Job Corps has been challenged to meet its placement and recruitment goals over the past several years. The number of Job Corps graduates placed in jobs, continuing their education, and/or entering the military has declined from 91% for the year ended June 30, 2005, to 76% for the year ended June 30, 2010.

Recent OIG work has also found that weak controls at centers have resulted in the overstatement of performance results and unallowable costs charged to Job Corps. Accurate performance reporting is a particular challenge for Job Corps, as most centers are operated by contractors through performance-based contracts with incentive fees and bonuses that are tied directly to contractor performance. Under such contracts, there is a risk that contractors will overstate performance results. With respect to unallowable costs, during this reporting period, OIG audits questioned $1.8 million related to a contractor's indirect costs, and $65,553 that another contractor charged for the Center Director's personal housing and travel expenses. In addition, OIG audits continued to identify unsafe or unhealthy conditions and the lack of required safety inspections at some centers. We also found that some centers did not hold required behavior review board meetings to evaluate student misconduct and initiate disciplinary action; and underreported significant incidents occurring at the centers.

Safeguarding Unemployment Insurance

Improper payments of Unemployment Insurance (UI) compensation benefits are a continuing concern for the OIG. ETA reported more than $15.2 billion in UI overpayments, and estimates that about $3.4 billion of these overpayments are attributable to fraud – an increase from the $2.8 billion reported in FY 2009. The current economic downturn has made controlling overpayments more difficult, as the number of claims filed has greatly increased and new programs had to be implemented quickly, which has resulted in states shifting resources from detecting improper payments to processing claims. Notably, OIG's review of ETA's compliance with Executive Order 13520, its required Report on UI Improper Payments identified improvements needed to measure, and to mitigate UI improper payments. Moreover, OIG investigations continue to uncover UI fraud committed by individuals, as well as identity theft schemes designed to illegally obtain UI benefits.

Improving the Management of Workers' Compensation Programs

The Department has responsibility for managing the Energy Employees Occupational Illness Compensation Act Program (Energy workers' program) and the Federal Employees' Compensation Act (FECA) Program. The OIG's concern for the Energy workers' program centers on the timeliness of its claim decisions. Complex regulatory requirements and the difficulty of locating employment and other records, as well as the inability of sick, often aging, claimants to fully understand their rights and responsibilities, contribute to the lengthy decision process. This is exacerbated by the fact that the National Institute for Occupational Safety and Health (NIOSH) must prepare a complicated and time-consuming dose reconstruction of the amount of radiation to which an employee with cancer was exposed, and the Department has no regulatory authority to control the completion time of the NIOSH process.

The FECA program must ensure it makes proper payments, while also being responsive and timely to eligible claimants. Opportunities to defraud the program continue to exist, and certain ones are made more likely by FECA's inability to match FECA compensation recipients against Social Security records. Other challenges facing the FECA program include 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.

Ensuring the Integrity of Foreign Labor Certification Programs

DOL's Foreign Labor Certification (FLC) programs are intended to provide U.S. employers access to foreign labor to meet American worker shortages under terms and conditions that do not adversely affect U.S. workers. Ensuring the integrity of the Department's FLC programs, while also providing a timely and effective review of applications to hire foreign workers, is a continuing challenge for the Department. Moreover, the Department is also challenged with statutory limits on its authority in the H-1B program and uncertainty regarding its authority to debar individuals or entities. In addition, as detailed in this Semiannual Report, OIG investigations continue to uncover schemes carried out by immigration attorneys, labor brokers, employers, and transnational organized crime groups, some with possible national security implications.

Securing IT Systems and Protecting Related Information Assets

Management of information technology (IT) systems is a continuing challenge for all Government agencies, including DOL. Ensuring security, keeping up with new threats and IT developments, providing assurances that IT systems will function reliably, and safeguarding information assets will continue to challenge the Department. The FY 2010 Federal Information Security Management Act audit identified access controls, inventory of sensitive IT assets, oversight of third-party systems, and remediation of known vulnerabilities as significant deficiencies. The OIG has reported on access control weaknesses over DOL's major IT 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. Furthermore, the security of sensitive information that can be accessed remotely or stored on mobile computers/devices is a continuing challenge to the Department. In light of these challenges, the OIG continues to recommend the creation of an independent Chief Information Officer to provide exclusive oversight of all issues affecting the IT capabilities of DOL.

Ensuring the Security of Employee Benefit Plan Assets

The OIG remains concerned with the Department's ability to protect benefits and benefit plan assets generally against fraud, misconduct, and negligence. OIG investigations have shown that benefit plan assets remain vulnerable to labor racketeering and/or organized crime influence. Moreover, the Department is challenged by its limited authority to oversee plan audits, and by its inability to assess enforcement program effectiveness. In addition, the broad changes required by the Patient Protection and Affordable Care Act will challenge the Department to develop in excess of thirty new health plan regulations, provide ongoing technical assistance, incorporate new requirements into employee benefit enforcement programs, institute new statutorily mandated research and health plan surveys, and broaden assistance and educational programs for employee benefit plan participants and beneficiaries.

Ensuring DOL's New Core Financial Management System Produces Reliable, Accurate, and Timely Financial Information

The implementation of the New Core Financial Management System has presented the Department with numerous challenges. The Department's financial data did not migrate correctly and DOL is challenged to clean up inaccurate financial data from the DOLAR$ and other interfacing systems. While the Department is working to address these challenges, it is still unable to produce financial statements for the OIG to audit.

Worker Safety, Health, and Workplace Rights

Mine Safety and Health Administration

The Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006 (MINER Act), charges the Mine Safety and Health Administration (MSHA) with protecting the health and safety of more than 300,000 men and women working in our nation's mines.

In 32 Years, MSHA Has Never Successfully Exercised Its POV Authority

The April 5, 2010, accident at the Upper Big Branch Mine South in Montcoal, West Virginia, which resulted in the death of 29 miners, immediately raised concerns about the mine's safety record and MSHA's process for identifying mines having a pattern of violations (POV). Those concerns were heightened when MSHA determined that a computer error had caused the Upper Big Branch Mine South to incorrectly be omitted from its most recent list of mines with potential POVs.

Following the accident, and in response to a request from several members of Congress, the OIG conducted a performance audit of MSHA's administration of its POV authority since its inception with the passage of the Federal Mine Safety and Health Act of 1977. POV authority enables MSHA to take enhanced enforcement actions when a mine demonstrates recurring safety violations that could significantly and substantially contribute to the cause and effect of health and safety hazards.

Our audit found that in 32 years, MSHA has never successfully exercised its POV authority. During this period, MSHA has only once issued a POV notice to a mine operator. Successful administration of this authority has been hampered by a lack of leadership and priority in the Department across various Administrations. This allowed the rulemaking process to stall and fall victim to the competing interests of the industry, the operators, and the unions representing the miners as to how that authority should be administered.

The OIG found that the Department never implemented regulations for administering MSHA's POV authority until 1990, and those regulations created limitations on MSHA's authority that were not present in the enabling legislation, making it difficult for MSHA to place mines on POV status. According to MSHA officials, in the 17 years that followed (from 1990 until mid-2007), MSHA district offices across the nation operated with limited guidance from the national office and performed POV analyses based on individual interpretations of requirements. They were responsible for conducting the required annual POV screening of mines, but never put any mine operator on POV status. In 2007, MSHA made its first attempt to implement a quantifiable method for screening and monitoring potential POV mines. However, the criteria lacked a supportable rationale, and the process proved to be complex and unreliable. Our audit also identified delays in MSHA's testing of rock dust samples in underground coal mines that could cause critical delays in MSHA identifying serious safety hazards.

We made 10 recommendations to MSHA that it: give priority to new rulemaking to eliminate or modify authority limitations created by current regulations; develop a process to appropriately involve stakeholders, while preventing the rulemaking process from stalling; ensure that POV selection criteria are transparent, reasoned, and suitable to making POV determinations; and ensure the integrity and timeliness of inspection data and results used to determine patterns of violations. MSHA agreed with our recommendations and committed to developing and implementing corrective actions (Report No. 05-10-005-06-001, issued September 29, 2010)

Occupational Safety and Health Administration

The Occupational Safety and Health Administration (OSHA), authorized by the Occupational Safety and Health Act of 1970, promulgates and enforces occupational safety and health standards and provides compliance assistance to employers and employees.

OSHA Should Evaluate the Impact of Millions of Dollars in Penalty Reductions as Incentives for Employers to Improve Workplace Safety and Health

When working conditions that violate the Occupational Safety and Health Act of 1970 (OSH Act) are identified, OSHA inspectors issue citations with penalties. In setting penalty amounts, OSHA is required to give consideration to the gravity of violations, as well as the employer's size, good faith, and history. While penalty reductions are not mandated by the OSH Act, OSHA established them as an incentive for employers to correct violations and improve workplace safety and health. Another driving factor for reductions was the employer's right to contest the inspection, which could delay abatement and continue to expose employees to hazards. We conducted a performance audit covering 49,192 Federal OSHA inspections for a two-year period between July 1, 2007, and June 30, 2009, to determine if OSHA effectively evaluated the impact of penalty reduction incentives on workplace safety and health. During this period, inspections resulted in 142,187 citations, of which 98% received deductions. Penalties of $523.5 million were reduced by $351.2 million or 67%.

Our audit found that OSHA has not effectively evaluated the impact of penalty reductions as an incentive for employers to improve workplace safety and health. OSHA reduced penalties on an inspection and per-violation basis without always considering an employer's overall safety and health performance — 24% of the citations were issued to 4,791 employers (227 with fatalities) that had a history of serious violations in two or more inspections, yet they received significant reductions totaling $86.6 million. These reductions averaged $18,076 per employer and ranged up to $480,400. Half of these employers violated a similar standard on subsequent inspections, indicating that correction of workplace hazards may not have been comprehensive and company-wide. We also found that OSHA's Integrated Management Information System cannot effectively track employers with company-wide violations, in part because of the lack of quality data due to employer-related companies and name variations.

We also found that up to 36% or $127 million in reductions may not have been appropriate. This is because OSHA's directives for reducing penalties did not provide clear guidance, and did not integrate the size, good faith, and informal settlement reductions with an employer's overall character. Area Office Directors and staff did not always comply with or make full use of these directives. Specifically, we found that OSHA's use of size reductions resulted in what amounts to an entitlement, as 98% of all cited violations were reduced at the maximum allowable rate. Of the $127 million in reductions, $94.1 million were for potential excessive employer size reductions, $31.8 million for grantees' unjustified informal settlements reductions, and $1.1 million for safety history reduction errors.

We made 11 recommendations to OSHA to commit the necessary resources to effectively evaluate the impact of penalty reductions, improve information systems, and revise and implement policies and procedures. OSHA expressed concerns about some audit findings and recommendations. Based on OSHA's response, we

clarified two recommendations, but our overall conclusions remained unchanged. (Report No. 02-10-201-10-105, issued September 30, 2010)

Complainants Did Not Always Receive Appropriate Investigations Under the Whistleblower Protection Program

We conducted an audit of OSHA's whistleblower program to determine to what extent OSHA ensured that complainants received appropriate investigations under the Whistleblower Protection Program. The Whistleblower Protection Program was created to enforce Section 11(c) of the OSH Act which prohibits employers from retaliating against employees who exercise their rights under the Act. OSHA has between 30 and 90 days to complete investigations of complaints of discriminatory actions taken against employees who "blow the whistle" under either the OSH Act or any of the 16 additional whistleblower statutes — including Sarbanes-Oxley Act and Surface Transportation Assistance Act statutes — to which OSHA has been assigned whistleblower provisions.

We found that OSHA did not always ensure complainants received appropriate investigations in our audit of three Whistleblower Protection Program statutes: OSHA 11(c), Sarbanes-Oxley Act, and Surface Transportation Assistance Act. We tested a statistical sample of investigative case files against the eight elements identified in the OSHA Whistleblower Investigations Manual as being essential to the investigative process to ensure that complainants receive appropriate investigations. As a result of our testing, we estimated that 80% of the whistleblower investigations for the three sampled programs did not meet one or more of the eight elements. This occurred because OSHA did not:

- supervise investigations adequately;
- manage regional investigators' caseloads adequately;
- oversee and monitor investigations for compliance with policies and procedures;
- develop performance measures or indicators for the whistleblower program; and
- provide adequate guidance to investigators.

By not providing complainants with thorough investigations, OSHA could not ensure that they were protected as intended under the various whistleblower protection statutes.

Furthermore, OSHA's Whistleblower Investigations Manual had not been updated since 2003. Therefore, investigators did not have any written guidance on how to conduct investigations under the three new whistleblower statutes transferred to OSHA since the last update. Additionally, many investigators did not have access to subject matter experts for technical guidance on the 17 statutes they were responsible for enforcing.

We recommended that OSHA implement controls to oversee and monitor investigations and caseloads, develop specific performance measures, update the Whistleblower Investigations Manual, and designate subject matter experts with technical competencies in specific whistleblower statutes. OSHA agreed with the recommendations, stating that it is in the process of performing a top-to-bottom review, including assessing whether to restructure the Office of the Whistleblower Protection Program. OSHA further stated the review will incorporate the valuable perspective and recommendations received from this audit report. OSHA also stated that it is currently revising its Whistleblower Investigation Manual. (Report No. 02-10-202-10-105, issued September 30, 2010)

Wage and Hour Division

The Wage and Hour Division (WHD) is responsible for enforcing labor laws such as those that cover minimum wage, overtime pay, recordkeeping, family and medical leave, and migrant workers, among others. Additionally, WHD administers and enforces the prevailing wage requirements of the Davis Bacon Act and other statutes applicable to Federal contracts for construction and for the provision of goods and services. The Davis-Bacon Act and related acts 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 investigates violations by contractors who receive Federal funding and who submit falsified certified payroll records.

Restitution of $5.8 Million Ordered in Prevailing Wage Fraud Investigation

Simon Whitley, the controller for Serrot Construction and All American Building and Development, was ordered on June 18, 2010, to pay $5,786,204 in restitution and sentenced to one year probation. Whitley and Serrot's president, Jose Torre, each pled guilty in September 2004 to committing mail fraud. Torres also pled guilty to tax evasion.

From 1997 to 2000, Serrot was awarded approximately $20 million in Federally funded contracts by the New York City Housing Authority (NYCHA). These contracts were for the installation of doors in public housing projects throughout the five boroughs of New York City. During the performance of the contracts, even though they were required to pay the prevailing wage, Torres and Whitley devised an elaborate series of schemes to defraud NYCHA, to substantially underpay their employees, to avoid paying taxes on the additional income, and to launder the proceeds of the crime through the purchase of commercial rental properties. These schemes resulted in employees being underpaid by more than $5.7 million. This amount was ordered to be repaid as a result of this investigation.
We entered into the investigation at the request of NYCHA. This was a joint investigation with the NYCHA-OIG, WHD, and the Internal Revenue Service (IRS). *United States* v. *Torres, et al.* (E.D. New York)

Three Restaurateur Brothers Sentenced in Back Wage and Tax Violations Scheme

Brothers Eduardo, Fernando, and Juan Carlos Pabon were all sentenced on July 30, 2010, to 30 months' incarceration and ordered to make restitution collectively in the amount $1.4 million to the IRS for back taxes owed. In addition to restitution, Eduardo Pabon, the owner of the restaurant Mi Tierrita, voluntarily paid $659,341 in back wages to the New York State Department of Labor to compensate underpaid wages of employees of Mi Tierrita. The sentence was the result of the brothers' April 2009 guilty plea to conspiracy to commit tax fraud and the unlawful employment of undocumented workers.

The Pabons hired undocumented workers to work at various jobs in their three New York restaurants. In order to avoid paying back wages, the defendants, who had been audited by WHD on three separate occasions concerning back wages, lied to and provided WHD with false documents about their employees and their businesses.

This was a joint investigation with the IRS and Immigration and Customs Enforcement (ICE). *United States* v. *Pabon* (E.D. New York)

Worker and Retiree Benefit Programs

Federal Employees' Compensation Act Program

The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA), Black Lung, and Longshore and Harbor Workers. The FECA program provides workers' with wage-loss compensation and pays medical expenses to approximately 2.8 million civilian and certain other employees who incur work-related occupational injuries or illnesses, as well as survivors benefits for covered employee's employment-related death. In FY 2010, the FECA program made over $1.7 billion in wage loss compensation payments to claimants and processed approximately 19,900 initial wage loss claims. At that FY's end, 43,100 claimants were receiving regular monthly wage loss compensation payments.

Massage Therapist Sentenced to 78 Months in Prison and Ordered to Pay $1.6 Million in Restitution for Health Care Fraud Scheme

Kawai Ary-Berry, a massage therapist who misrepresented herself as a licensed physical therapist and billed the government for physical therapy services, was sentenced on July 2, 2010, to 78 months in Federal prison, to be followed by three years of supervised release, and was ordered to pay $1.6 million in restitution, after being found guilty in April 2010 of committing health care fraud.

From January 2003 through April 2008, Ary-Berry submitted fraudulent billings to the OWCP totaling $2,419,573, of which OWCP paid $1,884,541. Ary-Berry, the owner of PTMT The Pain Relief Center, would contact and receive approval from OWCP to perform physical therapy treatments for OWCP patients who presented her with a prescription for physical therapy. She would then submit fraudulent claims to OWCP for reimbursement for her services. In addition, Ary-Berry often received OWCP payments for services claimed to exceed 24 hours in a single day.

This was a joint investigation with the U.S. Postal Service (USPS)-OIG. *United States* v. *Kawai Ary-Berry* (N.D. Texas)

California Man Sentenced to 21 Months in Prison for FECA Fraud

Mark Correnti, a former mechanic for the U.S. Navy, was sentenced on April 23, 2010, to 21 months in prison, three years of supervised release, and ordered to pay $237,676 in restitution. Correnti pled guilty in November 2009 to making false statements to obtain Federal employees' compensation, and resigned from his government position prior to the conviction.

Correnti claimed that in 1989 he suffered a debilitating back injury that, according to Correnti was so serious that it did not allow him to perform any type of work. The investigation established that since 2000, Correnti owned and actively operated a boat and recreational vehicle storage business in California. Correnti never reported his self-employment and earnings to OWCP, which he was legally required to do.

This was a joint investigation with the Defense Criminal Investigative Service (DCIS). *United States* v. *Mark Anthony Correnti* (E.D. California)

Theft of Survivor Benefit Checks Results in 14-Months' Prison Sentence

Thomas Doughty, Jr., was sentenced on April 26, 2010, to 14 months' imprisonment to be followed by two years of supervised release and ordered to pay $120,193 in restitution to DOL. Doughty pled guilty in January 2010 to theft of government property for falsely receiving survivor's benefits from OWCP. The benefits were intended for the widow of a FECA claimant, to whom Doughty was not related.

Following the death of the widow in 1997, Doughty, who was assisting a friend in charge of handling the widow's estate, redirected FECA survivor benefit checks mailed to the widow to his home address, cashed them, and used their proceeds for his personal benefit. To continue the scheme, Doughty submitted several claims for continuous compensation in the name of the widow to OWCP. The scheme continued for six years until a 2006 check of the Social Security Death Master File uncovered the deception.

This was a joint investigation with the Naval Criminal Investigation Service. *United States* v. *Doughty* (C.D. California)

Ohio Business Owner Ordered to Sell Business to Pay Restitution to OWCP

Larry Waldren, the owner and operator of Waldren's Hunting Supplies (WHS), was sentenced on July 9, 2010, to 12 months and 1 day confinement, and ordered to pay restitution of $148,161. Additionally, Waldren and his wife, Tina Waldren, were ordered to sell the WHS property and land and five other undeveloped lots they owned to assist in paying the restitution order. Waldren was found guilty in February 2010 of making false statements in order to obtain FECA benefits.

Waldren resigned from Federal employment in February 2009. He was employed as a Transportation Security Administration (TSA) screener for the Columbus International Airport, where, in 2005, he sustained a work-related injury. He was subsequently placed on the periodic rolls and received monthly FECA benefit payments. After Waldren was injured, he falsely reported to a vocational rehabilitation specialist during a background interview that he had sold WHS to his sons. Waldren never reported any employment or association with a business enterprise on any forms he submitted to OWCP.

This was a joint investigation with the TSA-Office of Inspections. *United States* v. *Lawrence E. Waldren* (S.D. Ohio)

Physician Sentenced for Health Care Fraud

Dr. Windsor Dennis, an orthopedic surgeon who operated a medical practice in New Orleans, Louisiana, was sentenced June 2, 2010, to 12 months of home confinement with electronic monitoring, 2 years' probation, and ordered to pay $750,000 in restitution and a $5,000 fine. Dr. Dennis pled guilty in March 2010 to one count of health care fraud. Between August 2005 and August 2006, Dr. Dennis defrauded the OWCP by billing for services not rendered, including services he claimed he performed during the time his clinic was shut down after Hurricane Katrina. This was a joint investigation with the USPS-OIG. *United States* v. *Windsor S. Dennis, M.D*. (E.D. Louisiana)

Pharmaceutical Company Agrees to Plead Guilty and Pay $600 Million in Off-Label Marketing Case

Pharmaceutical manufacturer Allergan, Inc., agreed on September 1, 2010, to plead guilty to a criminal misdemeanor for misbranding and pay $600 million to resolve its criminal and civil liability stemming from the

company's promotion of its biological product, Botox®, for uses not approved as safe and effective by the Food and Drug Administration (FDA). The resolution includes a criminal fine and forfeiture totaling $375 million, a civil settlement with the Federal government of $210,250,000, and up to $14,750,000 to affected states that opt to participate in the agreement. The OWCP paid $1,668,535 in Botox®-related costs.

The civil settlement agreement addresses allegations that Allergan used unlawful marketing practices which caused false claims to be submitted to government health care programs and agencies, such as Medicare, Medicaid, TRICARE, the Federal Employees Health Benefit Program, the U.S. Department of Veterans Affairs (VA), and OWCP. From 2001 through at least 2008, Allergan promoted Botox ® for use that was not medically accepted or covered by the above Federal healthcare programs, knowingly made unsubstantiated and misleading statements about the efficacy of Botox ® to encourage its improper use, instructed doctors to miscode Botox® claims to ensure payment by government healthcare programs, and provided inducements to doctors to influence them to administer more Botox®.

This was a joint investigation with the Federal Bureau of Investigation (FBI), the FDA's Office of Criminal Investigation, and the Department of Health and Human Services (HHS)-OIG. Investigative assistance was provided by the Office of Personnel Management (OPM)-OIG, TRICARE Program Integrity, and the VA-OIG. *United States* v. *Allergan, Inc.* (N.D. Georgia)

Maryland Man Pleads Guilty to Fraudulently Obtaining $636,000 in 26-Year FECA Scam

John Hanson, a former printer for the Defense Logistics Agency (DLA), pled guilty on September 1, 2010, to making a false statement to fraudulently obtain $636,410 in Federal disability payments over the course of 26 years. Hanson reported an on-the-job back injury in 1978. Based on reports of his attending physician, OWCP began paying Hanson compensation for total disability in April 1981. From at least 1983 through 2009, Hanson submitted falsified claimant forms to the DOL-OWCP regarding his employment status. Over the course of Hanson's disability payments, he never reported outside income or work-related activities to OWCP as required. Hanson later admitted to investigators that he had been secretly working restoring automobiles, doing construction projects, and performing other unreported work throughout the duration of his workers' compensation benefits. For the majority of his work activities performed while receiving FECA benefits, he was paid in cash. Hanson also admitted that he often wore a medical brace to his doctor appointments in order to deceive his doctor into believing that he was unable to return to work. As part of his plea agreement, Hanson has agreed to pay $328,123 in restitution which represents all of the funds from his OPM retirement account and Hanson forfeited $72,000 in cash.

This is a joint investigation with the DLA. *United States* v. *John Hanson* (D. Maryland)

Employee Benefits Security Administration

The Employee Benefits Security Administration (EBSA) is responsible for overseeing more than 150 million Americans covered by more than 708,000 private retirement plans, 2.8 million health plans, and similar numbers of other welfare benefit plans holding over $5 trillion in assets; as well as plan sponsors and members of the employee benefits community. EBSA is responsible for administering and enforcing the fiduciary, reporting, and disclosure provisions of Title I of the Employee Retirement Income Security Act of 1974 (ERISA).

EBSA Should Do More to Protect Retirement Plan Assets from Conflicts of Interest

We conducted a performance audit to determine if EBSA has taken action to evaluate and reduce risk of harm to plan participants from conflicts of interest in pension service providers. The private emplyoyee benefits system in the United States involves about $5 trillion in assets for more than 150 million Americans participating in more than 708,000 retirement plans, 2.8 million health plans, and similar numbers of other welfare benefit plans. ERISA governs the investment of these assets. ERISA assigns DOL primary responsibility to enforce the fiduciary provisions of ERISA Title I, which is accomplished through EBSA. Conflicts of interest arise when a service provider has competing professional or personal interests, which can hinder the service provider's and the plan fiduciary's ability to act solely in the interest of plan participants or beneficiaries.

Our audit found that EBSA has taken several actions to evaluate and reduce risk or harm to plan participants and beneficiaries from conflicts of interest by service providers. For example, EBSA developed two new regulations regarding fee determinations and disclosures and is requiring this information be reported to EBSA; followed up on a 2005 Security and Exchange Commission (SEC) report on conflicts of interest and initiated 12 specific investigations; worked with the SEC to develop guidelines for plan fiduciaries to use in selecting and monitoring specific service providers; and implemented the Consultant Adviser Project, which concentrated resources on improper, undisclosed compensation by certain service providers. While these actions go a long way toward creating transparency in plan activities and improving protections for plan assets and participant benefits, EBSA needs to do more to protect plan participants and beneficiaries. Specifically, EBSA needs to address other critical regulatory areas that have hampered its enforcement program, such as the narrow definition of a fiduciary and the lack of regulations dealing with conflicts of interest. The SEC and EBSA have guidelines that are helpful in focusing attention on conflicts of interest; however, EBSA cannot incorporate them into its enforcement program because it cannot enforce compliance unless regulations exist. In reviewing 24 pension service providers, the SEC found 13 instances of inadequate disclosure of conflicts of interest. EBSA, using its regulations, could not take any enforcement action on the inadequate disclosure to pension plans. EBSA did, however, find two instances of prohibited transactions under ERISA in its review of the SEC cases.

We made two recommendations to EBSA that would strengthen its enforcement program relative to conflicts of interest: to broaden the definition of a fiduciary for investment advisers, and develop regulations requiring disclosure of all conflicts of interest and consideration of conflicts of interest in selection of service providers. EBSA agreed with the finding and recommendations. In addition, EBSA also stated one of its highest priorities has been the adoption of a regulation that would ensure plan fiduciaries are furnished the information they need to make informed decisions about service providers. (Report No. 09-10-001-12-121, issued September 30, 2010)

Unemployment Insurance Programs

Enacted 75 years ago as a Federal–state partnership, the Unemployment Insurance (UI) programs is the Department's largest income-maintenance program. This multibillion-dollar program assists individuals who are unemployed due to lack of suitable work. While the framework of the programs is determined by Federal law, the benefits for individuals are dependent on state law and are administered by State Workforce Agencies (SWAs) in 53 jurisdictions covering the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, under the oversight of Employment and Training Administration (ETA).

Recovery Act: More Than a Billion Dollars in UI Modernization Incentive Payments is Unlikely to be Claimed by States

The Recovery Act set aside $7 billion from the Federal Unemployment Account (FUA) in the Unemployment Trust Fund, to be used for UI incentive payments for states whose unemployment compensation laws meet Recovery Act criteria intended to expand eligibility for unemployment benefits permanently. The Recovery Act also provided $500 million in administrative grants to assist states with their UI operations. We conducted a performance audit to determine:

- why states had not applied for the modernization funds;
- the status of the $7 billion of modernization funds established by Congress for use by states, and the status of the $500 million in administrative grants to states;
- if states that received UI modernization incentive payments made unemployment compensation benefit payments to claimants who met the new eligibility requirements, as enacted in state law; and
- if states that received incentive payments but have not yet implemented UI modernization incentive provisions, have implementation plans, including projected costs, timeframes and anticipated challenges.

States have until August 2011 to apply for the UI modernization incentive payments. In response to an OIG survey, nine states indicated that they were unlikely to apply for $1.3 billion of UI modernization benefits. These states most often cited the cost of increased benefit payments that would continue after the incentive payments are exhausted as the reason for not applying. They also cited needed changes to state laws as politically difficult and unpopular with their citizens. Further, the states reported that they did not plan to spend $33 million of administrative grant funds due to significant challenges in procurement or state legislative approval processes, the need for additional state funds to implement desired changes, and/or difficulties in identifying just how to spend the funds.

Most of the states receiving UI modernization payments were not able to provide data regarding claimants' payments. States that could quantify benefits paid under the new provisions reported that approximately 55,000 new claimants were paid $82 million. Four states received incentive payments and delayed implementation of required changes to state law, but did not provide implementation plans, timelines, or projected implementation costs. To better ensure that $1 billion or more of Recovery Act funds are put to best use, we recommended ETA work with Congress to reinstate unused UI modernization funds into the Federal Unemployment Account (FUA) and work with the

states to ensure the $500 million of administrative funds are spent as intended. ETA supports our recommendation that unused funds become unrestricted in the FUA, but recommends this occur on October 1, 2011, as provided by the Recovery Act. (Report No. 18-10-012-03-315, issued September 30, 2010)

Kenyan National Sentenced for Various Schemes Including Fictitious Employers and Aggravated Identity Theft

Peter Mwangi, a Kenyan citizen who at the time of his offenses was illegally in the United States, was sentenced June 17, 2010, to 81 months in prison, to be followed by 36 months of supervised release. After his imprisonment he will likely face deportation. He was also ordered to pay a $10,000 fine and restitution of $612,913. In December 2009, Mwangi pled guilty to mail fraud related to a UI scheme and also to a separate indictment charging him with passport fraud and aggravated identity theft.

From about March 2006 through June 2008, Mwangi registered 11 fictitious employers with the Massachusetts Division of Unemployment Assistance (DUA) and then filed hundreds of fraudulent claims in the names of supposed former employees of these businesses. Mwangi used his own identity as well as the names and Social Security numbers of other individuals, both living and deceased, to make the claims. DUA mailed the benefit checks to various addresses controlled by Mwangi. He then cashed or deposited the checks into bank accounts which he also controlled. Over the course of the scheme, Mwangi obtained $612,913 in unemployment benefits to which he was not entitled.

This was a joint investigation with ICE-Office of Investigations, the U.S. Postal Inspection Service (USPIS), U.S. Department of State (DOS)-Diplomatic Security (DS), and the Massachusetts Department of Workforce Development DUA. *United States* v. *Peter Mwangi* (D. Massachusetts)

Three Sentenced in Bank Fraud Scheme that Defrauded UI Fund of Approximately $359,000

Michael Pecka, his wife Nicole, and their friend, Kimberly Borror, were sentenced on September 7, 2010 after pleading guilty to charges of bank fraud for their involvement in a scheme to defraud the New York State UI Fund of approximately $359,000. Michael Pecka was sentenced to 37 months' imprisonment and ordered to pay $359,000 in restitution. Nicole Pecka was sentenced to 12 months' imprisonment and ordered to pay $80,000 in restitution. Borror was sentenced to one day (time served) and ordered to pay $30,000 in restitution. Each of the defendants also received five years' probation. The restitution orders are to be paid jointly and severally among the three defendants.

Michael Pecka organized and participated in a scheme that made unauthorized withdrawals from the New York State UI Fund. After receiving legitimate UI benefits for a short period of time in 2006, he opened numerous business accounts in his name and in the names of the other defendants. Pecka used his UI account number and routing information to open online trading accounts. He funded these accounts by wiring unauthorized UI withdrawals into them. Using debit cards that he received by opening the accounts, he then withdrew all of the money from each account. Pecka obtained approximately $359,000 through this scheme using the ill-gotten gains to fund limousine rides to New York City and to purchase a trip to Italy, lottery tickets, and various personal items. To varying degrees, the other defendants were complicit, had knowledge, or received benefits from the crimes.

This was a joint investigation with the FBI. *United States* v. *Pecka, et al.* (W.D. New York)

Former California State Employee Sentenced to 30 Months for Scheme Involving Over $30,000 in Unemployment Checks

Martin Bautista, a former Employment Program Representative with the California Employment Development Department (EDD), and his accomplice, Francisco Gomez, were each sentenced on April 26, 2010, to 30 months in Federal prison and three years of supervised release. Additionally, they were ordered to pay full restitution of $35,100 jointly and severally to EDD. Bautista and Gomez each pled guilty to violations of mail fraud and aggravated identity theft in January 2010.

Between June 2007 and January 2008, Bautista misused his position with EDD to access the UI database and inappropriately reopen inactive UI claims. Bautista targeted inactive claims with common names and changed the addresses on the claims to various other addresses that he or Gomez controlled. Bautista then directed fraudulent UI check and claim forms used to continue requesting such checks to the unauthorized addresses. The investigation determined that approximately seven UI claims bearing the identities of seven victims not entitled to UI compensation were used to perpetrate the scheme. Additionally, 51 UI checks totaling approximately $30,150 were issued and negotiated by Bautista and Gomez at local check cashing facilities.

This was a joint investigation with the California EDD Investigations Division. *United States* v. *Martin Bautista and Francisco Gomez* (C.D. California)

Owner of Temporary Employment Agency Pleads Guilty in UI Fraud Scheme

Cheang Chea, the owner of S&P Temporary Help Services, Inc., pled guilty on June 8, 2010, to charges of tax evasion, theft from a health care benefit program, and mail fraud. Chea underreported substantial amounts of wages and failed to pay between $7 million and $20 million in Federal withholding, Social Security, and Medicare taxes.

S&P supplied hundreds of East Asian, non-English speaking workers to approximately 30 Rhode Island companies and agreed to be responsible for all payroll and employment tax withholdings, including UI, and to carry workers' compensation insurance coverage for its employees. From April 2004 to January 2008, Chea underreported the number of employees employed by S&P in order to defraud the State of Rhode Island UI Tax Program.

This is a joint investigation with the IRS-Criminal Investigation (CI) and HHS-OIG. *United States* v. *Cheang Chea* (D. Rhode Island)

Illinois Woman Convicted of UI Scheme involving State Employment Security Supervisor

Angelica Vasquez was found guilty on June 17, 2010, of mail fraud in connection with a scheme that defrauded the Illinois Department of Employment Security (IDES) of more than $700,000 in UI benefits.

Vasquez engaged in a scheme with an IDES supervisor to knowingly process fraudulent UI applications. The IDES supervisor accepted and processed fraudulent UI applications provided by Vasquez for approximately 80 undocumented workers using false Social Security numbers. Between 2003 and 2008, Vasquez provided the IDES supervisor with meals and alcohol in exchange for the supervisors' acceptance and processing of the fraudulent UI applications. Vasquez charged undocumented workers between $400 and $800 to process their applications. She would also have the undocumented workers' benefits terminated if they did not make payment to her.

This was a joint investigation with USPIS and ICE. *United States* v. *Angelica Vasquez* (N.D. Illinois)

Texas Workforce Development Specialist Indicted in UI Fraud Scheme

A former Workforce Development Specialist for the Texas Workforce Commission (TWC) was indicted on July 21, 2010, on charges of theft of public money and mail fraud. The defendant allegedly requested payments of $200 each from 67 UI applicants to ensure that the applicants would receive UI benefits they were not entitled to receive. Between June 2007 and September 2009, the defendant purportedly filed fraudulent claims on behalf of individuals totaling approximately $310,541 using fictitious last employers which were created for the sole purpose of filing for UI benefits.

This is a joint investigation with the TWC.

"Between June 2007 and September 2009, the defendant purportedly filed fraudulent claims on behalf of individuals totaling approximately $310,541 using fictitious last employers which were created for the sole purpose of filing for UI benefits."

Employment and Training Programs

Workforce Investment Act

The primary goal of the Workforce Investment Act (WIA) is to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States. 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-reported 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 of employment services. Our investigations have also documented conflict-of-interest issues involving program administrators.

ETA Can Improve Its Process for Sharing Information with Stakeholders by Including Best Practices from State Workforce Agencies' WIA Evaluations

WIA requires State Workforce Agencies' (SWA) to conduct ongoing evaluations of their Title IB workforce investment activities for the purpose of promoting, establishing, implementing, and using methods for continuously improving them. WIA funds are reserved for this purpose, and SWAs are required to include evaluation activities when submitting their WIA Annual Reports each October. We conducted a performance audit to determine the extent to which SWAs are conducting evaluations of their workforce investment activities and using the results to promote efficiency and effectiveness in their respective state workforce investment systems.

The OIG assessed the evaluation activities of eight SWAs over a five-year period and found that they generally conducted evaluations and used the results to promote efficiency and effectiveness in their respective state workforce investment systems. Six of eight SWAs conducted evaluations; however, of the 38 evaluations that were completed during our review period, only nine were included in the SWAs' WIA Annual Reports. SWA officials stated that ETA's requirement on which evaluations they had to report was not always clear. Officials for the two SWAs that did not perform evaluations told us of review activities they conducted; however, neither SWA documented their results or issued reports. By not performing evaluations, these SWAs may have missed opportunities to achieve similar increases in the effectiveness and efficiency of their employment and training programs.

The OIG found that ETA did not have a process for analyzing completed evaluations or a method of sharing them with the other SWAs and stakeholders. ETA was not aware of the extent of SWA evaluations, because it did not have a procedure for monitoring whether or not SWAs conducted evaluations and how the results were used. As a result, ETA is missing the opportunity to save funds by leveraging resources for its own evaluation efforts through coordination with SWAs in areas that have a national impact on the employment and training system. In addition, SWAs are not provided the opportunity to hear about and use results from other SWAs that might create significant efficiencies in their own operations.

We made recommendations to ETA to: clarify ETA's requirements to the SWAs for reporting evaluations in the SWA WIA Annual Report; develop and implement a system to analyze the SWA evaluation results and identify best practices that could improve employment and training

service delivery; and develop and implement a system so that these best practices can be shared nationally with other SWAs. ETA has indicated it will: 1) develop guidelines for Regional Office staff to initially review SWA evaluations to determine which ones to pass on to its national office for final review; 2) share best practices, tools, and replicable models identified through state evaluations based on rigorous research practices through its online technical assistance platform (www.Workforce^3 One.org); and 3) explore opportunities, depending on funding availability, to improve the functionality of the Workforce^3 One.org website. (Report No. 03-10-003-03-390, issued August 31, 2010)

Recovery Act: Data Quality in Recipient Reporting

ETA received $4 billion of Recovery Act funds, the majority of which — 73% ($2.9 billion) — was awarded using the WIA formula to provide Youth, Adult, and Dislocated Worker employment and training activities to the 57 SWAs. We conducted an audit at the request of the Recovery Accountability and Transparency Board (RATB) to determine whether recipients' processes for compiling and reporting selected data provided reasonable assurance of their compliance with the Recovery Act's Section 1512 requirements on quarterly reporting. Our audit covered two WIA recipients and four sub-recipients, and actions taken to enhance data quality for the third reporting period ending March 31, 2010 for two WIA recipients and four sub-recipients. We limited our review to five key data elements: funds received/invoiced, expenditures, number of jobs created or retained, project status, and final report indicator.

Our audit found that, of the five key data elements, the two recipients reasonably reported on four data elements but did not properly report on a fifth: jobs created or retained. This occurred because one recipient's process did not make use of the correction period to update its data, which resulted in the over-reporting of jobs created or retained for one of its sub-recipients by 26% (10.52). The second recipient did not consider it practicable to collect jobs created or retained for lower-tier sub recipients, and jobs created or retained was underreported by 36% (134.25) for one of its sub-recipients. As a result, these recipients did not provide the most comprehensive and complete job-impact numbers available. Inaccurate reporting could mislead the public about the number of jobs created or retained and prevent meaningful comparisons of the data as a whole.

We also found that OMB's guidance can be clarified and enhanced for the reporting of lower-tier sub-recipient jobs created or retained. In addition, transparency could be optimized by ensuring that the FederalReporting.gov website indicates whether expenditures are reported on the cash or accrual basis of accounting.

We made two recommendations to ETA: (1) to instruct one recipient to make full use of the correction period and (2) to consult with OMB on the issuance of guidance for sub-recipient and lower-tier sub-recipient reporting of jobs created or retained. ETA agreed with the recommendations and indicated that they will take action on them. The RATB has compiled data and issued a report using the results of our audit, as well as audits conducted by other Federal agencies. (Report No. 18-10-002-03-390, issued September 27, 2010)

Recovery Act: Funding Challenges Threaten the Quality of Future Monitoring Activities for ETA's Discretionary Grants

The Recovery Act provided $750 million for competitive grants to high-growth and emerging-industry sectors, primarily for green and health care job training and placement. Of that amount, $500 million was targeted green job training and careers in that sector. The remaining $250 million was targeted for projects that prepare workers for careers in the health care sector. The Recovery Act also

allowed DOL to use $47 million for the administration, management, and oversight of Recovery Act grants. These funds were made available for obligation through September 30, 2010.

The OIG conducted an audit to determine if:

- ETA used merit-based selection criteria, as required by the Office of Management and Budget (OMB), in awarding $750 million in Recovery Act funds for competitive grants for worker training and placement in high-growth and emerging-industry sectors;
- ETA considered "a demonstrated or potential ability to deliver programmatic results," in awarding competitive grants under the Recovery Act, as required by OMB Memo M-09-15;
- ETA's guidance during grant solicitation and post-solicitation activities, including monitoring, addressed Congress' requirements regarding use of these funds; and
- grant agreements required adherence to Recovery Act reporting and tracking requirements.

We found that ETA announced, evaluated, and selected the grants under our review in accordance with relevant criteria, and that its monitoring guidelines and procedures were comprehensive. Furthermore, grant agreements informed grantees of their responsibilities for Recovery Act reporting.

Recovery Act funds to ETA to monitor Recovery Act grants expired on September 30, 2010. This has resulted in ETA assigning the monitoring of the 244 Recovery Act grants to non-Recovery Act monitors who already have full workloads. Also, reduction in staff resources and funding for travel costs will impact ETA's ability to fully execute the Recovery Act grantee monitoring and oversight functions. These reductions may increase the risk that some of the $717 million in Recovery Act grant funds may not be spent for their intended purposes.

While reviewing the green job projects of the Recovery Act high-growth grants, we noted that ETA does not have a comprehensive policy framework to guide its green initiatives and grant programs. Without a comprehensive policy framework, DOL will lack a needed programmatic definition to guide its green jobs initiative and help ensure the grants addressing green jobs are as effective as possible.

We recommended that ETA continue to identify and prioritize workloads and funding levels to ensure grants are adequately monitored, and provide a comprehensive policy framework for carrying out ETA's responsibilities in the green jobs area. ETA acknowledged that funding issues will impact monitoring efforts, but has requested funding for this purpose in its FY 2011 budget submission and hired contractor support staff to minimize the impact. ETA stated it is premature to conclude that a comprehensive policy framework is needed or feasible to produce on the green jobs issue. The OIG continues to believe this approach is necessary to maximize the effectiveness and efficiency of Federal funds expenditures in the emerging job sector. (Report No.18-10-013-03-390, issued September 30, 2010)

Job Corps

Job Corps, which is under the oversight of ETA, operates 124 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 youth who need intensive education and training services.

Recovery Act: Job Corps Could Not Demonstrate That a Multi-Year Lease to Acquire a New Center Was the Least Expensive Option

The Recovery Act provided the Office of Job Corps $250 million for construction, operations, and administrative costs. Job Corps' largest single expenditure of these funds was a 20-year lease totaling $82 million with the YWCA of Greater Los Angeles, Inc., for the YWCA to construct a new facility at the Los Angeles Job Corps Center (LAJCC). The lease agreement requires Job Corps to make an advance payment of $20 million and incremental lease payments ranging from $2.8 million to $3.3 million per annum through 2031. Job Corps also agreed to pay 60% of fair market value (FMV) at the end of the lease term if it opts to purchase the facility. The Recovery Act included provisions that specifically allowed Job Corps to use the multi-year lease option and advance payments to lease real property as long as construction began within 120 days of the Recovery Act's enactment. We conducted a performance audit of this $82 million expenditure to determine the impact of Job Corps using a multi-year lease to acquire the facility at the LAJCC.

Our audit found that Job Corps could not demonstrate the multi-year lease with the YWCA was the least expensive option to the Government for purposes of acquiring a new facility at the LAJCC. OASAM negotiated the cost of the multi-year lease from a proposed $105 million to $82 million and determined that the resultant cost was reasonable based on a market rent study. However, Job Corps did not perform a lease-purchase analysis as required by OMB Circular A-94 to determine the least expensive way to acquire a new facility. Current departmental policies and procedures related to Job Corps real property leasing were last updated in 1991, which pre-dates OMB Circular A-94 requirements. Through our analysis, we estimate that Government construction of the facility may have cost $31 million less than the $82 million multi-year lease. As a result, Job Corps may have lost the opportunity to put at least $31 million of Recovery Act funds to better use.

According to Job Corps, the multi-year lease was chosen without performance of a lease-purchase analysis because the lease proposal from the YWCA was the only option submitted in response to the request for proposal. Job Corps further explained that "…the requirement to perform the tasks necessary for a formal lease-purchase analysis would have precluded the Department from meeting the 120-day requirement provided by the Recovery Act." However, the Department failed to note that, while the Recovery Act does promote quick commencement of expenditures, it does not waive existing legislative or administrative requirements or prudent management decisions.

We also determined Job Corps could not demonstrate that the bargain purchase option (BPO) price of 60% of FMV is the least expensive way to acquire the facility at the end of the 20-year lease term. In addition, OASAM could not provide documentation to support the basis for the BPO

price. OASAM officials stated that a detailed record of negotiations is not required for leases, and noted that the final cost of the multi-year lease was negotiated from $105 million originally proposed by YMCA to $82 million. However, without an adequate cost benefit analysis, Job Corps could not ensure that it paid the least expensive price to acquire the facility. Based on our analysis, should Job Corps choose to acquire the new facility at the end of the lease period, it will have paid a minimum of $116 million — $82 million in lease payments and $34 million to exercise the BPO — to do so.

We made two recommendations to ETA to work with OASAM to demonstrate, in accordance with OMB Circular A-94, that the multi-year lease with the YWCA to acquire a new facility at the LAJCC was the least expensive option to the Government and, if appropriate, renegotiate the multi-year lease agreement to ensure that the total cost of the lease, including the BPO price, is the least expensive option to the Government. We also recommended Job Corps and the Department update their policies and procedures for facility leasing. ETA and OASAM stated that a cost/benefit analysis was not required, because OMB waived certain budgetary reporting of their lease. Job Corps and OASAM objected to the report's estimate of potential savings as speculative, stating that no other offeror came forward to offer a suitable building or parcel of land. We did not concur that this relieved the Department of conducting a sound cost/benefit analysis. Further, OMB's reporting waiver was granted four months after the lease was signed. ETA and OASAM agreed that policies and procedures for real property leasing will be reviewed and revised accordingly. (Report No. 18-10-009-03-370, issued September 30, 2010)

MINACT, Inc., Did Not Always Comply With Job Corps Safety and Health Requirements at the Excelsior Springs Job Corps Center

We conducted a performance audit of the Excelsior Springs Job Corps Center operated by MINACT, Inc., under contract with the Office of Job Corps. The audit included coverage of MINACT's safety and health programs and financial activity at the Center for calendar year 2009. Safe and healthy conditions are critical to ensuring students maintain the wellness necessary to participate fully in their training and to maximize their benefit from the Job Corps program.

We found that MINACT did not ensure compliance with Job Corps requirements for managing Center safety and health programs in the areas we reviewed: student misconduct, safety and health inspections, and committee meetings. Specifically, Excelsior Springs did not always convene Fact Finding Boards as required for students suspected of infractions, such as physical assault with intent to cause bodily harm to a student, threat of assault, fighting, and sexual harassment. As a result, MINACT could not demonstrate appropriate disciplinary action was taken, and potentially dangerous students may have been allowed to remain at the Center. In addition, MINACT could not demonstrate that all required safety and health inspections and committee meetings were conducted. Center records indicated it did not conduct 6% of weekly inspections, 15% of monthly inspections, and 83% of quarterly inspections. As a result, Excelsior Springs exposed students and staff to potential safety and health hazards that could have been identified and abated.

In the area of financial activity, MINACT and Excelsior Springs did not ensure compliance with Job Corps requirements for managing and reporting financial activity in either of the two areas tested: non-personnel and personnel expenses. The Center could not demonstrate goods and services related to non-personnel expense transactions were properly approved, received, or processed. As a result, we

questioned $203,921 in costs for 62 transactions tested, because Excelsior Springs could not show that payments for dental, medical, IT support, and advertising services were appropriate. In addition, MINACT lacked supervisory review over payroll transactions. This increased the risk that inappropriate payroll expenses could be incurred and charged to Job Corps without detection.

We made seven recommendations to ETA to direct MINACT to: improve corporate-level controls and monitoring over all centers for financial managing and reporting, student misconduct, and Center health and safety requirements; identify and correct non-compliance with Job Corps requirements; improve effectiveness of training and oversight of staff; and provide documentation to support questioned costs identified during our audit. ETA concurred with our recommendations and stated that Job Corps will instruct MINACT to improve its controls and will determine the extent of any reimbursements resulting from unsupported questioned costs. (Report No. 26-10-004-01-370, issued August 10, 2010)

MTC Can Improve Incident Reporting and Payroll Oversight at the Sierra Nevada Job Corps Center

We conducted a performance audit of the Sierra Nevada Job Corps Center, which is operated by the contractor Management and Training Corporation (MTC), in response to a Hotline complaint concerning improprieties at the Center. The complaint contained eight allegations encompassing two primary issues: Sierra Nevada not taking appropriate action for student and staff misconduct, and paying staff for hours not worked.

Our audit found that five allegations were not substantiated, two allegations had some merit, and one allegation was inconclusive. The two partially substantiated allegations related to an inappropriate relationship between a student and Center staff, and case logs that were changed to eliminate references to alcohol use. In both cases, we determined the Center took appropriate disciplinary action. The staff involved with the student voluntarily resigned, and the students whose case logs were changed to eliminate references to alcohol use had nonetheless received appropriate disciplinary action.

Our testing of MTC's overall management of student misconduct showed it generally took adequate actions to investigate and resolve incidents; however, the Center did not always report student misconduct and other significant incidents to Job Corps as required. We found that 46% (28 of 61) of the significant incidents that occurred at the Center between December 2009 and May 2010 were not reported. Although the Center had adequate procedures for reporting significant incidents as required, Center management did not provide sufficient oversight to ensure compliance. This lack of reporting impacts Job Corps assessment of Center operations.

Our review of daily reports that are intended to document security staff activities showed that these reports were missing for 73% (136 of 186) of individual work schedules over 23 pay periods tested from December 2009 through May 2010. In addition, 76% (139 of 182) of entries in the security dispatch logs reviewed over four pay periods did not document when security staff departed from duty as required. Neither Job Corps nor Sierra Nevada had written policy requiring daily activity reports and dispatch logs; however, the Center security manager required the documentation to ensure security staff was actively engaged with Center personnel while on duty and to ensure a visible security staff presence in the dormitories. The Center could not provide that assurance due to the missing or incomplete documentation. Additionally, during our review of payroll controls, we could not verify that the hours reported for exempt employees represented actual hours worked because the Center did not require documentation of the hours worked nor supervisor approval. These control deficiencies occurred because Center management had not established procedures defining adequate documentation requirements and oversight.

We recommended that Job Corps require Sierra Nevada to establish procedures that verify the Center's compliance with Job Corps requirements for reporting significant incidents, verify the Center's compliance with its own requirements for Activity Reports and for the Dispatch Log, and provide adequate assurance and maintain documentation that reported hours worked by exempt employees represent actual hours worked. Job Corps concurred with the first two recommendations and concurred in part with the third one, and will take corrective actions. MTC stated that it took corrective action for the first two recommendations. For the third recommendation, MTC believes the Center's existing supervisory oversight of hours worked by exempt employees is sufficient. ETA stated that it will review timesheets of security staff and exempt employees based on the sampling method used by the OIG. If appropriate, ETA will instruct the Center to revise its operating procedures and policies to ensure corporate oversight and center level controls are in compliance with properly recording work hours for salaried employees. (Report No. 26-10-007-01-370, issued September 30, 2010)

Applied Technology Systems, Inc., Overcharged Job Corps for Indirect Costs

At the request of the Office of the Assistant Secretary for Administration and Management (OASAM), the OIG conducted a performance audit of indirect costs that Applied Technology Systems, Inc. (ATSI), a Job Corps center contractor, charged to the Office of Job Corps for calendar years (CY) 2004-2007. Our objective was to determine whether ATSI complied with Federal regulations and contract provisions for reporting indirect costs. ATSI used the provisional rates specified in its center contracts to charge Job Corps $9.3 million for its estimated indirect costs during CYs 2004-2007.

Our audit questioned $1.8 million of indirect cost that ATSI charged to Job Corps using the provisional rates specified in its contracts for its estimated indirect costs. ATSI violated the Federal Acquisition Regulation as well as contract provisions by failing to submit required annual indirect cost proposals that are needed to determine approved rates and any amounts to be reimbursed to the Federal government. Further, when ATSI did submit the delinquent indirect cost proposals as a result of our audit, it included transactions that either were not supported by any documentation or were supported by documentation that did not provide adequate assurance that the costs were valid.

The audit also found that DOL procedures regarding the Federal agency responsible for monitoring of indirect cost proposal submissions were not specific, and OASAM and Job Corps personnel were unclear of their responsibilities. Both agencies believed the other was responsible for ensuring compliance, and therefore neither monitored annual contractor submissions. OASAM and Job Corps also did not have effective processes to ensure that overcharges resulting from OASAM reviews would be reimbursed to Job Corps. Because of these deficiencies, ATSI was able to obtain payments far in excess of that to which it was entitled.

We made five recommendations to ETA and OASAM aimed at ensuring proper oversight of contractors' indirect costs and recovering the $1.8 million in questioned cost. ETA and OASAM accepted our recommendations and will require ATSI to provide supporting documentation for the questioned costs, and any costs ATSI cannot support will be assessed as liquidated damages. ATSI expressed concern about the accuracy of our findings and will conduct research to provide additional supporting documentation to OASAM and Job Corps. (Report No. 26-10-003-01-370, issued September 24, 2010)

Foreign Labor Certification Programs

ETA administers a number of foreign labor certification programs which allow U.S. employers to employ foreign labor to meet American worker shortages. 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 United States for temporary employment. The Permanent Foreign Labor Certification program allows an employer to hire a foreign worker to work permanently in the United States.

Debarment Authority Should Be Used More Extensively in Foreign Labor Certification Programs

The Immigration and Nationality Act (INA) established several visa types that permit foreign residents to work in the United States. ETA and the WHD, in conjunction with the U.S. Departments of Homeland Security and State, oversee and enforce provision of the INA's various visa programs. Violations of program requirements subject persons and entities to potential debarment from future program participation. During FY 2009, ETA approved 96% (309,268 of 321,730) labor certification applications. We conducted a performance audit of ETA and WHD to determine whether the Department properly used suspension and debarment tools in administering the foreign labor certification (FLC) programs during FY 2009.

Our audit found that the Department did not fully utilize the suspension and debarment authority provided in the INA and its FLC regulations and did not consider the government-wide debarment and suspension authority under 29 CFR part 98. Our audit found that DOL narrowly defined their suspension and debarment authority based only on the INA and FLC regulatory provisions, rather than the broader government-wide authority. Further, when DOL did debar individuals or entities, they did not provide that information to the government's Excluded Parties List System. This increased the risk that parties that had previously violated FLC laws or regulations could continue to participate in FLC programs or receive business or benefits from other Federal agencies. We also identified several FLC applications that contained potentially invalid Employer Identification Numbers (EIN). An invalid EIN may indicate that the applicant is not a legitimate organization recognized by the Internal Revenue Service. While the number of potentially invalid EINs we identified was small, screening FLC applications for invalid EINs is a reasonable fraud prevention measure.

We recommended that DOL take steps to assure that debarments are considered and decisions documented for anyone convicted of FLC violations; and that FLC debarments are reported to appropriate DOL personnel for inclusion in the government-wide exclusion system. We also recommended that ETA strengthen FLC application processing controls to ensure the detection and resolution of applications with potentially invalid EINs. ETA cited the need to resolve differing legal opinions concerning the use of the exclusion system and stated that they had implemented additional EIN controls. WHD cited a need for further legal research over both debarment authority and use of the exclusion system. (Report No. 05-10-002-03-321, issued September 30, 2010)

Three Employees Sentenced in H-2B Work Visa Fraud Scheme

Theresa Klish, Mary Gillin, and Emily Ford, employees of International Personnel Resources (IPR), were sentenced in May and June 2010 after pleading guilty in December 2009 to visa fraud and to conspiracy to commit visa fraud. The pleas stem from their roles in a conspiracy that shuttled undocumented workers through the immigration system to illegally obtain temporary work visas. Klish was sentenced to five years' supervised release, a fine of $2,000, and forfeiture of $500,000; Gillin, to four months' home confinement, three years' supervised release, and a $50,000 fine; and Ford, to five years' supervised release and a $20,000 fine. Michael Glah, the owner and operator of IPR, pled guilty in December 2009 to the same visa fraud charges as well as to immigration fraud. As part of the plea agreement, Glah and Klish agreed to forfeit $1 million at sentencing. Glah was scheduled to be sentenced in August 2010, but was found dead at his home in West Chester, Pennsylvania, prior to sentencing.

Between 2003 and 2008, IPR systematically applied for a greater number of temporary foreign work visas than its client businesses needed. By inflating this number, IPR created its own supply of approved H-2B visas for use in an illegal substitution scheme. IPR fabricated identities for non-existent H-2B workers by randomly selecting names from a Mexico City telephone book maintained by IPR, and then fabricated information, including dates of birth and addresses for the names that were selected. If IPR clients' visa petitions were rejected or if the clients wanted additional workers, names from the fabricated supply were used on new or resubmitted petitions.

To further the scheme, IPR instructed clients to have their illegal workers, most of whom were Mexican nationals, return to Mexico in order to re-enter the United States under IPR's fraudulently obtained visas. Through this plan, in which illegal workers were coached to lie to government officials, approximately 433 illegal workers returned under fraudulent IPR visas in buses chartered by IPR. Upon re-entering the United States, the illegal workers returned to their former employers, never working for the employers listed on the fraudulent petitions submitted by IPR.

This was a joint investigation with ICE. Based on information provided by the defendants, several subsequent investigations have been initiated regarding companies that participated in IPR's visa fraud scheme. *United States* v. *International Personnel Resources* (E.D. Pennsylvania)

Guilty Pleas in Visa Fraud Conspiracy

Wilson, Valeria, and Eduardo Barbugli, a husband, wife, and son who owned and operated eleven staffing companies, pled guilty in July and September 2010 to charges of visa fraud, conspiracy, and encouraging undocumented workers to come to and remain in the United States. As part of their plea, the Barbuglis agreed to a multi-million dollar forfeiture, for which they are jointly and severally liable.

The Barbuglis ran a large contract labor business which facilitated the approval of H-2B visas allowing more than 1,000 foreign nationals to enter the United States to work as temporary workers. The Barbuglis also operated a São Paulo, Brazil, recruitment business that they used to smuggle illegal workers into the United States.

Between January 2006 and September 2009, the Barbuglis and their recruitment officer, who was also charged, conspired to prepare and submit numerous fraudulent labor certification applications and visa petitions to DOL and USCIS. The scheme used shell companies as fronts to obtain H-2B visas for hundreds of foreign workers. In support of the labor certification applications, the defendants submitted altered hotel contracts and fraudulent recruitment reports stating that U.S. workers were hired.

This is a joint investigation with ICE (Document Benefit Fraud Task Force), DOS-DS, and Brazilian authorities with the Public Ministry of São Paulo, Brazil who are working

with U.S. Embassy investigators in São Paulo, Brazil. *United States* v. *Valeria Dozzi Barbugli*, *United States* v. *Wilson R. Barbugli*, *United States* v. *Eduardo Dozzi Barbugli* (M.D. Florida)

Guilty Pleas in Racketeering Enterprise Scheme to Employ Temporary Work Visa Holders and Undocumented Workers at Businesses in 14 States

Between June 2010 and August 2010, guilty pleas were entered by six of 12 defendants who were indicted in May 2009 on Racketeer Influenced and Corrupt Organizations Act (RICO) charges for activities which occurred in 14 states. The individuals face fines, imprisonment of no more than 20 years, and forfeiture. Among the criminal acts included in the RICO indictment are forced labor trafficking, identity theft, harboring and transporting undocumented workers, money laundering, visa fraud, extortion, tax evasion, and fraud in foreign labor contracting.

The defendants were involved in a criminal enterprise in which hundreds of foreign workers were illegally employed at hotels and other businesses across the country. Using false information to acquire DOL certification for 1,266 H-2B temporary work visas, the defendants created Web sites designed to recruit foreign workers and to facilitate the sale of H-2B visas to foreign nationals they did not intend to employ. They incorporated multiple businesses in the states of Missouri and Kansas to disguise their criminal activities, including processing payrolls for both temporary and undocumented workers, and evading employment tax liability, such as Federal Insurance Contributions Act and UI on the foreign workers. Many of the foreign workers were victims of human trafficking, and were coerced to work in violation of the terms of their visa without proper pay and under the threat of deportation. They were also forced to reside together in substandard housing and pay exorbitant rental fees.

This is a joint investigation with U.S. Department of Homeland Security-Homeland Security Investigations, IRS-CI, FBI, and USCIS-FDNS, the Kansas Department of Revenue, and the Independence (Missouri) Police Department. *United States* v. *Abrorkhodja Askarkhodjaev, et al.* (W.D. Missouri)

Business Owners Plead Guilty to H-1B Visa Fraud Scheme

Fazal Mehmood and Vineet Maheshwari, owners of Worldwide Software Services, Inc. (WSSI), along with WSSI, pled guilty on April 30, 2010, to charges of conspiracy to commit visa fraud, false statements, and engaging in illegal monetary transactions.

WSSI filed applications for hundreds of workers through the DOL's H-1B foreign labor certification program indicating that the workers would be working at WSSI in Clinton, Iowa. WSSI sought H-1B workers at a time when they did not have jobs available for them. Once the H-1B workers arrived in the United States, they were placed with other employers in other states. The defendants have agreed to voluntarily dissolve WSSI and a related company— Sana Systems, Inc.—and accept debarment from the Department's foreign labor certification program.

This is a joint investigation with FBI, ICE, IRS-CI, Social Security Administration (SSA)-OIG, USPIS and Clinton (IA) Police Department. *United States* v. *Fazal Mehmood and Vineet Maheshwari* (S.D. Iowa)

California Immigration Consultant Charged with Encouraging Illegal Immigration

A California woman, who operated an immigration consulting business from approximately 1990 until 2008, was indicted in May 2010 and July 2010, for encouraging

and inducing illegal immigration for private financial gain, mail fraud, tax charges, and engaging in monetary transactions in property derived from specified unlawful activity.

The defendant allegedly filed approximately 1,700 fraudulent foreign labor certification petitions with DOL between 2001 and 2008. Her clients – generally Filipino nationals who were not authorized to work in the United States – were employed by residential care homes.

This is a joint investigation with the ICE, USCIS, IRS-CI, USPIS, the SSA-OIG, and the State of California's EDD.

"The defendant allegedly filed approximately 1,700 fraudulent foreign labor certification petitions with DOL between 2001 and 2008."

Veterans' Employment and Training Service

The mission of the Veterans' Employment and Training Service (VETS) is to provide veterans with the resources and services to succeed in the 21st century workforce by maximizing their employment opportunities, protecting their employment rights, and meeting labor market demands with qualified veterans. VETS provides funding through the Homeless Veterans Reintegration Program (HVRP) to help homeless veterans obtain jobs through grants that support a range of services, including job training, counseling, and placement.

Texas Veterans Commission Could Enhance Services to Veterans with Barriers to Employment

Homeless veterans and veterans with disabilities may not be able to overcome their employment barriers and obtain suitable employment without intensive support services, such as case management, résumé assistance, and job search assistance. The Jobs for Veterans State Grant Program (JVSG) is VETS primary program for serving veterans' training and employment needs. The Disabled Veterans Outreach Program (DVOP), which is supported by JVSG, is designed to facilitate intensive support services — using a case management approach — to veterans with special employment and training needs, including those who are homeless or have disabilities. The OIG conducted an audit to determine if the Texas Veterans Commission (TVC) provided services to meet veterans' employment and training needs in the State of Texas.

Based on our statistical sample of 245 veterans out of the total 42,983 reported served by TVC, our audit found that TVC provided services to meet veterans' employment and training needs in 84% of cases. However, the 16% not receiving full services disproportionately included homeless and disabled veterans. We estimated there were 6,331 homeless and/or disabled veterans who did not receive the full range of services to address their employment needs. Of the 39 homeless veterans and/or veterans with disabilities in our sample, only one received case management services to assist the veteran in achieving employment. For the remaining 38, TVC did not develop an Individual Development Plan to assist this population of veterans in achieving employment. TVC documented that just 251 veterans received case management services.

We interviewed 25 homeless veterans and/or veterans with disabilities, to assess the nature and extent of services they received: 19 said they either did not receive any services or they received only some of the services that were reported; 23 said they did not obtain employment from the services provided; and 14 said the services they received did not meet their needs or only partially met their needs. Given the low number of veterans that TVC reported as having received case management services to address these veterans' barriers to employment, the OIG believes the $2.9 million in DVOP funding for the period of July 1, 2008, through December 31, 2008, could have been better used. TVC management cited a lack of adequate training necessary for staff to accurately assess the veterans' needs and/or document intensive service activities. We also concluded that VETS did not provide effective oversight of the program to ensure that the employment and training needs of homeless veterans and/or veterans with disabilities were met.

The OIG recommended that VETS ensure TVC provides training to all DVOP staff on accurately assessing veterans' needs and documenting intensive service activities. We also recommended that VETS implement a policy requiring

states to enhance their existing oversight to ensure DVOP specialists provide case management services for homeless veterans and veterans with disabilities. TVC disagreed with the report's conclusion, but agreed that improvements could be made in the services provided to the hardest-to-serve disabled and homeless veterans. VETS committed to improving training and refocusing the DVOP program on providing intensive support services. (Report No. 06-10-001-02-001, issued May 28, 2010)

VETS Needs to Strengthen Management Controls Over the Transition Assistance Program

The unemployment rate of military personnel separating from the military has risen from 9.8% in 2009 to 11.8% in 2010. The rate of unemployment among returning soldiers aged 18-24 is approximately 22%. The Transition Assistance Program (TAP) was established in 1990 to provide employment assistance, such as, résumé preparation and interviewing techniques, to separating and retiring military personnel and their spouses during their period of transition from military service to the civilian workplace. For FY 2009, DOL reported delivering TAP services to 124,700 participants with funding of $7.2 million. The OIG conducted a performance audit of the VETS TAP to determine if the agency has effective management controls to ensure it provided employment assistance to veterans.

Our audit found that VETS did not have effective management controls to ensure TAP participants received the assistance they needed to obtain meaningful employment. We found that consistent evaluation criteria and resolution tracking were lacking in VETS' monitoring. VETS could not substantiate the 124,700 participants it reported as having attended TAP workshops at 47% (117 of 247) of domestic and overseas TAP sites. Additionally, VETS did not use measurable performance goals and outcomes to evaluate program effectiveness. Further, it lacked adequate controls over contracting for TAP workshop services. These deficiencies undermined VETS' ability to ensure veterans succeeded in obtaining meaningful employment. In addition, these deficiencies resulted in $2.3 million in unsupported and other questioned costs, as well as $713,000 which may have been put to better use.

We made six recommendations to VETS to develop and implement procedures to ensure accurate participant attendance, an effective monitoring process, measurement and reporting of outcome goals, and appropriate controls over contract activities and administration. We also recommended recovery of unsupported and questioned contract costs. VETS agreed that controls need to be strengthened and pointed to current and planned improvements. (Report No. 06-10-002-02-001, issued September 30, 2010)

The Homeless Veterans Reintegration Program Should Be Improved to Ensure Homeless Veterans' Employment Needs Are Met

We conducted a performance audit of VETS' HVRP to determine whether the program effectively met the employment needs of homeless veterans. The Department of Veteran Affairs estimated that in 2009, 107,000 adults who served in the armed forces stayed in a shelter one or more nights. HVRP's primary purpose is to assist homeless veterans to find and retain employment. For program year (PY) 2008 (July 1, 2008, through June 30, 2009), $22 million was appropriated to HVRP funding 89 competitive grants in 34 states, with the planned goals of assisting 14,081 homeless veterans in finding and retaining employment for at least three quarters.

Our audit found that VETS lacked adequate controls to ensure HVRP effectively met the employment needs of homeless veterans. Our measurement of overall program results revealed that of the 13,777 program participants in PY 2008, only 31% (4,302) obtained and retained employment for three quarters. Review of national,

regional, and state/local grant operations revealed significant breakdowns in VETS' oversight and monitoring of grantees' operations and performance.

We identified 60 grants that were underperforming, of which 82% (49 of 60) were not placed on Corrective Action Plans as required to improve their performance. In the four grants we reviewed in detail, the Grant Officer Technical Representatives' monitoring and regional offices' review controls failed to detect and/or respond to performance and financial compliance deficiencies. VETS' primary grant reporting and management system was found to be unavailable, which hampered reporting and weakened oversight functions. As a result, performance results fell short of the planned goal of placing 9,093 veterans into employment by 27% (2,461 of veterans). Had VETS provided effective oversight of underperforming grants, we estimate that $5.9 million of program funds may have been put to better use.

We recommended that VETS take steps to develop and implement policies and procedures requiring greater oversight of grantees. Additionally, we recommended that VETS develop a standardized methodology to review grantee operations and performance, and implement a reliable program reporting system. VETS agreed and committed to developing and implementing corrective actions. (Report No. 06-10-003-02-001, issued September 30, 2010)

"Our audit found that VETS lacked adequate controls to ensure HVRP effectively met the employment needs of homeless veterans."

Labor Racketeering

Labor Racketeering

The OIG at DOL has a unique programmatic responsibility to investigate labor racketeering and/or organized crime influence involving unions, employee benefit plans, or labor-management relations. 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 and various U.S. Attorneys' Offices, 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. The OIG is committed to safeguarding American workers from being victimized through labor racketeering and/or organized crime schemes.

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 are illustrative of our work in helping to eradicate both traditional and nontraditional labor racketeering in the nation's labor unions, employee benefit plans, and workplaces.

Internal Union Corruption Investigations

Our internal union investigation 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.

Former Locomotive Engineers' Union President Sentenced for Bribery

Edward Rodzwicz, former national president of the Brotherhood of Locomotive Engineers and Trainmen (BLET) and former president of the International Brotherhood of Teamsters (IBT) Rail Division, was sentenced on September 7, 2010, to 18 months' incarceration and 18 months' supervised release. He pled guilty in March 2010 to bribery in connection with a Federally funded program and to interstate travel to carry out unlawful activity. Rodzwicz resigned from his union positions after being suspended by the BLET Executive Board. BLET, a division of the IBT, is a national labor union with more than 55,000 members consisting of railroad employees throughout the United States.

Rodzwicz solicited a bribe of two $10,000 payments from an attorney who ostensibly committed a violation of BLET's Designated Legal Counsel (DLC) program rules and was subject to termination from the program. Rodzwicz solicited the bribe from the attorney in exchange for Rodzwicz's assurances that the attorney would retain his status as a DLC. DLC attorneys represent BLET members in Federal Employers' Liability Act injury cases.

United States v. *Edward Rodzwicz* (E.D. Missouri)

Ex-Union Business Manager Convicted of Embezzling $85,000

Shawn Clark, a former business agent for the New Jersey Regional Council of Carpenters (NJRCC) and the de facto business manager and member of the NJRCC Local Union 455, was convicted on May 17, 2010, of embezzling approximately $85,000 in funds from Local 455. Clark was the sole holder of a credit card which was issued to Local 455 and was to be used solely for the business and benefit of the union and its members. Between December 2000 and December 2007, he made over 450 separate charges totaling $65,000 at 14 different gentlemen's clubs in New Jersey. Clark also improperly used the union's credit card at various other restaurants and bars in New Jersey without conducting legitimate union business. Additionally, he used the union's credit card to make hundreds of illegitimate purchases totaling approximately $18,000 at an office supply store and at the U.S. Post Office.

This is a joint investigation with Office of Labor-Management Standards (OLMS). *United States* v. *Shawn Clark* (D. New Jersey)

Union Timekeepers Convicted at Trial of Wire Fraud Conspiracy in Scheme to Defraud Employer

William Zichos, Jr., Dale Kowalewski, and Joseph Bell were convicted by a Federal jury on September 30, 2010, of wire fraud and conspiracy to commit wire fraud in a scheme to defraud their employer, Ports America Baltimore, the stevedore and terminal operator at the Port of Baltimore.

Zichos, Kowalewski, and Bell were employed by Ports America as timekeepers with International Longshoremen's Association (ILA) Local 953, the Baltimore ILA local union representing members employed as steamship clerks, checkers, weighers, and timekeepers at the Port of Baltimore. In their capacity as ILA union timekeepers, and pursuant to a Collective Bargaining Agreement (CBA) between the union and Ports America Baltimore, the defendants were required to take attendance of all ILA union longshoremen assigned to work particular shifts and record the amount of straight and overtime hours those longshoremen worked to unload and load cargo vessels berthed at the Port of Baltimore. The CBA further required Ports America Baltimore to allow the defendants, as union timekeepers, to record their own attendance, complete their own daily timesheets, and enter their own electronic payroll data for the shifts they were assigned to work.

Through the defendants' scheme, Ports America paid wages and fringe benefit contributions into the ILA employee benefit plans for hours the defendants did not work. The defendants were compensated for work at the Port of Baltimore; when in fact, they were on personal travel domestically and internationally. From October 2004 to February 2008, Zichos, Kowalewski, and Bell certified to Ports America and the Steamship Trade Association of Baltimore that one of the co-defendants was present at the Port of Baltimore working as a timekeeper during a particular shift when in fact the co-defendant was elsewhere.

United States v. *William R. Zichos, Jr., et al.* (D. Maryland)

Union President and Secretary Treasurer Charged in Alleged Embezzlement Scheme

The president of the Novelty & Production Workers Union, Local 148, and Local 148's secretary treasurer, were both charged on August 31, 2010, with embezzling approximately $375,000. The secretary treasurer, who is also the administrator of Local 148's Welfare Fund, was also charged with embezzling approximately $62,000 from the Welfare Fund.

It is alleged that, from July 2005 through August 2010, the defendants gave themselves salary increases and bonuses which they misrepresented and concealed from the Local 148 members and the executive board. The secretary treasurer allegedly falsified the minutes of the union's executive board and general membership meetings, creating the illusion that the salary increases and bonuses had been fully presented to, and considered, and approved by the executive board and the members. It is further alleged that the defendants engaged in a conspiracy in which personal expenses incurred by the president on the Local 148 credit card, which did not benefit the union, were paid for by the union. The indictment also alleges that, from December 2007 through the present, the secretary treasurer, in his capacity as fund administrator, received salary increases and bonuses from the Welfare Fund without authorization from the Board of Trustees and contrary to his duties as a plan fiduciary.

This was a joint investigation with OLMS.

Benefit Plan Investigations

The OIG is responsible for combating corruption involving the monies in union-sponsored employee 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 labor racketeering schemes and/or organized crime influence. Benefit plan service providers, including accountants, actuaries, attorneys, contract administrators, investment advisors, insurance brokers, and medical providers, as well as corrupt plan officials and trustees, continue to be a strong focus of OIG investigations.

Investment Adviser Sentenced to Nine Years in Prison; $26 Million in Restitution Ordered for Embezzling from Union Pension Funds

John Orecchio, an investment adviser, was sentenced on June 17, 2010, to nine years and four months in prison followed by three years of supervised release and restitution of $26,411,414. Orecchio pled guilty in February 2010 to charges of wire fraud and embezzlement from an employee benefit plan.

Between February 2002 and September 2006, Orecchio was the president and co-owner of AA Capital Partners, Inc., a Chicago-based company that invested union pension funds, which are principally located in Michigan. Orecchio, on behalf of AA Capital, entered into investment management agreements with a number of union pension funds, pursuant to which the union pension funds placed approximately $169 million with AA Capital.

Orecchio caused AA Capital to make "capital calls" (legal right of an investment firm to demand a portion of the money promised to it by the investor) on accounts containing the union pension funds, knowing that some of the funds that he was causing to be withdrawn were not going to be directed toward investments, legitimate management fees, or overhead expenses attributable to the pension plan investors. Rather, Orecchio converted the proceeds of some of the capital calls for his own use and benefit, resulting in losses totaling approximately $24 million. Orecchio used the embezzled funds to: purchase and renovate a Michigan area horse farm, renovate a Detroit strip club, purchase and renovate other homes, purchase jewelry and luxury automobiles, finance millions of dollars of extravagant travel, and purchase entertainment unrelated to any legitimate business activities of AA Capital.

This was a joint investigation with EBSA and FBI. *United States* v. *John A. Orecchio* (N.D. Illinois)

Cardiologist Sentenced to Five Years in Prison and $13 Million in Restitution for Health Care Fraud Scheme

Dr. Sushil Sheth, an Illinois cardiologist, was sentenced on August 10, 2010, to five years in prison, two years' supervised release, and restitution of $13,122,348 for his role in a fraudulent health care reimbursement scheme. The government seized property and funds totaling more than $11.3 million from Dr. Sheth; all of which will be forfeited and applied to the court-ordered restitution. Dr. Sheth pled guilty in August 2009 to charges of health care fraud.

Between 2002 and 2007, Dr. Sheth received approximately $13.4 million in fraudulent reimbursements from Medicare and other health care insurers, as well as several ERISA-

covered union health and welfare funds, for cardiac care that was not performed. He used the illicit proceeds for his own benefit, including a lavish lifestyle complete with the purchase of a suburban Chicago mansion, property in Arizona, luxury automobiles, and various venture capital investments. Dr. Sheth used his hospital privileges to access and obtained information about patients without their knowledge or consent. He hired individuals to bill Medicare and other insurance providers for medical services that he purportedly rendered to patients, but whom he never treated. After waiting nearly a year after the treatment was provided, Dr. Sheth often submitted false claims that he provided the highest level of cardiac care – treatment in an intensive care unit – on multiple days during the patients' hospital stays.

This was a joint investigation with EBSA, FBI, HHS-OIG, and OPM-OIG. *United States* v. *Sushil Sheth* (N.D. Illinois)

Ponzi Scheme Conviction Results in Thirteen-and-a-Half Year Prison Sentence and $2.7 Million in Restitution

Anthony James, the owner and president of James Asset Advisory, LLC, was sentenced on September 9, 2010, as a result of his conviction in April 2010 for operating a Ponzi scheme and for stealing investor and benefit plan assets, including benefits derived by individuals from United Auto Workers (UAW) negotiated contracts. James was sentenced to 13 years and 6 months in prison, restitution of $2,667,762, and five years' supervised release.

James made wire transfers for his clients' investments, but failed to make investments into previously agreed upon investment vehicles (mutual funds, stocks, bonds, etc). He would utilize the funds from newer investors to pay off older investors, and also used new investment funds to fund his personal lifestyle. James annually provided investors with falsified account statements.

In addition, James stole a portion of the union-negotiated disability benefit from a disabled UAW member. He befriended the union member and requested the disability funds for investment. When James' scheme became public knowledge, he made admissions to some of the investors, including the union member, that he (James) did not make the agreed upon investments. Other retired UAW members were also defrauded by James.

This is a joint investigation with EBSA and FBI. *United States* v. *Anthony A. James* (E.D. Michigan)

President and Vice President of Demolition Company Sentenced for Multiple Fraud Schemes

William Holley, president of Holley Enterprises, Inc. (HEI), a Delaware-based demolition company, was sentenced on August 26, 2010, to 48 months' imprisonment, 36 months' supervised release, and restitution of $684,218 for his role in various fraud schemes designed to avoid payment of funds that were legally owed to the U.S. government, HEI employees, and the union benefit plans of Laborers International Union of North America (LIUNA) Local Union 332. Joseph Funk, Jr., HEI's vice president, was sentenced on September 23, 2010, to 36 months' imprisonment, 36 months' supervised release, and restitution of $422,411 for his role in the scheme.

Holley and Funk were both convicted in March 2010 of conspiracy to defraud the United States and conspiracy to commit wire fraud. Funk was separately convicted of ERISA fraud, and Holley was separately convicted of tax-related charges.

From 2004 through May 2007, Holley and Funk engaged in a number of fraudulent schemes related to their cash payroll. Through their schemes, the men were able to retain payroll

taxes that should have been paid to the IRS; wages that they were obligated to pay to their workers pursuant to state law; and contributions that they were obligated to pay to employee benefit funds on behalf of their union-affiliated employees. Their conduct gave them an unfair advantage over legitimate contractors and allowed them to pay less in wages, taxes, and benefit plan contributions. Holley and Funk attempted to conceal this conduct by creating false documentation and submitting the documents to private businesses, government agencies, employee benefit plans, and other entities.

This was a joint investigation with IRS-CI and FBI. *United States* v. *William C. Holley* and *United States* v. *Joseph E. Funk, Jr.* (D. Delaware)

Physician Sentenced for Defrauding Culinary Union's Health Care Insurance Program

Dr. Ana Acosta was sentenced on May 27, 2010, to 30 months in prison, three years of supervised release, and ordered to pay $959,735 in criminal restitution for her role in a scheme to defraud the Las Vegas Hotel and Restaurant Employees International Union Welfare Fund (Culinary Fund). Dr. Acosta pled guilty to violations of health care fraud in February 2010.

Dr. Acosta and others devised a scheme to defraud the Culinary Fund by submitting claims for unauthorized cosmetic surgeries performed on union members in Tijuana, Mexico. Dr. Acosta and her co-conspirators met with prospective patients for the purpose of conducting cosmetic surgery consultations. The prospective patients were told that, even though cosmetic procedures were not covered by the Culinary Fund, the defendants would bill the Culinary Fund for the cosmetic procedure by making it appear as if the patient had suffered an unexpected injury in Mexico and had received emergency medical treatment.

The Culinary Fund, which provides medical insurance services to at least 50,000 participants in the hospitality industry in the Las Vegas area, was billed approximately $4.9 million for "out of country" claims for the time period of approximately January 2002 through February 2006. These claims were almost entirely from Mexico, with the majority of those claims for emergency procedures. The Culinary Fund paid more than $3 million on the claims.

This is a joint investigation with the USPIS and FBI. *United States* v. *Rebeca Acosta, et al.* (D. Nevada)

Former Union Officer Sentenced for Embezzling More Than $380,000 in Union and Benefit Plan Funds

Paul Peters II, the former president and plan administrator of the Waterfront Guard Association Local 1852 (WGA), was sentenced April 30, 2010, to 30 months in prison, three years' supervised release, and restitution of $320,000 for his role in an embezzlement scheme. Peters pled guilty in July 2009 to embezzlement from a labor union and from union-sponsored employee welfare and pension plans. As a result of his conviction, Peters was also debarred, prohibiting him from acting in any official capacity or exercising discretionary control of the assets of any labor organization or employee benefit plan for a period of 13 years.

From 2002 through 2005, more than $380,000 was embezzled from the WGA plans and transferred into the union operating account. During this period, Peters and Brian Armentrout, WGA's former recording secretary, received improper personal disbursements through checks written to themselves from the WGA union operating account using the embezzled WGA plan assets, which served as the funding mechanism for the disbursements. Peters made misrepresentations about why the money was being paid by listing the checks and other documents

as being for various purposes, such as operating expenses, reimbursement of pensioners' medical payments, and salaries for plan administration.The embezzled funds were converted and used to purchase, among other things, a Ford Mustang convertible and a Ford Expedition, home improvements, stock transactions, home mortgage payments, and boarding costs for horses. Armentrout was sentenced in October 2009 for his role in the scheme.

This was a joint investigation with EBSA. *United States* v. *Paul S. Peters, II* (D. Maryland)

Louisiana Woman Charged with Embezzling $491,000 in Union Training Funds

The administrative assistant for the South Central Laborers Training and Apprenticeship Fund (SCLTAF) was indicted on August 26, 2010, and charged with wire fraud and embezzlement from an employee benefit plan. SCLTAF is a welfare plan arrangement and is funded by various union contractors throughout the states of Texas, Louisiana, Arkansas, Mississippi, and Oklahoma. The funds contributed to the SCLTAF are for the exclusive use of training, educating, retraining, or refresher training of employees and others in the skills and jobs which are beneficial to the construction industry.

The defendant's responsibilities included maintaining the books and records of SCLTAF's bank account and credit card account, monitoring such accounts, and paying appropriate SCLTAF-related expenses that had been properly charged to the SCLTAF credit card account by the SCLTAF officers and employees. The defendant was issued a credit card to conduct SCLTAF's business. It is alleged that, beginning in December 2004 and continuing through October 2008, the defendant embezzled approximately $491,000 from SCLTAF through misuse of the credit card by making unauthorized personal purchases.

This is a joint investigation with EBSA, the Pointe Coupee Parish (Louisiana) Sheriff's Office, and the West Baton Rouge Parish (Louisiana) Sheriff's Office.

Founder and Treasurer of Labor Union Charged with Mail Fraud

The founder and treasurer of the National Association of Special Police and Security Officers (NASPSO) was charged on June 25, 2010, with mail fraud in connection with his operation of a pension plan for members of NASPSO. NASPSO is a labor union representing private security guards assigned to protect Federal buildings in the Washington, DC, metropolitan area.

The indictment alleges that, from approximately June 2004 through August 2006, the defendant wrote numerous checks to himself, or to other third parties, from the NASPSO checking account where he had placed funds intended for the NASPSO pension plan. The defendant purportedly spent more than $100,000 of the pension plan funds while falsely maintaining that the checking account was an operational fund that he was administering and using to provide benefits to the union beneficiaries.

This is a joint investigation with EBSA.

Florida Pastor Pleads Guilty to Embezzling more than $800,000 from Health and Welfare Fund

Gregory Sims, the owner and pastor of The Crossroads of Dade City (CDC) church and fund manager of the International Brotherhood of Electrical Workers (IBEW) Local Union 915 Health and Welfare fund, pled guilty on September 27, 2010, to embezzling $813,143 from the fund.

In his role as fund manager, Sims was responsible for the fund account reconciliation, check issuance, and the preparation of financial statements. His responsibilities included the utilization of the fund's computer software to issue checks for the fund. Sims used his position as fund manager to issue checks payable to CDC—all of which were

unsupported by proper documentation and which were not for the benefit of the fund.

This is a joint investigation with EBSA. *United States* v. *Gregory Sims* (M.D. Florida)

Former Mayor of Niagara Falls Pleads Guilty to Submitting False Documents to a Pension Plan

Vincenzo Anello, the former mayor of Niagara Falls, NY, pled guilty on September 2, 2010, to making a false statement on a document submitted to an employee pension plan. Anello, a member of the IBEW Local 237 for 41 years, retired in April 2004 and began collecting his pension benefits from IBEW Local 237. He also owned Anello Electric, a union electrical contracting business located in Niagara Falls. In early 2008, after completing his term as mayor, Anello continued to operate Anello Electric, which required him to submit weekly Fund Transmittal Reports to report to the union the number of hours worked by his employees, including himself. From 2008 through 2010, he submitted false transmittals to Local 237 in which he underreported the hours that he worked as an electrician, thereby allowing him to continue to collect his pension benefits from the Local 237 Pension Fund. Anello's pension benefits would have been suspended had he reported that he worked for more than 40 hours per month.

This is a joint investigation with FBI. *United States* v. *Vincenzo Anello* (W.D. New York)

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.

Two Sentenced and Nine Plead Guilty in Carpenters Union Corruption Case

Between April 2010 and September 2010, guilty pleas were entered by nine of 11 defendants indicted for their alleged roles in a scheme by which officials of the United Brotherhood of Carpenters and Joiners, in return for bribes, allowed construction contractors to avoid full payment of union wages and benefits at various jobsites in New York City. Two of the individuals charged in the indictment are associated with the Genovese and Luchese La Cosa Nostra (LCN) Organized Crime Families. Those entering guilty pleas included Michael Forde, the former executive secretary treasurer of the New York City District Council of Carpenters (NYCDCC) and John Greaney, former president and business manager of Carpenters Local 608. Additional racketeering charges were filed against the director of the Association of Wall-Ceiling and Carpentry Industries and a construction manager for Touro College. Two of the 11 defendants received sentences ranging from 5 years' supervised release to 19 months' incarceration and forfeiture totaling $120,000.

In the alleged scheme, union officials accepted bribes in exchange for allowing contractors to violate the Collective Bargaining Agreements (CBA), thereby facilitating embezzlement of ERISA-covered funds. In exchange for the bribes, the defendants allegedly allowed and helped certain contractors to defraud the Carpenters Union and its benefit funds out of millions of dollars by permitting the contractors to pay union members cash at below-union rates, work without benefits, employ undocumented workers and nonunion workers, and avoid payment to the union benefit funds in violation of applicable CBAs. The defendants purportedly helped the contractors to conceal the scheme by: filing false shop steward reports, giving the contractors advance notice of jobsite visits by Carpenters Union investigators, issuing union cards to the undocumented workers who labored for those contractors for cash, giving false testimony, and destroying documents.

Since 1994, the Carpenters Union and its constituent locals and District Council have been bound by a Federal consent decree stemming from a civil case brought by the U.S. Government under the RICO Act to address a history of union corruption and organized crime influence within the District Council. As a result of the indictments, the International United Brotherhood of Carpenters and Joiners of America placed the NYCDCC under emergency trusteeship and also removed NYCDCC's executive secretary treasurer, as well as the president/business manager, and the business agent of the largest local in the council.

This is a joint investigation with FBI, IRS, and SSA-OIG. *United States* v. *Michael Forde, et al.* (S.D. New York)

Former Union President Pleads Guilty to Receiving Kickbacks and Embezzlement

Dennis Giblin, the former president of the International Union of Operating Engineers Local 68 and fund administrator of the Local 68 Education Fund, pled guilty August 9, 2010, to charges that he used his position to

receive kickbacks because of, and with intent to, influence his actions relating to an employee benefit plan. Giblin also pled guilty to embezzlement from an employee benefit plan.

As administrator of the Local 68 Education Fund, which provided occupational training and educational opportunities to Local 68's members, Giblin was a fiduciary and was required under ERISA to act solely in the interests of the participants and beneficiaries of the Education Fund. Around November 2004, Giblin, on behalf of the Education Fund, hired an audio-visual company to design and install electronic audio and visual systems at the Education Fund's premises. For its services, Giblin caused the Education Fund to pay the audio-visual company over $315,000. He also received free and discounted audio-visual materials and components in August 2005. These items were installed in his condominium by the audio-visual company free of charge, because of the work the company had received from the Education Fund in the past. In total, Giblin received an improper gratuity in excess of $10,000 in free and discounted items, and free labor.

This is a joint investigation with USPIS and EBSA. *United States* v. *Dennis J. Giblin* (D. New Jersey)

Contractor Sentenced for Making Unlawful Payments to Union Officials

Gerard Mulligan, an operator of a union drywall company, was sentenced on September 1, 2010, to six months' incarceration followed by 36 months' supervised release, and a fine of $5,000. Mulligan, who pled guilty in May 2010 to making unlawful payments to union officials, operated Perimeter Interiors, Inc., a company that held a CBA with the United Brotherhood of Carpenters and Joiners (UBCJ). Mulligan paid a cash bribe to a business agent of Local 6 of the UBCJ in return for being permitted to violate the terms of the CBA with the UBCJ by employing non-union workers on his jobsites. This was a joint investigation with the FBI. *United States* v. *Mulligan* (S.D. New York)

Former Union Official Pleads Guilty and Two Inspectors Sentenced in Extortion Scheme

Warren Annunziata, a former official of Local 91 of the United Craft and Industrial Workers' Union, pled guilty on July 29, 2010, to a charge of extortion. Geoffrey Berger, a former inspector with the New York City (NYC) Department of Education (DOE), was sentenced on June 22, 2010, to 48 months' probation, $225,000 in restitution payable to the NYC-DOE, and $25,000 in forfeiture. Berger pled guilty in April 2008 to extortion, conspiracy, and theft or bribery concerning programs receiving Federal funds. Jeffrey Dunat, also a former inspector with the NYC-DOE, was sentenced on September 20, 2010. Dunat, who previously pled guilty in April 2008 to extortion, conspiracy, and theft or bribery concerning programs receiving Federal funds, was sentenced to 24 months' probation, $140,000 in restitution payable to the NYC-DOE, and $110,000 in forfeiture.

Local 91 is a union that represents approximately 2,000 individuals, including bus drivers and bus escorts who work for companies that contract with the NYC-DOE to provide students with school bus transportation to public schools throughout New York City. Annunziata was previously the president and executive director of Local 91, and was also the union's pension fund administrator, in which capacity he oversaw pension and benefit funds holding more than $85 million in assets.

From approximately 1992 through 2009, Annunziata used his position as a high-ranking Local 91 official to solicit and collect cash payments totaling over $500,000 from various bus company owners whose employees were members of Local 91. Annunziata received bribes from a number of bus companies that contracted with the NYC-DOE.

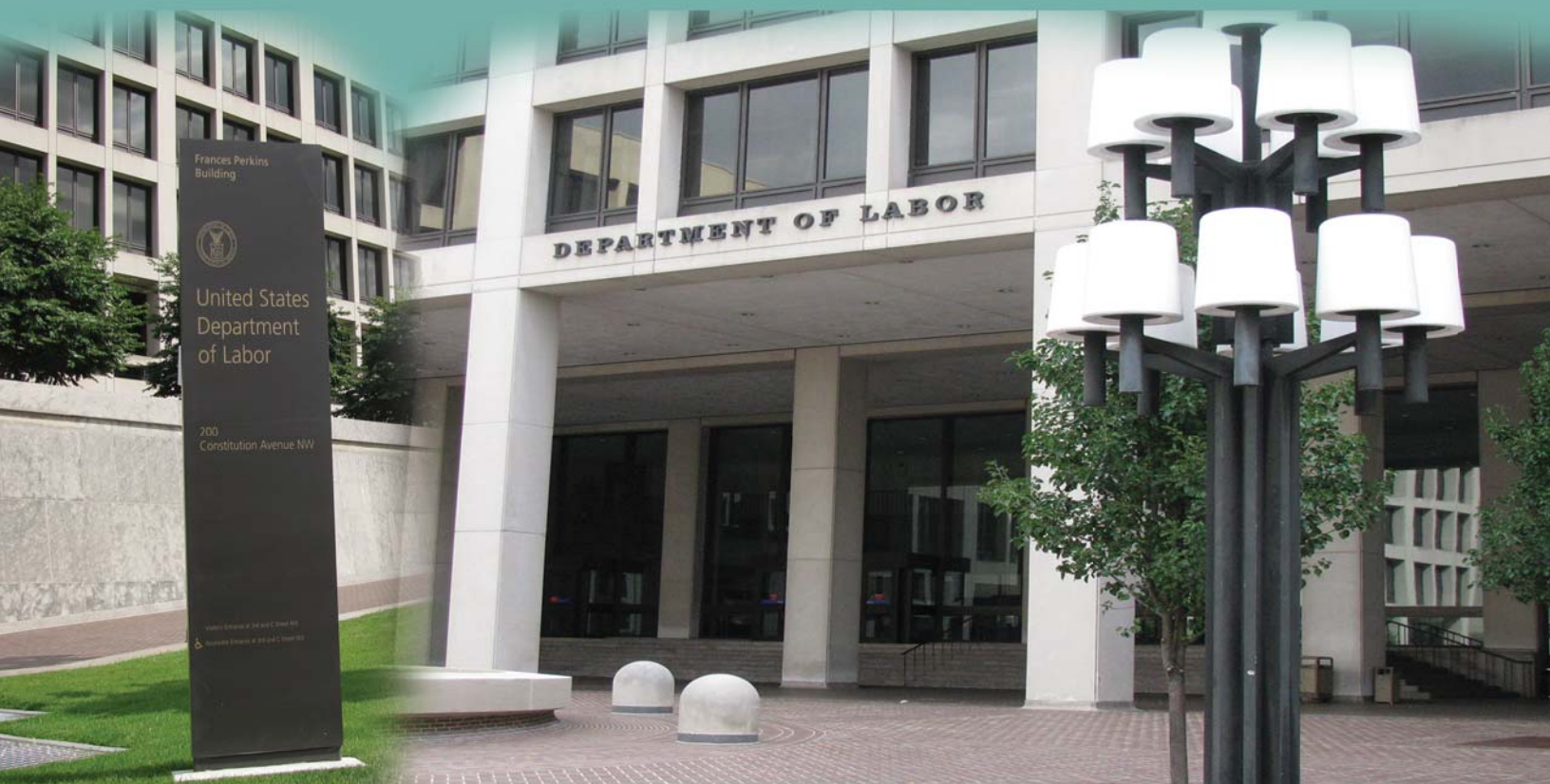
This is a joint investigation with FBI and OLMS. *United States* v. *Dunat*, *United States* v. *Berger*, *United States* v. *Annunziata* (S.D. New York)

Union Shop Steward Indicted for Embezzlement, False Statements, and Unlawful Payments to a Union Official

A former shop steward for a New York union trucking company was indicted on July 21, 2010, on charges of conspiracy to embezzle from an employee benefit plan, false statements in documents required by ERISA, and unlawful payments to a union official. The charges stem from the defendant's alleged involvement in a scheme to defraud the IBT, Local 282 Benefit Funds, by underreporting truck drivers' hours to the funds and for accepting illegal payments from the trucking company in exchange for falsifying the reports.

This is a joint investigation with the Department of Transportation-OIG, IRS-CI, the Port Authority of New York and New Jersey-OIG, and the Business Integrity Commission.

Departmental Management



Recovery Act: Use of Departmental Management Funds for Recovery Act Activities

DOL funds received under the Recovery Act included $80 million for Departmental Management (DM) purposes. OASAM is responsible for the oversight and monitoring of DM funding, which can be used for oversight, enforcing worker protection laws and regulations, and encouraging collaboration between the public workforce investment system and other agencies that receive Recovery Act funds for infrastructure projects. The Recovery Act required the Department to submit an operating plan to Congress explaining its planned use for the $80 million, and to obligate the funds by September 30, 2010, the date the funds expired. We conducted a performance audit to determine if the Department had plans to properly obligate these DM funds by September 30, 2010.

Our audit found that the Department had obligated, or planned to obligate, only 76% ($61.2 million) of the $80 million available for DM purposes. According to Department officials, this occurred because the need for DM funds has been less than originally anticipated. Our review of the three operating plans that the Department submitted to Congress showed that it never anticipated obligating the entire $80 million in available DM funds. The first operating plan, which was submitted in April 2009, reflected planned obligations of just under $76 million. Each of the two successive plans reflected further reductions in that amount — the most recent of which, in February 2010, showed planned obligations of $66 million. (Report No. 18-10-011-07-001, issued September 17, 2010)

Working Capital Fund Needs Central Point of Accountability to Ensure it Meets Legislative Intent

We conducted a performance audit of the Department's Working Capital Fund (WCF) to determine if it operated according to Federal law, guidelines, and DOL policies. It functions entirely from the fees charged to DOL agencies for the services it provides. The WCF is an intergovernmental revolving fund that is used to fund business-like activities. In FY 2008, WCF budgetary resources totaled $192.6 million. The WCF is available without fiscal year limitation for the operation of a comprehensive program of centralized services as deemed appropriate and advantageous by the Secretary of Labor. The WCF fund services and activities are paid for by means of reimbursement in advance from DOL customer agencies to return the full cost of operations to the service providers.

Our audit found that the responsibility for maintaining and operating the WCF was shared between the Office of the Chief Financial Officer (OCFO) and the OASAM. In addition, a WCF Committee had a review role over WCF operations. As a result of these shared responsibilities, WCF operations lacked a central point of accountability and oversight, and the need for detailed policies and procedures was not recognized.

DOL policy was not sufficient to determine the appropriateness and advantages of the WCF services and activities, to develop WCF budget estimates and allocate associated costs, and to determine what monitoring controls were needed over non-personnel costs to ensure service providers properly charged them to the WCF.

Specifically the OIG found that:

- The CFO did not demonstrate that 16% of the services and activities financed through the WCF were

appropriate and advantageous to the Department as required by law.

- The WCF budget process did not provide reasonable estimates of costs or anticipated collections from customer agencies, which negatively impacted the agencies' ability to manage their appropriated funds.
- The Department did not always maintain sufficient information to support the appropriateness of its allocation methodology for charging costs to customer agencies.
- The CFO did not have monitoring controls in place to review non-personnel costs that service providers charged to the WCF.

Taken together, these conditions resulted in a lack of transparency to customer agencies regarding how the WCF operated. We found that individual DOL agencies are not confident that the WCF is being operated effectively and efficiently, and that WCF services and activities are appropriate and advantageous. Without reliable WCF budget estimates, customer agencies cannot effectively manage funds for their program activities. Finally, the Department's lack of monitoring of service provider costs resulted in an overstatement of FY 2008 WCF costs by $1.3 million.

The OIG made nine recommendations to the OCFO related to revising DOL policy, clearly defining roles and responsibilities, and establishing sufficient oversight of the operation of the WCF. The OCFO concurred with the findings, except for the one calling for the Department to follow the Secretary's policy guidance in managing the WCF. However, the OCFO stated that the Department is committed to reviewing the WCF management, including mechanisms to improve collaboration with DOL agencies and the WCF Committee. To that end, the Department was finalizing a contract for an evaluation of DOL's collection and expenditure of WCF assessments. (Report No. 03-10-002-13-001, issued September 28, 2010)

Alert Memos – New Core Financial Management System's Impact on the Department's FY 2010 Consolidated Financial Statement Audit

DOL's financial reporting and mainframe accounting system, the Department of Labor Accounting and Related Systems (DOLAR$), was implemented in 1989 prior to the modern-day laws and regulations that drive Federal accounting, financial management, financial reporting, and information security. As a result, DOLAR$ was enhanced and extended numerous times to meet the Department's internal and external reporting requirements; however, the DOLAR$ antiquated technology did not allow DOL to efficiently and effectively meet its current and future accounting/financial needs. In July 2008, the Department awarded a contract for the development of the New Core Financial Management System (NCFMS). NCFMS was planned to be fully implemented and operational by mid-October 2009, but migration of data from DOLAR$ to NCFMS did not occur until January 2010.

The OIG issued two alert and one status memoranda during this period expressing concerns about NCFMS's impact on the OIG's ability to conduct an audit of the Department's FY 2010 consolidated financial statements. In the Alert Memorandum dated April 28, 2010, we highlighted certain key deadlines that needed to be met by DOL to allow OIG's contractor (KPMG) sufficient time to complete the necessary audit procedures. The Department missed the critical deadline of June 11, 2010, for delivering the second quarter financial statements and NCFMS data extract of general ledger transactions. These items were subsequently provided on July 2, 2010; however, the audit contractor, KPMG, identified numerous issues with the data. The third quarter financial statements and data extracts were provided early; however, the OCFO identified numerous errors in this financial statement data that required adjustments that the OIG considered to be

significant. While the Department provided revised second and third quarter data extracts of all general ledger data on August 6, 2010, the activity for March 2010 was not provided until August 9, 2010. KPMG was able to select a sample of journal vouchers on July 21, 2010, but the Department experienced significant difficulty locating sufficient supporting documentation.

The OIG recognized that NCFMS's implementation presented the Department with unprecedented challenges and that DOL was working to address these challenges. However, the Department is facing the likelihood that KPMG will not be able to complete the audit and issue an opinion by November 15, 2010, in accordance with the OMB's Bulletin No. 07-04, Audit Requirements for Federal Financial Statements, as amended. This would result in the issuance of a disclaimer of opinion on the financial statements, representing the first time in 14 years that DOL has not received an unqualified opinion on its financial statements. (Report No. 22-10-017-13-001, issued April 28, 2010; Report No. 22-10-018-13-001, issued June 23, 2010)

". . . the Department is facing the likelihood that KPMG will not be able to complete the audit and issue an opinion by November 15, 2010, in accordance with the OMB's Bulletin No. 07-04, Audit Requirements for Federal Financial Statements, as amended."

Employee Integrity Investigations

The OIG is charged with the responsibility for conducting investigations into possible misconduct or criminal activities involving DOL employees or individuals providing services to the Department. The following cases are illustrative of our efforts in this area.

DOL Employee Pled Guilty to Receiving Supplementation of Government Salary

Shonda Brevard, a former Business and Industry Analyst for Job Corps, pled guilty on September 3, 2010, to willfully receiving supplementation of government salary from a contractor.

Brevard served as a Contracting Officer's Technical Representative on several Job Corps contracts. One of her duties was to review invoices from private companies which contracted with Job Corps and process their payments. Brevard, knowing that she would be the only DOL employee who would review the contractors' invoices for reasonableness and payment, used her position for personal gain. For almost two years, Brevard approved fraudulently submitted invoices and assisted a contractor in obtaining future contracts with DOL. Brevard received over $230,000 in payments from the contractor. *United States* v. *Brevard* (U.S. District Court for the District of Columbia)

Former Executive Resigned Over Charges of Inappropriate Activities

During this semiannual period, we completed an investigation involving a career senior executive who was found to have inaccurately reported his time and attendance and exhibited inappropriate and abusive behavior, including sexually inappropriate comments toward his staff. The investigative results were referred to the department, and the executive subsequently resigned in lieu of being terminated.

Single Audits

OMB Circular A-133 provides audit requirements for state and local governments, colleges and universities, and non-profit organizations receiving Federal awards. Under this Circular, covered entities that expend $500,000 or more a year in Federal awards are required to obtain an annual organization-wide audit that includes the auditor's opinion on the entity's financial statements and compliance with Federal award requirements. Non-Federal auditors, such as public accounting firms and state auditors, conduct these single audits. The OIG reviews the resulting audit reports for findings and questioned costs related to DOL awards, and to ensure that the reports comply with the requirements of OMB Circular A-133.

Single Audits Identify Material Weaknesses and Significant Deficiencies in 26 of 105 Reports

We reviewed 105 single audit reports this period, covering DOL expenditures of more than $79 billion during audit years 2007 through 2010. These expenditures included $7.6 billion related to Recovery Act funding. The non-Federal and state auditors issued 46 qualified or adverse opinions on awardees' compliance with Federal grant requirements, on their financial statements, or both. In particular, the auditors identified 189 findings and more than $3.6 million in questioned costs in 26 of the 105 reports reviewed as material weaknesses or significant deficiencies, indicating serious concerns about the auditees' abilities to manage DOL funds and comply with the requirements of major grant programs. We reported these 189 findings and 238 related recommendations to DOL managers for corrective action. Not correcting these deficiencies could lead to future violations and improper charges.

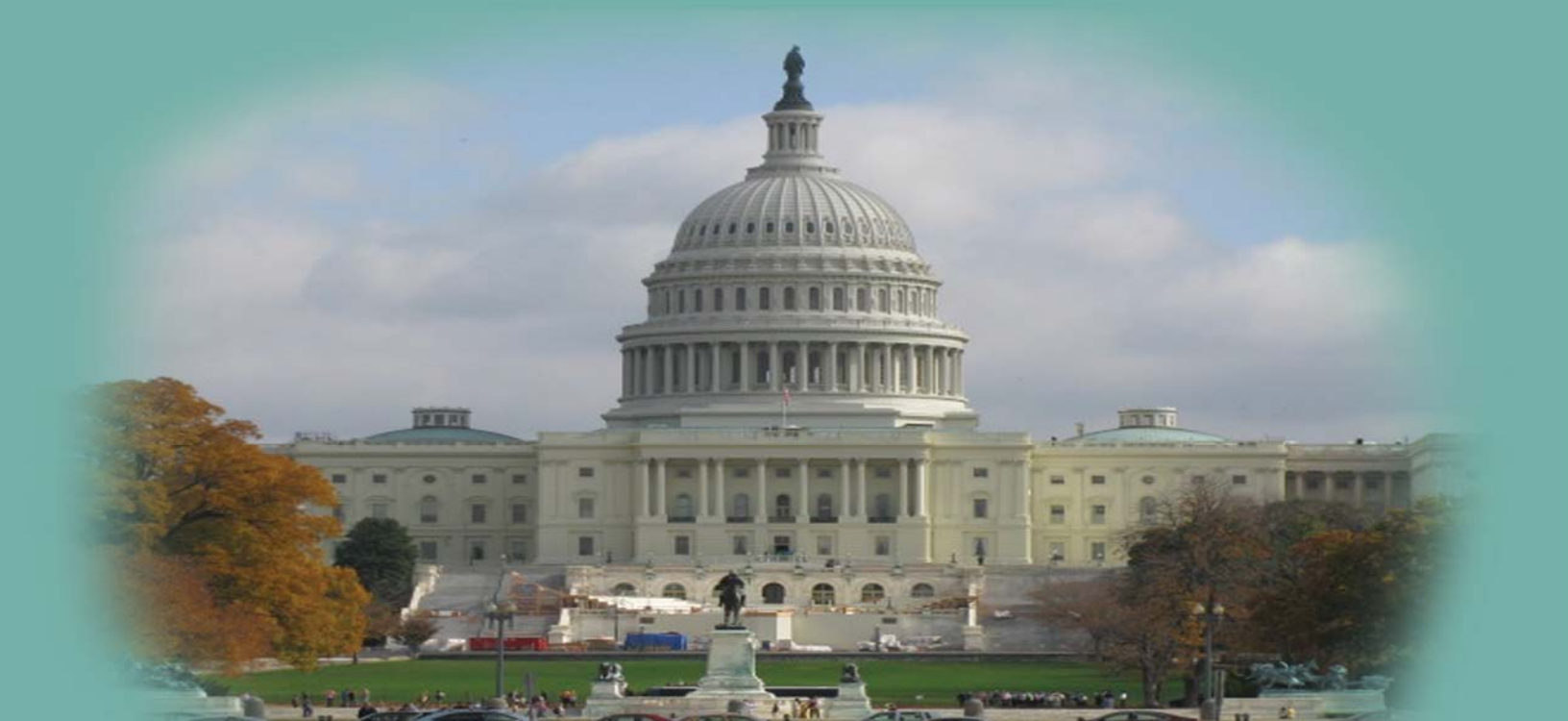
In addition, recipients expending more than $50 million a year in Federal awards are assigned a cognizant Federal agency for audit, and the cognizant agency is responsible for conducting or obtaining quality control reviews of selected A-133 audits. In FY 2010, DOL was the cognizant agency for 20 recipients.

During the period, we conducted quality control reviews of auditors' reports and supporting audit documentation for four of the twenty recipients. The purpose of the reviews was to determine whether (1) the audits were conducted in accordance with applicable standards and met the single audit requirements, (2) any follow-up audit work was needed, and (3) there were any issues that may require management's attention. For the three of the four recipients, the audit work performed was generally not acceptable and did not meet the requirements of the Single Audit Act or OMB Circular A-133. We found that the auditors were not properly:

- documenting audit testing,
- documenting and assessing internal controls,
- reporting on Federal expenditures, and
- assessing the application of accounting standards.

Additional work was required to bring the audits into compliance with the requirements of the Single Audit Act.

Legislative Recommendations



Legislative Recommendations

The Inspector General Act requires the OIG to review existing or proposed legislation and regulations and 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. The OIG's legislative recommendations have remained markedly unchanged over the last several Semiannual Reports, and the OIG continues to believe that the following legislative actions are necessary to promote increased efficiency in and protection of the Department's programs and mission.

Allow DOL Access to Wage Records

To reduce overpayments in employee benefit programs, including UI, FECA, and DUA, 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.

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 (42 U.S.C. 653 (i)) does not provide DOL nor the OIG with access to the NDNH. To make the new-hire data even more useful for this purpose, legislative action is needed requiring that employers 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 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 up 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.

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.

MSHA's Authority to Issue Verbal Mine Closure Orders

The Mine Safety and Health Act of 1977 (Mine Act) charges the Secretary of Labor with protecting the lives and health of workers in coal and other mines. To that end, the Mine Act contains provisions authorizing the Secretary to issue mine closure orders. Specifically, Section 103(j) states that in the event of any accident occurring in a coal or other mine, where rescue and recovery work is necessary, the Secretary or an authorized representative of the Secretary shall take whatever action he deems appropriate to protect the life of any person. Under Section 103(k) the Act states that an authorized representative of the Secretary, when present, may issue such orders as he deems appropriate to insure the safety of any person in the coal or other mine.

The primary purpose of the Mine Act is to give the Secretary the authority to take appropriate action, to include ordering a mine closure, to protect lives. As such, the OIG recommends a technical review of the existing language under Section 103 (k) to ensure that MSHA's long-standing and critically important authority to take whatever actions may be necessary, including issuing verbal mine closure orders, to protect miner health and safety, is clear and not vulnerable to challenge.

Appendices

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U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210

October 14, 2010

MEMORANDUM FOR THE SECRETARY

FROM: DANIEL R. PETROLE
Acting Inspector General

SUBJECT: Top DOL Management Challenges

The Reports Consolidation Act of 2000 requires the Office of Inspector General to prepare a statement that summarizes what the Inspector General considers to be the most serious management challenges facing the Department of Labor. The Act also requires that this statement be included, unmodified, in the Department's Annual Financial Report. Moreover, the Act requires the report to be current as of the date the Annual Financial Report is issued. This could require the OIG to update this document prior to its inclusion in the Annual Financial Report, depending on the final outcome of pending audits or any significant DOL agency progress relative to addressing the challenges.

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

Attachment

cc: Deputy Secretary Seth Harris
Nancy Rooney
James Taylor

Working for America's Workforce

Appendix

2010 Top Management Challenges Facing The Department of Labor

The Top Management Challenges identified by the Office of the Inspector General (OIG) for the Department of Labor (DOL) are discussed below. As required by the Reports Consolidation Act of 2000, the OIG has provided a summary of what the Inspector General considers to be the most serious management and performance challenges facing DOL and has briefly assessed the DOL's progress in addressing those challenges. An overview of the Department's programs, the challenge for the Department, the Department's progress, and what remains to be done to address these challenges are shown in the following OIG report.

For 2010, the OIG considers the following as the most serious management and performance challenges facing the Department:

- **Achieving the Goals and Protecting the Investment Provided by the American Recovery and Reinvestment Act**
- **Protecting the Safety and Health of Workers**
- **Improving Performance Accountability of Workforce Investment Act Grants**
- **Ensuring the Effectiveness of the Job Corps Program**
- **Safeguarding Unemployment Insurance**
- **Improving the Management of Workers' Compensation Programs**
- **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**
- **Ensuring DOL's New Core Financial Management System Produces Reliable, Accurate, and Timely Financial Information**

For each challenge, the OIG presents the challenge, the OIG's assessment of the Department's progress in addressing the challenge, and what remains to be done. These top management challenges are intended to identify and help resolve serious weaknesses in areas that involve substantial resources and provide critical services to the public.

CHALLENGE: Achieving the Goals and Protecting the Investment Provided by the American Recovery and Reinvestment Act

OVERVIEW:
The American Recovery and Reinvestment Act (Recovery Act) was enacted on February 17, 2009, to create new jobs and save existing ones, spur economic activity, invest in long-term growth, and foster accountability and transparency in government spending. As of August 19, 2010, the Department received nearly $71 billion in Recovery Act funds. DOL has three key roles in the Recovery Act effort: providing worker training for these jobs, easing the burden of the recession on workers and employers by providing for extensions and expansions of unemployment benefits, and assisting and educating unemployed workers regarding expanded access to continued health benefits. The Employment and Training Administration (ETA) is responsible for virtually all of the Recovery Act funds provided to the Department. The mission of ETA is to contribute to the more efficient functioning of the U.S. labor market by providing high-quality job training, employment, labor market information, and unemployment insurance services primarily through state and local workforce development systems.

CHALLENGE FOR THE DEPARTMENT:
Ensuring program effectiveness and meeting Recovery Act requirements to stimulate the economy is a significant challenge for the Department. However, in several DOL programs, large amounts of Recovery Act funds remain unspent. We reviewed DOL Recovery Act programs on the Health Care Tax Credit (HCTC), Unemployment Insurance (UI) Modernization, and Job Corps Leasing, and we identified large amounts of unspent Recovery Act funds and questionable expenditures of other such funds. Our March 2010 audit of the HCTC National Emergency Grants found that just $8 million of the $150 million designated for the program had been awarded to states since the Recovery Act was signed into law on

February 17, 2009. Similarly, as part of our September 2010 audit of UI modernization grants, nine states indicated in response to an OIG survey that they were unlikely to apply for $1.3 billion of UI modernization benefits.

Conversely, the need to spend funds quickly to meet Recovery Act requirements can lead to awards that may not be in the government's best interest. For example, Job Corps' largest single expenditure of Recovery Act funds was a 20-year lease totaling $82 million with the YWCA of Greater Los Angeles, Inc. for the construction of a new facility to house the Los Angeles Job Corps Center. Job Corps also agreed to pay 60% of fair market value at the end of the lease term if it opts to purchase the facility. The Recovery Act included provisions that specifically allowed Job Corps to use the multi-year lease option and advance payments to lease real property as long as construction began within 120 days of the Recovery Act's enactment. To meet the 120-day requirement of the Act, OASAM issued a Request for Proposals that closed on April 2, 2009, and required construction to begin on or before June 16, 2009. This timetable gave the potential awardee less than 3 months to begin construction. Job Corps only received one proposal, which was from the existing center operator. While Job Corps did negotiate the proposed cost of the multi-year lease down from $105 million to $82 million, it did not perform a cost benefit analysis, claiming it was not required to do so. Through our analysis, we estimate that Government construction of the facility may have cost $31 million less than the $82 million multi-year lease. As a result, Job Corps may have lost the opportunity to put at least $31 million of Recovery Act funds to better use.

DEPARTMENT'S PROGRESS:
In last year's top management challenges, the OIG stated that ETA would be challenged to demonstrate that Recovery Act grants were properly awarded. Our audit work over the past year found that ETA has announced, evaluated, and issued Recovery Act grants in accordance with relevant criteria. Also, monitoring guidelines and procedures were comprehensive, and grant agreements informed grantees of their responsibilities for Recovery Act reporting. However, funds provided by the Act for monitoring Recovery Act grants have expired as of September 30, 2010, which impacts ETA's ability to execute its Recovery Act grantee monitoring and oversight responsibilities and may increase the risk that a portion of the $717 million in Recovery Act grant funds may not be spent for their intended purposes. ETA has asked for funding to support an increase in grant monitoring staff as part of its FY 2011 budget request.

Regarding unused Recovery Act funds, Congress has rescinded $110 million of the $150 million appropriated for HCTC National Emergency Grants. According to ETA, approximately $14 million of the original $150 million has been obligated, leaving about $26 million available for future grants.

WHAT REMAINS TO BE DONE:
ETA needs to continue its efforts to identify and prioritize workloads and funding levels to ensure Recovery Act grants are adequately monitored, grant funds are spent properly, and grants achieve their intended purpose. Over the next two years, the OIG will focus its Recovery Act audit efforts on assessing how grantees and contractors performed and what was accomplished with Recovery Act funding.

ETA also needs to consider whether unused Recovery Act funds should and could be put to better use. For the remaining $26 million available for HCTC National Emergency Grants, ETA should obtain estimates of the amount of HCTC National Emergency Grant funds needed by each state, an action ETA believes would be more prudent to pursue after January 1, 2011, when the status of the Trade Adjustment Assistance program (which is pending reauthorization) is clearer.

Regarding the lease with YWCA, management objected to the audit report's estimate of potential savings that might have accrued from a direct land or building purchase as speculative, given that no other offeror came forward to offer a suitable building or parcel of land. Management also stated that a cost benefit analysis was not required because OMB waived certain budgetary reporting of the lease. We did not concur that this relieved the Department of conducting a sound cost/benefit analysis. ETA needs to work with contracting officials in OASAM to demonstrate that the multi-year lease with the YWCA to acquire a new cility at the LAJCC was the least expensive option to the Government, and if appropriate, renegotiate the multi-year lease agreement.

CHALLENGE: Protecting the Safety and Health of Workers

OVERVIEW:
The Department administers the Occupational Safety and Health Act of 1970 (OSH Act) and the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended by the Mine Improvement and New Emergency Response Act of 2006. DOL's effective enforcement of these laws is critical toward ensuring the workplace safety of our nation's workers. The two DOL agencies primarily responsible for enforcing these laws are the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA). OSHA is responsible for ensuring safe and healthful working conditions for 130 million workers at more than seven million establishments. MSHA is responsible for the safety and health of more than 350,000 miners who work at more than 14,500 mines.

CHALLENGE FOR THE DEPARTMENT:
Enforcement plays an important part in OSHA's efforts to reduce workplace injuries, illnesses, and fatalities. With 4,340 fatal workplace injuries reported by the Bureau of Labor Statistics in 2009, OSHA's challenges are how to best target its resources and how to measure the impact of its efforts. OSHA carries out its enforcement responsibilities through a combination of directed and complaint investigations, but can reach only a fraction of the seven million entities it regulates. Consequently, OSHA must strive to target the most egregious and persistent violators while protecting the most vulnerable worker populations. OSHA must also evaluate the success of its enforcement strategies. For example, when unsafe conditions are identified, OSHA inspectors issue citations with penalties. While the OSH Act requires OSHA to consider certain factors, such as the size of the company in finalizing penalty amounts, specific reductions are not mandated. OSHA policies establish reductions as an incentive to abate violations voluntarily. However, a recent OIG audit found that OSHA has not effectively evaluated the impact of hundreds of millions of dollars in penalty reductions as incentives to reducing workplace hazards.

Regarding MSHA, the OIG's reviews over the past several years revealed a pattern of weak oversight, inadequate policies, and a lack of accountability on the part of MSHA, which were exacerbated by years of resource shortages. MSHA's challenge involves effectively managing existing resources and utilizing existing authorities to maximize its enforcement efforts while fulfilling other important duties.

Historically, MSHA's resource shortage negatively impacted its ability to meet statutory requirements to conduct inspections at the nation's coal mines. In recent years, after Congress allocated supplemental funding to MSHA to hire additional mine inspectors, MSHA has emphasized completing 100% of its mandatory mine inspections. However, this has resulted in backlogs in other areas, such as the review of mine plans.

Recruiting and maintaining a properly trained cadre of mine inspectors is also a challenge for MSHA. A recent OIG audit found that journeyman MSHA inspectors were not being provided required periodic training. In addition, retirements and other attritions make maintaining a sufficient number of trained mine inspectors an ongoing challenge. By 2014, 41% of MSHA's enforcement personnel will be eligible to retire, and 25% are estimated to do so. Consequently, MSHA must recruit and train the right personnel, as well as enough of them, to accomplish all of its critical statutory responsibilities.

MSHA has also struggled to consistently and proactively utilize its authority to identify mine operators with the worst compliance records. In 1977, with the passage of the Mine Act, MSHA was given the authority to take enhanced enforcement actions when a mine operator demonstrates recurring safety violations. This Pattern of Violations (POV) authority is an important tool for MSHA's enforcement activities; however, a recent OIG audit found that MSHA had not successfully used its POV authority in 32 years. Another challenge for MSHA's enforcement activities is the large volume of citations contested by mine operators and the resulting backlog of cases currently before the Federal Mine Safety and Health Review Commission.

Lastly, studies show that the incidence of Black Lung disease is rising and the disease is being found in younger miners. MSHA faces a challenge to reverse this trend through measures to reduce coal dust exposure.

DEPARTMENT'S PROGRESS:
OSHA has established a new program, the Severe Violator Enforcement Program (SVEP), which is designed to concentrate resources on inspecting employers who repeatedly violate the OSH Act. SVEP includes a requirement for mandatory follow-up inspections. As an example, for follow-up inspections of construction companies, which frequently move from location to location, SVEP requires that at least one other worksite of the cited employer be inspected if the initial worksite is closed. The Department has also introduced a new approach to measuring the performance of worker protection agencies. Central to

this new approach is establishing regular processes for evaluating the success of enforcement strategies in helping to achieve desired outcomes.

MSHA continues to identify and hire mine inspector candidates within authorized personnel levels, and began examining and implementing faster, more efficient methods of delivering training using online technologies. Temporary resource reallocations and procedural changes have reduced the number of overdue mine plan reviews by two-thirds since 2008. MSHA indicates it has continued to work with the Federal Mine Safety and Health Commission to identify ways to reduce the backlog of challenged citations. Enacted in July 2010, the Supplemental Appropriations Act, 2010 (Public Law 111-212) provided an appropriation of $18.2 million to the Department of Labor for the purpose of reducing existing case backlog before the Commission, and for other purposes. Of that amount, the Department has transferred $4.451 million to MSHA for backlog reduction project expenses. MSHA continues to revamp the process and criteria for identifying mines with POV. In addition, MSHA is working with Congress to receive additional enforcement authorities through legislative changes. Through its "End Black Lung – Act NOW" initiative, MSHA has conducted public informational events, produced and distributed new educational materials, and co-sponsored one-day workshops with National Institute for Occupational Safety and Health (NIOSH). MSHA's rulemaking agenda includes work on a final rule regarding personal coal dust monitors and possible adjustments to coal dust exposure levels.

WHAT REMAINS TO BE DONE:
OSHA needs to monitor and evaluate the SVEP to ensure the program is being implemented as intended and is resulting in the identification and abatement of hazards having the desired results. As part of the Department's new approach to measuring the success of enforcement strategies, OSHA needs to evaluate the impact of penalty reductions on comprehensive improvements to workplace safety and health. OSHA also needs to implement its planned new information system, replacing its current 35-year-old system, which is subject to errors that hamper OSHA's enforcement efforts. In addition, adjustments to the new information system will likely be needed over the next several years to respond to program changes.

MSHA must formalize the policy and procedural changes of recent years by updating its operational handbooks, implement a human capital strategy that will continue to address expected enforcement personnel losses during the next five years, find ways to further reduce the number of overdue mine plan reviews, reduce the impact of any backlog of challenged citations on the effectiveness of its enforcement program, simplify and make more transparent its process and criteria for placing mines on POV status, and monitor and measure efforts to reduce the rise in Black Lung cases.

CHALLENGE: Improving Performance Accountability of Workforce Investment Act Grants

OVERVIEW:
In FY 2009, ETA reported program costs totaling $3.4 billion for the Workforce Investment Act (WIA) Adult, Dislocated Worker, and Youth programs. WIA adult employment and training programs are provided through financial assistance grants to States and territories to design and operate programs for disadvantaged persons, including public assistance recipients. ETA also awards grants to States to provide reemployment services and retraining assistance to individuals dislocated from their employment. Youth programs are funded through grant awards that support program activities and services to prepare low-income youth for academic and employment success, including summer jobs.

CHALLENGE FOR THE DEPARTMENT:
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, and disseminating and replicating proven strategies and programs. DOL is challenged to ensure the grants it awards accomplish program objectives. For example, SWAs are required under WIA to conduct evaluations of their Title IB workforce investment activities (Adult, Dislocated Worker, and Youth programs). A recent OIG audit found that not all SWAs conduct these evaluations, and those who do conduct them, do not always report the identified best practices in their respective WIA Annual Reports to ETA. ETA also did not have a process for analyzing and sharing the results with other SWAs and stakeholders. Without a mechanism for capturing, analyzing, and sharing the evaluations, SWAs and other grantees are missing opportunities to know and learn from other programs which may lead to significant improvements in their own operations.

ETA may face challenges in providing adequate oversight and monitoring for some of the grants it awards. Funds provided by the Recovery Act to ETA and used to monitor discretionary grants expired on September 30, 2010. The reduction in staff resources and funding for travel costs will impact ETA's ability to fully execute its grant monitoring and oversight functions. ETA is also still

working to improve the quality of WIA performance data reported by states. Reliable and timely performance data are needed to allow ETA to identify performance problems in time to correct them.

DEPARTMENT'S PROGRESS:
ETA has commissioned independent evaluations of demonstrations and initiatives. In response to an OIG audit, ETA issued policy guidance in September 2010, which clarifies the information states should submit regarding evaluation studies of WIA activities.

With respect to grant monitoring, ETA has requested funding for 48 additional Recovery Act monitoring positions in the FY 2011 budget. In the meantime, it plans to assign the Recovery Act workload to a combination of both Recovery Act-funded and permanent Federal Project Officers. ETA has developed a Workforce Analysis report for each Regional Office on how the Recovery Act grants will be absorbed into ongoing operations. ETA also indicated it has used its remaining Recovery Act administrative funds to secure contract support for administrative tasks related to grants management. ETA stated this will free up permanent staff time for grants monitoring.

WHAT REMAINS TO BE DONE:
ETA needs to develop a process to analyze evaluation results so that it can improve delivery of services nationally and be a proactive clearinghouse to the SWAs for best practices. ETA has indicated it will: 1) develop guidelines for Regional Office staff to initially review SWA evaluations to determine which ones to pass on to its national office for final review; 2) share best practices, tools, and replicable models identified through state evaluations based on rigorous research practices through its online technical assistance platform (www.Workforce3 One.org); and 3) explore opportunities, depending on funding availability, to improve the functionality of the Workforce3 One.org website. ETA also needs to complete the Data Validation component of its Core Monitoring Guide, provide training to ensure that its Regional Administrators and Federal Project Officers understand how to use the new component, and ensure data validation reviews are being done as part of regional monitoring in FY 2011.

CHALLENGE: Ensuring the Effectiveness of the Job Corps Program

OVERVIEW:
Education, training, and support services are provided to approximately 60,000 students at 124 Job Corps centers located throughout the United States and Puerto Rico. Job Corps centers are operated for DOL by private contractors, and by other Federal Agencies through interagency agreements. The program was appropriated nearly $1.7 billion in FY 2010.

CHALLENGE FOR THE DEPARTMENT:
Placement and Recruitment Outcomes – Job Corps has been challenged to meet its placement and recruitment goals over the past several years. The number of Job Corps graduates placed in jobs, continuing their education, and/or entering the military has declined from 91% for the year ended June 30, 2005, to 76% for the year ended June 30, 2010. In addition, in June 2009, Government Accountability Office (GAO) reported that Job Corps achieved between 95 and
98% of the planned enrollment for male residential students during program years 2005 through 2007, but about 80% or less of the planned enrollment for female residential students. GAO recommended that Job Corps modify its recruiting methods and offer more career training that is both attractive to females and leads to careers that will enable them to become self sufficient.

Safety and Health Issues – Ensuring the quality of life at centers, including healthy living conditions and the sense of safety, is a continuing challenge for Job Corps. OIG audits continued to identify unsafe or unhealthy conditions and the lack of required safety inspections at some centers. We also found that some centers did not hold required behavior review board meetings to evaluate student misconduct and initiate disciplinary action; and underreported significant incidents occurring at the centers.

Performance and Financial Reporting – Ensuring the integrity of performance and financial data reported by center operators is a challenge for Job Corps. OIG audits have found that weak controls at centers have resulted in the overstatement of performance results, as well as unallowable costs charged to Job Corps. This is a particular challenge for Job Corps as most centers are operated by contractors through performance-based contracts with incentive fees and bonuses that are tied directly to contractor performance. Under such contracts, there is a risk that contractors will overstate performance results. Regarding financial activity,

xamples of problems identified by OIG audits include questioned costs of $1.8 million related to a contractor's indirect costs, and $65,553 that another contractor charged for the Center Director's personal housing and travel expenses.

DEPARTMENT'S PROGRESS:
In FY 2010, Job Corps stated it developed new female-oriented marketing and recruitment materials and increased its career technical training offerings to attract females, including high-growth industries such as health care and green jobs. Job Corps also created and distributed new materials and DVDs to assist with recruitment efforts.

Job Corps stated it has published several Information Notices and Program Instructions on safety issues, sent quarterly memoranda to the Regional Directors regarding major hazards identified during centers' quarterly inspections, and provided technical assistance in response to inquiries about center abatement action plans. Job Corps also reported that centers continued to provide training and support to students on issues such as conflict resolution, abuse, and student leadership. Job Corps is in the process of clarifying its behavior management policies.

Job Corps stated that it added "Improving Data Integrity" to Regional Directors' performance standards, and conducted data integrity audits concurrently with onsite compliance/quality assessments.

WHAT REMAINS TO BE DONE:
Job Corps needs to evaluate the drop in graduate placements and identify strategies to reverse this trend. Job Corps stated it is closely examining ways to improve the graduate placement rate but noted that the economic climate is a factor in employment results. Job Corps also needs to evaluate the success of its newly developed training programs and its efforts to attract female students, and make adjustments where needed. In addition, Job Corps needs to take actions to ensure centers provide a safe and conducive learning environment while supporting student success and program retention. Finally, Job Corps needs to provide proactive, consistent, and rigorous oversight of contractors at all centers.

CHALLENGE: Safeguarding Unemployment Insurance

OVERVIEW:
ETA partners with the states to administer unemployment benefit programs. State UI provides benefits to workers who are unemployed and meet the eligibility requirements established by their respective states. UI benefits are largely financed through employer taxes imposed by the states and deposited in the Unemployment Trust Fund (UTF) from which the states pay the benefits. The states administer these programs under an agreement with DOL in accordance with their state laws and regulations. ETA funds SWAs who administer the UI program through grant agreements. These grant agreements are intended to ensure that SWAs efficiently administer the UI program and 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.

CHALLENGE FOR THE DEPARTMENT:
The current economic downturn has made controlling overpayments more difficult, as the number of claims filed has greatly increased and new programs had to be implemented quickly, which ETA stated caused states to shift resources from detecting improper payments to processing claims. For the 2010 Improper Payment and Information Act (IPIA) reporting period (July 2009 to June 2010), ETA reported a total overpayment rate of 10.59%, which equates to more than $15.2 billion in UI overpayments – an increase from the $11.4 billion reported for the 2009 IPIA period. ETA estimates that about $3.4 billion of these overpayments are attributable to fraud – an increase of $600 million from the $2.8 billion reported in FY 2009. OIG investigations continue to uncover UI fraud committed by individuals, as well as identity theft schemes designed to illegally obtain UI benefits. OIG's review of ETA's compliance with Executive Order 13520 and its required Report on UI Improper Payments identified improvements needed to measure and to mitigate UI improper payments.

ETA is also challenged to ensure that SWAs have adequate information technology (IT) contingency plans in place that provide for the continuation of services in the aftermath of disasters. Our prior audit found that ETA had not ensured that SWA partners had established and maintained adequate IT contingency plans. Specifically, 50 out of 51 plans lacked critical elements needed to ensure the continued availability of the UI systems.

DEPARTMENT'S PROGRESS:
In March 2010, the Department implemented the State Information Data Exchange System (SIDES), which enables communication and transmission of UI separation information requests from UI agencies to multi-state employers and third-party administrators. In May 2010, the Unemployment Compensation Program Integrity Act draft legislation was delivered to Congress, and if enacted, the legislation would permit states to use up to 5% of recovered unemployment compensation overpayments to deter and detect benefit overpayments. The legislation would also give employers incentive to provide timely, accurate, and complete information about why their former employees no longer work for them – information critical for states to determine eligibility. In addition, three more SWAs began using the National Directory of New Hires (NDNH) to identify persons who continued to collect UI payments after obtaining employment. ETA also agreed to conduct annual verification of SWAs' IT contingency plans to verify both plan existence and reliability. ETA stated they provided funding to assist states to develop or update UI IT contingency plans. Thirty-one states were provided funding totaling more than $4 million for this initiative.

WHAT REMAINS TO BE DONE:
ETA can further improve its oversight of the states' detection and prevention of UI, extended benefits, and Disaster Unemployment Assistance overpayments by fully implementing SIDES; increasing the frequency of SWA on-site reviews; and ensuring that California implements NDNH (California is the only state not to have done so, and it alone represents 13% of the UI overpayments nationally). ETA stated that California will implement NDNH by September 2011. ETA is continuing to pursue legislation to define the "Date of Hire" and mandate its reporting by employers; and continuing to promote States' use of a variety of other databases (e.g., Social Security, Department of Corrections) to prevent and detect improper UI benefit payments. ETA also needs to provide additional, more detailed information on its efforts to reduce improper payments in its next Report on UI Improper Payments. Finally, in FY 2011, ETA needs to continue working with the states on their development of well-documented IT contingency plans.

CHALLENGE: Improving the Management of Workers' Compensation Programs

OVERVIEW:
The Department has responsibility for managing the Energy Employees Occupational Illness Compensation Act Program (Energy workers' program) and the Federal Employees' Compensation Act (FECA) Program. Both of these programs are within DOL's Office of Workers' Compensation Programs (OWCP).

The Energy workers' program was created to provide monetary compensation and/or medical benefits to civilian employees who incurred an occupational illness, such as cancer, as a result of their exposure to radiation or other toxic substances while employed in the nuclear weapons and testing programs of the U.S. Department of Energy and its predecessor agencies. In certain circumstances, these employees' survivors may be eligible for compensation. Since the program began in 2001 and through August 26, 2010, DOL reports it has paid more than $6 billion in compensation and medical benefits to more than 61,400 claimants nationwide.

The FECA provides wage-loss compensation and pays medical expenses for covered Federal civilian and certain other employees who incur work-related occupational injuries or illnesses as well as survivors benefits for a covered employee's employment-related death. This program is administered by the Department, impacting all Federal agencies' budgets and employees. In FY 2010, Federal employees filed 127,526 new injury claims and 19,861 claims for loss compensation. FECA benefit expenditures totaled nearly $2.8 billion for wage-loss compensation and medical treatment to more than 250,000 beneficiaries in FY 2010. Most of these costs were charged back to individual agencies for reimbursement to OWCP's Federal Employees' Compensation Fund.

CHALLENGE FOR THE DEPARTMENT:
The overall challenge for the Energy workers' program centers on the timeliness of its claim decisions. For the FECA program, minimizing improper payments and fraud continues to be its primary challenge. FECA fraud opportunities continue to exist, and certain ones are made more likely by FECA's inability to match FECA compensation recipients against social security wage records.

The Energy Workers Compensation program, though administered by the DOL, requires the pre-adjudication input, assistance, and determinations of three other major Federal agencies and a Federal advisory board. Complex regulatory requirements and the difficulty of locating employment and other records, as well as the inability of sick, often aging, claimants to fully understand their rights and responsibilities, contribute to the lengthy decision process. Furthermore, the NIOSH must prepare a complicated and time consuming dose reconstruction of the amount of radiation to which an employee with cancer was exposed. The Department has no regulatory authority to control the completion time of the NIOSH process.

The FECA program must ensure it makes proper payments, while also being responsive and timely to eligible claimants. The challenges facing the FECA program include 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, and we have previously reported OWCP does not have the legal authority to match FECA compensation recipients against Social Security wage records. Currently, OWCP must obtain written permission each time from each individual claimant in order to check records. Having direct authority to perform the match would enable OWCP to identify individuals who are collecting FECA benefits while working and collecting wages.

DEPARTMENT'S PROGRESS:
The Division of Energy Employees Occupational Illness Compensation indicates it has implemented new procedures to reduce the time it takes to develop impairment claims and it is revamping its procedural guidance. In addition, the Department has set up procedures to measure its timeliness of performance starting from the point of application to the final decision and payment. Furthermore, DOL now publishes graphs on its Web site that show processing times for various types of cases, including those sent to NIOSH for completion of a dose reconstruction. DOL has sponsored town hall meetings to inform workers and their survivors about available program benefits, and its Traveling Resource Center goes out monthly to assist individuals with the filing of their claims. DEEOIC continues to work with pre-decisional components to streamline and improve the issuance of final decisions.

The Department completed the rollout of its FECA benefit payment system, the Integrated Federal Employee Compensation System. This system is designed to track due dates of medical evaluations, revalidate eligibility for continued benefits, use data mining to prevent improper payments, boost efficiency, and improve customer satisfaction. The Department has sought legislative authority to allow it access to Social Security Administration wage records. In addition, the OIG continued to provide training to DOL and to other Federal agencies in the detection and prevention of fraud against the FECA program.

WHAT REMAINS TO BE DONE:
The Department needs to continue its efforts to further reduce case processing times. While average processing times in the Energy Workers program have improved over the past several years, it still takes more than 18 months to reach a final decision on a Part B case. Part B covers current or former workers who have been diagnosed with cancers, beryllium disease, or silicosis, and whose illness was caused by exposure to radiation, beryllium, or silica.

In addition to the need for access to SSA wage records, the Department needs to continue to seek legislative reforms to the FECA program to 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 10 years to be $437 million.

CHALLENGE: Maintaining the Integrity of Foreign Labor Certification Programs

OVERVIEW:
The Department's Foreign Labor Certification (FLC) programs are administered by the ETA. These programs are intended to provide 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 labor certification program allows an employer to hire a foreign worker to work permanently in the United States, if a qualified U.S. worker is unavailable and the employment of the foreign worker will not adversely affect

the wages and working conditions of similarly employed U.S. workers. 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 United States and perform temporary non-agricultural labor on a one time, seasonal, peak load, or intermittent basis. To obtain certification, employers must show that there are insufficient qualified U. S. workers available and willing to perform the work at the prevailing wage paid for the occupation. In addition, employers are required to pay any foreign worker the wage rate that prevails in the area of employment for the occupation and to comply with all laws governing such employment.

CHALLENGE FOR THE DEPARTMENT:
ETA is challenged in ensuring the integrity of the FLC programs it administers. OIG investigations (initiated on referrals from ETA and other law and non-law enforcement entities, as well as pro-active OIG efforts) continue to uncover schemes carried out by immigration attorneys, labor brokers, and transnational organized crime groups, some with possible national security implications. OIG investigations have repeatedly revealed schemes involving fraudulent applications filed with DOL on behalf of fictitious companies, and those wherein fraudulent applications were filed using the names of legitimate companies without the companies' knowledge. Additionally, OIG investigations have uncovered complex schemes involving fraudulent DOL FLC documents filed in conjunction with or in support of similarly falsified identification documents required by other Federal and state organizations.

Additional challenges ETA faces in maintaining the integrity of its foreign labor certification programs include statutory limits on its authority in the H-1B program, making system improvements in its H-1B Labor Condition Application processing system to better identify incomplete and/or obviously inaccurate applications, and uncertainty regarding the Department's authority to debar individuals or entities.

DEPARTMENT'S PROGRESS:
ETA's Office of Foreign Labor Certification (OFLC), Fraud Detection and Prevention Unit, which targets application fraud by reviewing applications for inconsistencies, errors, and omissions, continues to work closely with the OIG to identify and reduce fraud in the FLC process.

WHAT REMAINS TO BE DONE:
The Department needs to continue working with OIG to identify and reduce fraud, ensure appropriate training is provided to OFLC staff, and evaluate the results of its certification processes to assess their effectiveness. The Department needs to make adjustments to enhance integrity of its iCert H-1B Labor Condition Application processing system to incorporate missing electronic controls. Additionally, the Department should ensure debarments are considered, and decisions documented, for anyone convicted of FLC violations, and FLC debarments are reported to appropriate DOL personnel for inclusion in the government-wide exclusion system. To this end, ETA needs to work with the Office of the Solicitor to resolve this matter.

CHALLENGE: Securing Information Technology Systems and Protecting Related Information Assets

OVERVIEW:
DOL systems contain vital, sensitive information that is central to the Department's mission and to the effective administration of its programs. DOL systems are used to determine and house the Nation's leading economic indicators, such as the unemployment rate and the Consumer Price Index. They also maintain critical data related to worker safety and health, pension, and welfare benefits, job training services, and other worker benefits. The Congress and the public have voiced concerns over the ability of government agencies to provide effective information security and to protect critical data. The administration has called upon federal agencies to bring about greater use of technology to consolidate data center operations, use cloud computing infrastructures and services, and make use of Web 2.0 technologies, including blogs and social-networking services.

CHALLENGE FOR THE DEPARTMENT:
Overall, management of IT systems is a continuing challenge for DOL. Keeping up with new threats, IT developments, providing assurances that IT systems will function reliably, and safeguarding information assets will continue to challenge the Department today and in the future. The administration's goal of expanding the use of technology to create and maintain an open and transparent government, while safeguarding systems and protecting sensitive information, has added to the challenge.

The FY 2010 Federal Information Security Management Act (FISMA) audit identified access controls, inventory of sensitive IT assets, oversight of third-party systems, and remediation of known vulnerabilities as significant deficiencies. 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. Furthermore, the security of sensitive information that can be accessed remotely or stored on mobile computers/devices is a continuing challenge to the Department and in the Federal government overall. Management of these areas will likely become more challenging in the future as cloud computing is implemented. Consolidating data centers and moving mission critical systems to the cloud increases the risk of exposing personal identifiable information (PII) and unauthorized information exchanges, including critical and sensitive pre-decisional budget and policy information. While acknowledging the ongoing opportunity to improve controls, management has expressed its disagreement with these FISMA audit findings, in particular the seriousness of the issues identified by the OIG.

In light of these challenges, the OIG continues to recommend the creation of an independent Chief Information Officer (CIO) to provide exclusive oversight of all issues affecting the IT capabilities of the Department. While the Administration has moved to establish a separate CIO and Chief Technology Officer, DOL continues to manage its IT systems with a CIO who must balance IT with other important responsibilities, such as serving as the Chief Acquisition Officer (CAO) and Privacy Officer. The administration has clearly signaled that to be effective in meeting its objectives and goals going forward, such as implementing an open and transparent government, it will take a greater level of dedication to IT management and governance than in the past.

DEPARTMENT'S PROGRESS:
The Department is participating on several Federal Councils, Committees and Forums (e.g., Federal Chief Information Officer Council, Information Security and Identity Management Committee, the Chief Information Security Officer Forum) to assist in the development and implementation of policies, procedures, and standards that will address these challenges. In FY 2010, the Department focused its continuous monitoring program on the implementation of NIST 800-53 Rev 2 minimum security controls and on testing and evaluating access control and configuration management policies and procedures. Additionally, the Department established a Social Media Governance Work group that developed a Social Media policy and Handbook.

WHAT REMAINS TO BE DONE:
The Department needs to establish an independent CIO to provide exclusive oversight of all issues affecting the IT capabilities of the Department. DOL management recognizes the challenges associated with protecting the Department's information and information systems and is committed to strengthening its security posture. As such, the Department currently has plans in place to improve upon its security controls testing and evaluation process by performing agency specific customized testing that will focus on the agencies' high-risk vulnerabilities and control weaknesses and to pursue a technical solution for logging computer readable data extracts. Additionally, the Department will continue its current enterprise IT efforts to strengthen DOL's operating environment to include: infrastructure optimization, trusted internet connection, logical access control system, and a DOL risk management and compliance profile program. Social networking technologies will require the Department to develop new approaches to continuous monitoring of computer usage and providing information security assurance as the Department and its agencies begin taking advantage of Web 2.0, including blogging, Wiki, Facebook, MySpace, and Twitter as part of replacing old ways of communicating.

CHALLENGE: Ensuring the Security of Employee Benefit Plan Assets

OVERVIEW:
The mission of the Department's Employee Benefits Security Administration (EBSA) is to protect the security of retirement, health, and other private-sector employer-sponsored benefits for America's workers, retirees, and their families. EBSA oversees benefit security for an estimated 708,000 private retirement plans, 2.8 million health plans, and similar numbers of other welfare benefit plans, such as those providing life or disability insurance. Benefits under EBSA's jurisdiction consist of approximately $5 trillion in assets covering more than 150 million participants and beneficiaries. 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 benefits and benefit plan assets generally against fraud, misconduct, and negligence remains an ongoing challenge for the Department. OIG investigations have shown that benefit plan assets remain vulnerable to labor racketeering and/or organized crime influence. These pension plans, health plans, and welfare benefit plans comprise trillions of dollars in assets covering more than 150 million American workers. Dishonest benefit plan service providers, including accountants, investment advisors, and plan administrators, continue to be a strong focus of OIG investigations, as well as corrupt union officials and/or organized crime members.

EBSA Has Limited Authority to Oversee Plan Audits – Employee benefit plan audits by independent public accountants (IPAs) must provide a first-line defense for plan participants against financial loss. Ensuring that audits by IPAs meet quality standards adds to the Department's challenge because the Department's authority to require plan audits to meet standards remains limited. EBSA does not have the authority to suspend, debar, or levy civil penalties against employee benefit plan auditors who perform substandard audits. In addition, ERISA allows plan administrators to exclude investments held by certain regulated institutions, such as banks and insurance companies, from the scope of a plan audit, resulting in the auditor's disclaimer of opinion on the financial statements, which seriously impairs the usefulness of the audit in protecting employee benefit plan assets.

EBSA Lacks Ability to Assess Enforcement Program Effectiveness – EBSA lacks the ability to assess the effectiveness of its civil enforcement programs. Our audits have found that EBSA could not determine whether its civil enforcement projects, such as the Multiple Employer Welfare Arrangements project and the Rapid ERISA Action Team (REACT) project, were increasing compliance with ERISA, or whether the projects were decreasing the risk that workers will lose benefits. We also found that EBSA could not clearly demonstrate it was directing resources to the enforcement areas with the most impact on its mission to deter and correct ERISA violations. Each EBSA regional office differed in its interpretation of its enforcement program impact and desired outcomes. As a result, the allocation of resources differed among the regional offices, and agency resources may not have been directed at areas with the most impact.

Multiple Challenges Stem from Implementing the Patient Protection and Affordable Care Act (Health Care Reform Act) –The broad changes required by the Health Care Reform Act will challenge the Department to develop in excess of thirty new health plan regulations and provide ongoing technical assistance, incorporate new requirements into employee benefit enforcement programs, institute new statutorily mandated research and health plan surveys, and broaden assistance and educational programs for employee benefit plan participants and beneficiaries. These new and extensive health care requirements will pose major challenges for the Department.

DEPARTMENT'S PROGRESS:
The Department has previously sought legislative changes, such as expanding the authority of EBSA to address substandard benefit plan audits, and ensuring that auditors with poor records are not allowed to continue performing plan audits; these changes have not been enacted by Congress. In addition, the Department has unsuccessfully sought recommended legislative changes to either eliminate or modify the limited-scope audit exception to strengthen the protections afforded plan participants and beneficiaries. EBSA is working on new approaches to these issues and developing possible legislative language.
In an effort to address inadequate assessments of the effectiveness of its enforcement program, EBSA, as part of the Department's FY 2011- 2016 Strategic Plan, will be implementing a Sample Investigation Program in 2011, which will review randomly selected employee benefit plans for compliance with ERISA. EBSA has also published eight interim final regulations under the Health Care Reform Act, as well as other sub-regulatory guidance documents and model notices.

WHAT REMAINS TO BE DONE:
EBSA needs to continue work to obtain legislative change to address deficient benefit plan audits, to ensure that auditors with poor records do not perform any additional plan audits, and to repeal the limited scope audit exception. EBSA will need to evaluate the results of the Sample Investigation Program to determine what changes are needed to improve program effectiveness, and continue its efforts to develop guidance to support its implementation of the Health Care Reform Act.

CHALLENGE: Ensuring DOL's New Core Financial Management System Produces Reliable, Accurate, and Timely Financial Information

OVERVIEW:
From FY 1989 to FY 2010, the DOL has relied upon the Department of Labor Accounting and Related Systems (DOLAR$) as the financial system of record for the department. DOLAR$ was implemented prior to all of the modern-day laws and regulations that drive Federal accounting, financial management, financial reporting, and information security. As a result, DOLAR$ was enhanced and extended numerous times to meet the Department's internal and external reporting requirements; however, DOLAR$ antiquated technology did not allow DOL to efficiently and effectively meet its current and future financial and accounting needs. In July 2008, the Department awarded a contract for the development of the New Core Financial Management System (NCFMS). NCFMS was planned to be fully implemented and operational by mid-October 2009, but migration of data from DOLAR$ to NCFMS did not occur until January 2010.

CHALLENGE FOR THE DEPARTMENT:
The implementation of NCFMS has presented the Department with several challenges. The number of actual users is significantly higher than planned. Initial estimates were 500 total users, but as of October 2010, the count is more than 2,600. It remains a challenge to support this larger than expected user base.

The Department is currently unable to produce auditable financial statements on schedule. The Department is challenged to clean up inaccurate financial data from DOLAR$ and interfacing systems. Until these actions are completed, the system will continue to provide incorrect financial and budgetary information.

While many of the problems the Department has encountered with NCFMS can be attributed to the migration of data from DOLAR$, new problems have been introduced due to the significant change in business processes and the users' lack of understanding of the new system. In NCFMS, certain key processes are performed differently than they were in DOLAR$, because NCFMS incorporates the various OMB, Treasury and other Federal financial requirements, processes and controls.

DEPARTMENT'S PROGRESS:
The Department has indicated that NCFMS is now providing all of DOL with day-to-day financial transaction processing, budget execution, and reporting. Initially, integration and data migration issues required some manual workarounds to release grants and procurements. Additional data migration activities have substantially improved processing of these transactions, and the issuance of grants, travel payments and procurements is being consistently performed accurately and timely by NCFMS.

Initial NCFMS training was started in the summer of 2009; and based on feedback from attendees, the training was reformatted and given again with an agency focus in the fall of 2009. Computer Based Training and Quick Reference Guides were available in January 2010 prior to the NCFMS go-live, and continue to be used.

DOL stated it has been working with its service provider to scale the hardware, software, help desk, training, operations, and onsite support staff. According to DOL, this surge in support has resulted in the reduction of transaction backlogs, the lowering of late payment penalties and the increase in the accuracy of the data as transactions are getting processed more timely.

WHAT REMAINS TO BE DONE:
DOL needs to continue to work closely with OMB, Treasury and the OIG to address data quality and accuracy of reporting. The Department needs to enhance training materials on NCFMS and continue to train the NCFMS user community on its full capabilities. In addition, standard operating procedures and other such tools for NCFMS should be reviewed and revised on an ongoing basis to ensure that newly hired personnel have references on how to use the system. The first 9 months saw substantial increases in the number of late payment penalties as staff adjusted to the new business process. While DOL states it has nearly reached pre-implementation late payment rates, DOL needs to improve operational efficiencies in 2011 beyond the benchmarks of the previous system.

Appendix

Changes from Last Year

Changes to the Top Management Challenges from FY 2009 include the addition of the challenge related to the implementation of the Department's NCFMS.

Improving Procurement Integrity was previously discussed in our FY 2009 Top Management Challenges. While the enactment of the Recovery Act greatly increased the amount of acquisition activity in the Department, our audit work found that, overall, the awards were announced, evaluated, and selected in accordance with relevant criteria. Additionally, Job Corps has addressed concerns expressed in previous audits regarding the lack of adequate segregation of duties between its Regional Director and Contracting Officer responsibilities by placing those functions in two different reporting structures.

While we have removed procurement integrity from the FY 2010 Top Management Challenges, we remain concerned that the Department has decided against appointing a CAO whose primary duty is acquisition management, as required by the Services Acquisition Reform Act of 2003. Audits of the Department's procurement activities will remain a priority for the OIG.

Funds Put to a Better Use

Funds Put to a Better Use Agreed to by DOL	Number of Reports	Dollar Value ($ millions)
For which no management decision had been made as of the commencement of the reporting period	2	142.2
Issued during the reporting period	5	1,340.5
Subtotal	7	1,482.7
For which management decision was made during the reporting period:		
•Dollar value of recommendations that were agreed to by management	2	142.2
•Dollar value of recommendations that were not agreed to by management		0
For which no management decision had been made as of the end of the reporting period	5	1,340.5

Funds Put to a Better Use Implemented by DOL	Number of Reports	Dollar Value ($ millions)
For which final action had not been taken as of the commencement of the reporting period	4	1.6
For which management or appeal decisions were made during the reporting period	2	142.0
Subtotal	6	143.6
For which final action was taken during the reporting period:		
•Dollar value of recommendations that were actually completed		110.0
•Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed		0
For which no final action had been taken by the end of the period	6	33.6

Questioned Costs

Resolution Activity: Questioned Costs	Number of Reports	Questioned Costs ($ millions)
For which no management decision had been made as of the commencement of the reporting period (as adjusted)	16	47.7
Issued during the reporting period	29	8.0
Subtotal	45	55.7
For which a management decision was made during the reporting period:		
•Dollar value of disallowed costs		30.1
•Dollar value of costs not disallowed		5.1
For which no management decision had been made as of the end of the reporting period	28	20.5
For which no management decision had been made within six months of issuance	6	12.9

Closure Activity: Disallowed Costs	Number of Reports	Disallowed Costs ($ millions)
For which final action had not been taken as of the commencement of the reporting period (as adjusted)*	79	40.2
For which management or appeal decisions were made during the reporting period	11	30.4
Subtotal	90	70.6
For which final action was taken during the reporting period:		
•Dollar value of disallowed costs that were recovered		29.6
•Dollar value of disallowed costs that were written off by management		0.2
•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	80	40.8

*These figures are provided by DOL agencies and are unaudited. Does not include $1.7 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 Reports Issued

Program Name Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)	Funds Put To Better Use ($)	Other Monetary Impact ($)
Employment and Training Programs				
Job Corps Program				
Performance Audit of MINACT, Inc., Job Corps Center Operator; Report No. 26-10-004-01-370; 08/10/10	5	203,921	0	0
Applied Technology Systems, Inc. Overcharged Job Corps for Indirect Costs; Report No. 26-10-006-01-370; 09/24/10	3	1,800,000	0	0
Hotline Complaint Against the Sierra Nevada Job Corps Center; Report No. 26-10-007-01-370; 09/30/10	3	0	0	0
Recovery Act: Job Corps Could Not Demonstrate that the Acquisition of the New Facility at the Los Angeles Job Corps Center Using a Multi-Year Lease was the Least Expensive Option; Report No. 18-10-009-03-370; 09/30/10	2	0	31,000,000	0
Veterans Employment and Training Service				
VETS Needs to Strengthen Management Controls Over the Transition Assistance Program; Report No. 06-10-002-02-001; 09/30/10	4	2,300,000	713,000	0
The Homeless Veterans Reintegration Program Needs to Make Improvements to Ensure Homeless Veterans' Employment Needs Are Met; Report No. 06-10-003-02-001; 09/30/10	3	0	5,900,000	0
Texas Veterans Commission Could Enhance Services to Veterans with Barriers to Employment; Report No. 06-10-001-02-201; 05/28/10	1	0	2,900,000	0
Workforce Investment Act				
Audit of State Workforce Agency Evaluations of Workforce Investment Act Title IB Program; Report No. 03-10-003-03-390; 08/31/10	3	0	0	0
Recovery Act: Data Quality in Recipient Reporting; Report No. 18-10-002-03-390; 09/27/10	2	0	0	0
Recovery Act: Employment and Training Administration Grant Issuance and Monitoring Policies and Procedures for Discretionary Grants Including Green Jobs Are Comprehensive but Funding Challenges Threaten the Quality of Future Monitoring Activities; Report No. 18-10-013-03-390; 09/30/10	2	0	0	0
Goal Totals (10 Reports)	**28**	**4,303,921**	**40,513,000**	**0**
Worker Benefit Programs				
Unemployment Insurance Service				
Recovery Act: More Than $1.3 Billion in Unemployment Insurance Modernization Incentive Payments Are Unlikely to Be Claimed by States; Report No. 18-10-012-03-315; 09/30/10	1	0	1,300,000,000	0
Federal Employees' Compensation Act				
Service Auditors' Report on Integrated Federal Employees' Compensation System and Service Auditors' Report on the Medical Bill Processing System For the Period October 1, 2009 to March 31, 2010; Report No. 22-10-008-040431; 09/24/10	0	0	0	0
Employee Benefits Security Administration				
EBSA Needs to Do More to Protect Retirement Plan Assets From Conflicts of Interest; Report No. 09-10-001-12-121; 09/30/10	2	0	0	0
Goal Totals (3 Reports)	**3**	**0**	**1,300,000,000**	**0**
Worker Safety, Health and Workplace Rights				
Mine Safety and Health				
In 32 Years MSHA Has Never Successfully Exercised Its Pattern of Violations Authority; Report No. 05-10-005-06-001; 09/29/10	10	0	0	0
Occupational Safety and Health				
OSHA Needs to Evaluate the Impact and Use of Hundreds of Millions of Dollars in Penalty Reductions as Incentives for Employers to Improve Workplace Safety and Health; Report No. 02-10-201-10-105; 09/30/10	7	0	0	0

Final Audit Reports Issued, continued

Program Name Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)	Funds Put To Better Use ($)	Other Monetary Impact ($)
Foreign Labor Certification				
Debarment Authority Should Be Used More Extensively in Foreign Labor Certification Programs; Report No. 05-10-002-03-321; 09/30/10	3	0	0	0
Goal Totals (4 Reports)	**16**	**0**	**0**	
Departmental Management				
OASAM Management				
Recovery Act: Use of Departmental Management Funds; Report No. 18-10-011-07-001; 09/17/10	0	0	0	0
Office of the Chief Financial Officer				
DOL Needs to Establish a Central Point of Accountability Over The Department's Working Capital Fund Operations to Ensure It Meets the Legislative Intent; Report No. 03-10-002-13-001; 09/28/10	9	0	0	0
Goal Totals (2 Reports)	**9**	**0**	**0**	**0**
Final Audit Report Totals (19 Reports)	**56**	**4,303,921**	**1,340,513,000**	**0**

Other Reports

Program Name Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)
Employment and Training Programs		
Office of Disability Employment Program		
Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit of: Office of Disability Employment Policy's Disability.gov; Report No. 23-10-016-01-080; 09/30/10	34	0
Veterans Employment and Training Service		
Updated Status of Prior-Year Recommendations Related to VETS IT Security; Report No. 23-10-006-02-001; 04/13/10	0	0
Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit of: Veterans' Employment and Training's User Interface Management System; Report No. 23-10-021-01-001; 09/30/10	35	0
Workforce Investment Act		
Recovery Act: Quality Control Review Single Audit of Upper Rio Grande Workforce Development Board, Inc. for the Year Ended June 30, 2009; Report No. 18-10-007-03-390; 09/16/10	4	0
Recovery Act: Quality Control Review Single Audit of Human Resources and Occupational Development Council of Puerto Rico for Year Ended June 30, 2009; Report No. 18-10-008-03-390; 09/29/10	4	0
Bureau of Labor Statistics		
Updated Status of Prior-Year Recommendations Related to BLS IT Security; Report No. 23-10-013-11-001; 08/05/10	0	0
Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit of: Bureau of Labor Statistics' Consumer Price Index; Report No. 23-10-015-11-001; 09/30/10	16	0
Goal Totals (7 Reports)	**93**	**0**
Worker Benefit Programs		
Unemployment Insurance Service		
Recovery Act: Quality Control Review Single Audit of State of Michigan Unemployment Compensation Fund for the Year Ended September 30,2009; Report No. 18-10-010-03-315; 09/16/10	0	0
Review of Report on Improper Payments in the Unemployment Insurance Program; Report No. 22-10-020-03-314; 09/30/10	2	0
Quality Control Review: Single Audit of South Carolina Employment Security Commission for the Year Ended June 30, 2008; Report No. 24-10-003-03-315: 06/07/10	3	0
Office of Federal Contract Compliance		
Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit of: Office of Federal Contract Compliance Programs' Information System; Report No. 23-10-017-04-410; 09/30/10	37	0
Office of Workers' Compensation Programs		
OWCP Updated Status of Prior-Year Recommendations Related to IT Security; Report No. 23-10-007-04-430; 04/13/10	0	0
Employee Benefits Security Program		
Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit of: Employee Benefits Security Administration's General Support System; Report No. 23-10-020-12-001; 09/30/10	24	0
Goal Totals (6 Reports)	**66**	**0**
Worker Safety, Health and Workplace Rights		
Mine Safety and Health		
Alert Memorandum: MSHA Set Limits on the Number of Potential Pattern of Violation Mines to be Monitored; Report No. 05-10-004-06-001; 07/06/30	2	0
Occupational Safety and Health		
Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit of: Occupational Safety and Health Administration's Technical Information Management System; Report No. 23-10-018-10-001; 09/30/10	28	
Goal Totals (2 Reports)	**30**	**0**

Other Reports, continued

Departmental Management		
Office of the Secretary		
Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit of: Office of Public Affairs National Contact Center; Report No. 23-10-019-01-001; 09/29/10	27	0
Office of the Chief Financial Officer		
Alert Memorandum: Critical Deadlines Associated with the U.S. Department of Labor Fiscal Year 2010 Consolidated Financial Statement Audit; Report No. 22-10-017-13-001; 04/25/10	2	0
Alert Memorandum: Delays in Meeting Critical Deadlines Associated with the U.S. Department of Labor Fiscal Year 2010 Consolidated Financial Statement Audit; Report No. 22-10-018-13-001; 06/23/10	1	0
Updated Status of Prior-Year Recommendations Related to IT Security in the Office of the Chief Financial Officer; Report No. 23-10-003-13-001; 04/19/10	1	
Goal Totals (4 Reports)	**31**	**0**
Other Report Totals (19 Reports)	**220**	**0**

Single Audit Reports Processed

Program Name Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)
Employment and Training Programs		
Veterans Employment and Training Service		
State of California; Report No. 24-10-548-02-201; 04/19/10	1	0
Network Enterprises, Inc.; Report No. 24-10-570-02-201; 042/13/10	1	0
Harbor Homes, Inc.; Report No. 24-10-596-02-201; 07/12/10	0	11,462
Way Station, Inc.; Report No. 24-10-601-02-201; 07/22/10	1	0
Employment and Training - Multiple Programs		
State of Montana; Report No. 24-10-536-03-001; 04/19/10	6	32,180
State of California; Report No. 24-10-542-03-001; 04/19/10	4	0
Department of Labor and Industrial Relations State of Hawaii; Report No. 24-10-543-03-001; 04/12/10	3	0
State of Nevada; Report No. 24-10-545-03-001; 05/03/10	7	264,111
Indianapolis Private Industry Council; Report no. 24-10-546-03-001; 04/01/10	2	0
State of Vermont; Report No. 24-10-547-03-001; 04/19/10	3	13,334
State of Connecticut; Report No. 24-10-549-03-001; 05/03/10	4	0
State of Washington, Report No. 24-10-550-03-001; 05/03/10	3	0
State of New Hampshire; Report No. 24-10-553-03-001; 04/23/10	6	1,925
State of Nebraska; Report No. 24-10-554-03-001; 05/13/10	11	134,811
State of Texas; Report No. 24-10-556-03-001; 04/19/10	3	0
State of Delaware; Report No. 24-10-557-03-001; 05/04/10	2	13,652
State of North Carolina; Report No. 24-10-559-03-001; 05/13/10	9	11,670
State of Minnesota; Report No. 24-10-563-03-001; 05/03/10	8	0
Jefferson County Commission; Report No. 24-10-565-03-001; 05/04/10	2	0
State of Georgia; Report No. 24-10-566-03-001; 05/03/10	5	573,469
State of Colorado; Report No. 24-10-567-03-001; 05/13/10	7	0
State of Wisconsin; Report No. 24-10-572-03-001; 06/04/10	2	7,238
Southern California Indian Center; Report No. 24-10-574-03-001; 05/20/10	3	0
Oregon Human Development Corporation; Report No. 24-10-575-03-001; 05/20/10	1	0
State of Louisiana; Report No. 24-10-576-03-001; 05/20/10	2	0
State of New Jersey; Report No. 24-10-577-03-001; 05/20/10	2	0
New Mexico Department of Workforce Solutions; Report No. 24-10-578-03-001; 05/20/10	4	0
State of Rhode Island and Providence Plantations; Report No. 24-10-579-03-001; 05/20/10	4	0
State of South Dakota; Report No. 24-10-582-03-001; 06/04/10	6	1,196
City of Greenfield; Report No. 24-10-583-03-001; 06/04/10	14	13,665
State of Missouri; Report No. 24-10-584-03-001; 06/29/10	2	2,280
Youth Adult Development In Action, Inc.; Report No. 24-10-585-03-001; 06/29/10	1	0
National Indian Council on Aging, Inc.; Report No. 24-10-587-03-001; 06/29/10	3	0
Territory of American Samoa; Report No. 24-10-591-03-001; 07/07/10	2	0
State of Ohio; Report No. 24-10-592-03-001; 07/07/10	6	159,312
Commonwealth of Pennsylvania; Report No. 24-10-594-03-001; 07/09/10	2	79,099
State of Illinois; Report No. 24-10-604-03-001; 08/17/10	12	35,023

Single Audit Reports Processed, continued

Program Name Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)
Indian and Native American Program		
San Carlos Apache Tribe; Report No. 24-10-562-03-355; 05/03/10	1	0
Alu Like, Inc. and Subsidiaries; Report No. 24-10-568-03-355; 05/13/10	2	0
Workforce Investment Act		
Delaware County Community College; Report No. 24-10-544-03-390; 10/04/10	1	0
Commonwealth of Kentucky; Report No. 24-10-558-03-390; 05/03/10	1	0
State of Florida; Report No. 24-10-569-03-390; 05/13/10	3	0
Commonwealth of Puerto Rico Human Resources and Occupational Development Council; Report No. 24-10-571-03-390; 05/13/10	6	13,082
State of West Virginia.; Report No. 24-10-573-03-390; 05/13/10	1	11,634
South Carolina Employment Security Commission; Report No. 24-10-581-03-390; 06/04/10	12	1,790,532
Cobb Housing, Inc.; Report No. 24-10-586-03-390; 06/29/10	2	27,106
State of Arizona; Report No. 24-10-588-03-390; 07/02/10	3	0
Government of Guam; Report No. 24-10-590-03-390; 07/06/10	2	0
City of Peoria, Illinois; Report No. 24-10-595-03-390; 07/09/10	2	0
Quality Career Services; Report No. 24-10-597-03-390; 07/12/10	1	0
Southern Nevada Workforce Investment Board; Report No. 24-10-598-03-390; 07/12/10	9	0
Seminole Nation of Oklahoma; Report No. 24-10-599-03-390; 07/14/10	1	0
The Navajo Nation; Report No. 24-10-600-03-390; 07/19/10	6	0
State of Alabama; Report No. 24-10-602-03-390; 08/02/10	1	0
The School District of the City of Harrisburg; Report No. 24-10-603-03-390; 08/17/10	1	361,677
Garfield Jubilee Association, Inc.; Report No. 24-10-605-03-390; 08/23/10	10	11,730
John C. Calhoun Community College; Report No. 24-10-606-03-390; 09/24/10	1	0
Goal Totals (57 Reports)	**220**	**3,570,188**
Worker Benefit Programs		
Unemployment Insurance Service		
State of Oregon; Report No. 24-10-551-03-315; 05/03/10	2	0
State of Iowa; Report No. 24-10-552-03-315; 04/23/10	2	0
State of Alaska; Report No. 24-10-555-03-315; 05/20/10	1	81,395
State of Indiana; Report No. 24-10-560-03-315; 05/13/10	2	0
State of Idaho; Report No. 24-10-561-03-315; 05/04/10	1	0
State of Oklahoma; Report No. 24-10-564-03-315; 05/13/10	3	0
Government of the District of Columbia; 24-10-589-03-315; 07/06/10	3	41,956
State of Michigan - Unemployment Compensation Fund; Report No. 24-10-593-03-315; 07/08/10	1	1,951
Goal Totals (8 Reports)	**15**	**125,302**
Worker Safety, Health and Workplace Rights		
Occupational Safety and Health		
New Mexico Environment Department; Report No. 24-10-541-10-001; 04/01/10	1	0
State of California; Report No. 24-10-580-10-001; 04/19/10	2	37
Goal Totals (2 Reports)	**3**	**37**
Report Totals (67 Reports)	**238**	**3,695,527**

Unresolved Audit Reports Over Six Months Old

Agency	Date Issued	Name of Audit	# of Recommendations	Questioned Costs ($)
Nonmonetary Recommendations and Questioned Costs				
Final Management Decision/Determination Issued By Agency Did Not Resolve; OIG Negotiating with Agency				
Job Corps	9/30/2008	Performance Audit of Applied Technology System, Inc. Job Corps Centers: Report No. 26-08-005-01-370	2	678,643
Job Corps	9/15/2009	Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit of: Job Corps' General Support: Report No. 23-09-006-01-370	4	0
Job Corps	3/31/2009	Performance Audit of Management and Training Corporation Job Corps Centers: Report No. 26-09-001-01-370	1	63,943
Job Corps	3/3/2010	Performance Audit of Rescare, Inc.: Report No. 26-10-002-01-370	5	116,794
Job Corps	3/18/2010	Performance Audit of Education and Training Resources: Report No. 26-10-003-01-370	5	22,758
OSHA	3/31/2009	Employees With Reported Fatalities Were Not Always Properly Identified and Inspected Under OSHA's Enhanced Enforcement Program: Report No. 02-09-203-10-105	2	0
EBSA	8/28/2008	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	3	0
EBSA	3/31/2009	EBSA Could More Effectively Evaluate Enforcement Project Results: Report No. 05-09-003-12-001	3	0
EBSA	9/30/2009	EBSA Could Strengthen Policies and Procedures over the REACT Project: Report No. 05-09-005-12-001	2	0
ETA	3/31/2010	Recovery Act: The U.S. Department of Labor Needs to Evaluate its Role in The Health Coverage Tax Credit (HCTC) Program: Report No. 18-10-003-03-390	4	0
ETA	3/31/2010	Recovery Act: Actions Needed to Better Ensure Congressional Intent Can Be Met in the Workforce Investment Act Adult and Dislocated Worker Programs: Report No. 18-10-004-03-390	1	0
WHD	3/31/2010	WHD Northeast Region's Management of CMP Penalties and Back Wages Could Be Improved: Report No. 04-10-001-04-420	3	0
WHD	12/16/2010	Oversight of the Minimum Wage and Overtime Exemption Provisions Could Be Strengthened: Report No. 04-10-002-04-420	3	0
WHD	3/31/2010	Updated Status of Prior-Year Recommendations Related to Wage and Hour IT Security: Report No. 04-10-002-04-420	1	0
OASAM	3/30/2010	Actions Required to Resolve Significant Deficiencies and Improve DOL's Overall IT Security Program: Report No. 23-10-001-07-001	2	0
OASAM	1/29/2010	Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit: Report No. 23-10-002-07-001	3	0
EBSA	3/30/2010	Updated Status of Recommendations Related to EBSA IT Security: Report No. 23-10-004-12-001	1	0
Final Determination Not Issued by Grant/Contracting Officer by Close of Period				
OSHA	1/9/2009	Procurement Violations and Irregularities Occurred In OSHA's Oversight of a Blanket Purchase Agreement: Report No. 03-09-002-10-001	3	681,379

Unresolved Audit Reports Over Six Months Old

Recommendations Re-Classified to Unresolved Based on OIG Follow-up Work				
ETA	8/29/2008	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	1	0
UIS	9/13/2002	State of Maryland Workforce Agency Unemployment Tax and Benefit: Report No. 23-02-008-03-315	2	0
UIS	2/27/2003	State of California Unemployment Tax and Benefit System: Report No. 23-03-005-03-315	6	0
UIS	9/30/2004	FISMA Audit: Employment and Training Administration Unemployment ICON Network: Report No. 23-04-027-03-315	2	0
ETA	8/27/2008	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	4	0
MSHA	8/26/2008	Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit of: MSHA's General Support System: Report No. 23-08-009-06-001	2	0
OASAM	9/29/2004	FISMA Audit of OASAM ECN/DCN: Report No. 23-04-028-07-001	3	0
Agency Has Requested Additional Time to Resolve				
ETA	11/17/2008	The City of Atlanta, Georgia Did Not Adequately Manage Welfare-to-Work and Workforce Investment Act Grants: Report No. 04-09-001-03-001	6	11,343,253
Total Nonmonetary Recommendations, Questioned Costs			**74**	**12,906,770**

Investigative Statistics

	Division Totals	Total
Cases Opened:		246
Program Fraud	185	
Labor Racketeering	61	
Cases Closed:		278
Program Fraud	215	
Labor Racketeering	63	
Cases Referred for Prosecution:		190
Program Fraud	133	
Labor Racketeering	57	
Cases Referred for Administrative/Civil Action:		83
Program Fraud	72	
Labor Racketeering	11	
Indictments:		175
Program Fraud	110	
Labor Racketeering	65	
Convictions:		158
Program Fraud	106	
Labor Racketeering	52	
Debarments:		19
Program Fraud	8	
Labor Racketeering	11	
Recoveries, Cost Efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions:		$85,024,424
Program Fraud	$32,572,417	
Labor Racketeering	$52,452,007	

Recoveries: 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	$4,981,557
Cost-Efficiencies: 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	$5,702,594
Restitutions/Forfeitures: The dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations	$67,026,434
Fines/Penalties: The dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations	$1,082,531
Civil Monetary Actions: The dollar amount/value of forfeitures, settlements, damages, judgments, court costs, or other penalties resulting from OIG civil investigations	$6,231,308
Total	**$85,024,424***

* These monetary accomplishments do not include the following amounts obtained as a result of the OIG's investigative efforts in multi-agency investigations:

- Restitution of $11,847,420 for victims in an investigation involving labor trafficking and related violations. The court-ordered restitution includes payment of victim's wages during their servitude, as calculated under the Fair Labor Standards Act. *United States* v. *Akouavi Kpade Afolabi.*
- A civil monetary penalty in the amount of $1,033,362 assessed by Immigration and Customs Enforcement as a result of a company's routine use of undocumented workers on their job sites.

Peer Review Reporting

The following meets the requirement under Section 989C of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) that the Inspectors General include their peer review results as an appendix to each semiannual report. Federal audit functions can receive a rating of "pass," "pass with deficiencies," or "fail." Federal investigation functions can receive a rating of "compliant" or "noncompliant."

Peer Review of DOL-OIG Audit Function

The Department of Transportation (DOT)-OIG conducted a peer review of the system of quality control for DOL-OIG's audit function for the year ending on September 30, 2009. This peer review, which was issued on February 3, 2010, resulted in an opinion that the system of quality control was suitably designed and provided a reasonable assurance of DOL-OIG conforming to professional standards in the conduct of audits. The peer review gave DOL-OIG a pass rating and made no recommendations.

Peer Review of DOL-OIG Investigative Function

The Treasury Inspector General for Tax Administration (TIGTA) initiated in FY 2010 a peer review of the system of internal safeguards and management procedures for DOL-OIG's investigative function for the year ending on September 30, 2010. TIGTA's review is expected to be completed in FY 2011. The last external peer review report of DOL-OIG's investigative function was completed in October 2007 by the Department of Defense's Defense Criminal Investigative Service. This peer review found DOL-OIG to be compliant and made no recommendations.

DOL-OIG Peer Review of DHS-OIG Audit Function

DOL-OIG conducted an external peer review of the system of quality control for the U.S. Department of Homeland Security (DHS)-OIG's audit function for the year ending on September 30, 2008. This review, which was issued in June 2009, resulted in an opinion that the system of quality control for DHS-OIG was suitably designed and provided a reasonable assurance of DHS-OIG conforming to professional standards in the conduct of audits. The peer review gave DHS-OIG a pass rating and identified seven findings and recommendations. According to DHS-OIG, as of September 2010, corrective actions have been taken to address five recommendations. The two outstanding recommendations are that DHS-OIG revise its audit manual to incorporate Government Auditing Standards, paragraphs 7.57 and 7.59, related to the validity and reliability of evidence; and emphasize to staff the requirement to document the consideration of fraud. DHS reported it will close the recommendations when it issues a revised audit manual in the 2nd quarter of FY 2011.

DOL-OIG Peer Review of HHS-OIG Investigative Function

DOL-OIG conducted an external peer review of the U.S. Department of Health and Human Services (HHS)-OIG's system of internal safeguards and management procedures for its investigative function for the year ending on June 30, 2009. This peer review, which concluded in June 2009, found HHS-OIG to be compliant and made no recommendations.

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, 2010, through September 30, 2010, the OIG Hotline received a total of 1,294 contacts. Of these, 941 were referred for further review and/or action.

Complaints Received (by method reported):	**Totals**
Telephone	818
E-mail/Internet	259
Mail	169
Fax	44
Walk-In	4
Total	**1,294**

Contacts Received (by source):	**Totals**
Complaints from Individuals or Nongovernmental Organizations	1,254
Complaints/Inquiries from Congress	4
Referrals from GAO	5
Complaints from Other DOL Agencies	15
Complaints from Other (non-DOL) Government Agencies	16
Total	**1,294**

Disposition of Complaints:	**Totals**
Referred to OIG Components for Further Review and/or Action	52
Referred to DOL Program Management for Further Review and/or Action	430
Referred to Non-DOL Agencies/Organizations	459
No Referral Required/Informational Contact	380
Total	**1,321***

*During this reporting period, the 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)

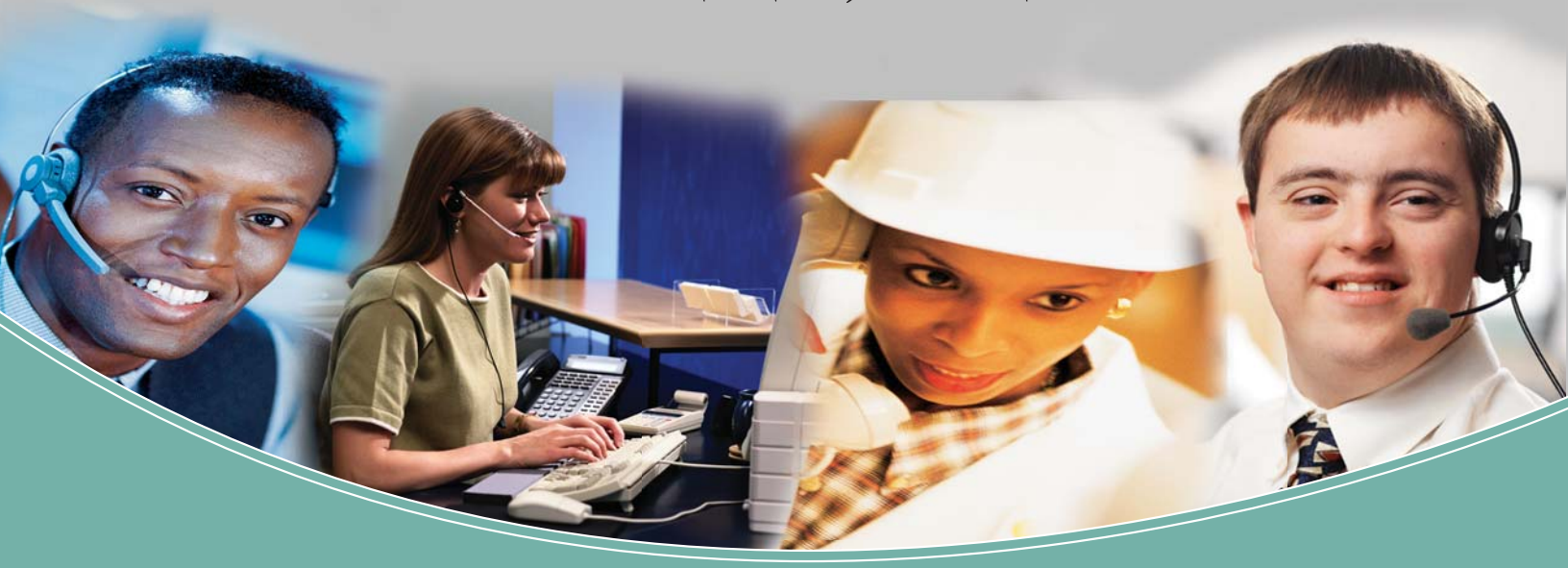
Office of Inspector General
United States Department of Labor

Report Fraud, Waste, and Abuse

Call the Hotline

202.693.6999 800.347.3756

Email: hotline@oig.dol.gov
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
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Report Fraud, Waste, and Abuse by calling or e-mailing
the OIG Hotline
800.347.3756 or hotline@oig.dol.gov