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OFFICE OF INSPECTOR GENERAL
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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 March 31, 2011. During this reporting period, our investigative work led to 207 indictments, 133 convictions, and $155 million in monetary accomplishments. In addition, we issued 29 audit and other reports which, among other things, recommended that $5.7 million in funds be put to better use, and questioned $3.4 million in costs during this reporting period.

OIG audits and investigations continue to assess the effectiveness, efficiency, economy, and integrity of DOL's programs and operations. We also continue to investigate the influence of labor racketeering and/or organized crime with respect to internal union affairs, employee benefit plans, and labor-management relations.

During this reporting period, we found that the Occupational Safety and Health Administration (OSHA) had not designed a method to examine the impact of state programs on workplace safety and health to ensure that they were effective and to fully evaluate the merits of any program changes. We also found that OSHA did not follow its own policies and procedures during its investigations of three whistleblower complaints. As a result, OSHA could not provide any assurance that protections were afforded as intended under Federal whistleblower laws.

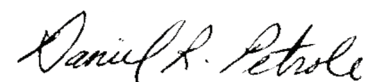
Additionally, the OIG conducted two audits of the Employee Benefits Security Administration (EBSA). We found that EBSA needs to develop a process to determine whether the qualified default investment alternative under the Pension Protection Act is helping to increase employee participation and average investment returns in retirement plans through automatic enrollments. We also found that EBSA does not have adequate assurances that fiduciaries voted solely for the economic benefit of plans or that they monitored proxy voting activities.

We also issued eight audit reports related to the American Recovery and Reinvestment Act of 2009 during this reporting period. One audit found that the Employment and Training Administration needs to better ensure the YouthBuild program, which provides low-income youth with job skills and serves their communities by building affordable housing, meets program objectives.

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, a major OIG investigation resulted in one of the Gambino Crime Family's highest ranking members in New Jersey and 20 other defendants being sentenced for racketeering conspiracy and related crimes. A benefit plan investigation resulted in the sentencing of a chiropractor to over five years in prison after he pled guilty to fraudulently billing union health and welfare plans, among others, more than $14 million.

OIG investigations also identified vulnerabilities in and fraud against DOL programs. One investigation resulted in a high-ranking Immigration and Customs Enforcement official being sentenced to more than 17 years in prison for filing fraudulent labor certifications and committing Federal Employees' Compensation Act fraud. Another investigation resulted in the imposition of a $55 million judgment against and imprisonment of a husband, wife, and son for their roles in an H-2B visa fraud conspiracy.

The OIG remains committed to promoting the integrity, effectiveness, and efficiency of DOL. I would like to once again 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 that the rights and benefits of workers and retirees are protected.



Daniel R. Petrole
Acting Inspector General

Contents

Selected Statistics....2
Significant Concerns....3

Worker Safety, Health, and Workplace Rights
Occupational Safety and Health Administration....8
Mine Safety and Health Administration....11
Wage and Hour Division....13
Federal Contract Compliance Programs....14

Worker and Retiree Benefit Programs
Office of Workers' Compensation Program....16
Employee Benefits Security Administration....20
Unemployment Insurance Programs....22

Employment and Training Programs
Workforce Investment Act....26
Wagner-Peyser Act....27
Job Corps....28
YouthBuild....29
Foreign Labor Certification Programs....31
Veterans' Employment Training Service....34

Labor Racketeering
Benefit Plan Investigations....37
Internal Union Corruption Investigations....40
Labor-Management Investigations....42

Departmental Management....46
Single Audits....50

Legislative Recommendations....52
Appendices....56

Selected Statistics

Investigative recoveries, cost-efficiencies, restitutions, fines and penalties, forfeitures, and civil monetary action[1] .... $155 million

Investigative cases opened 279

Investigative cases closed 234

Investigative cases referred for prosecution 175

Investigative cases referred for administrative/civil action 76

Indictments 207

Convictions 133

Debarments 49

Audit and other reports issued 29

Questioned costs issued during the reporting period .... $3.4 million

Funds recommended for better use .... $5.7 million

Outstanding questioned costs resolved during this period ....$14.6 million
- Allowed[2] ....$6.6 million
- Disallowed[3] .... $8.8 million

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

- A total forfeiture of $1,961,476 was ordered to be paid by several defendants who were involved in a harboring scheme which included transportation and housing of workers, attempted evasion of Federal Unemployment Tax Act payments and other violations.

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.

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 previously reported, the OIG is concerned that in 32 years, MSHA has not successfully exercised its Pattern of Violations (POV) 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) inability 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. Moreover, an audit from the last reporting period found that OSHA did not always ensure that complainants received appropriate investigations under its whistleblower program.

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 lapses in Recovery Act transparency and accountability. For example, our March 2011 audit of Reemployment Services (RES) unemployment insurance (UI) claimants found that DOL could not provide information on what activities states spent $247.5 million in RES funding because DOL did not require states to report how they spent the funds. Furthermore, DOL could not demonstrate compliance with the Recovery Act requirement to report on UI claimants serviced only by RES funding. The Department's reporting requirements included all UI claimants who received staff-assisted services regardless of the funding sources used—which, in effect, overstated the UI claimants who were serviced by only RES funding.

Additionally, our audit work during this reporting period found that the Employment and Training Administration (ETA) has announced, evaluated, and issued Recovery Act grants in accordance with relevant criteria. However, ETA's lack of effective grantee oversight and inadequate policies and procedures has raised concern about its effectiveness in administering the YouthBuild Program. Specifically, we found that ineligible participants had received program services. As a result, the OIG estimated $5.7 million could have been put to better use if expended to serve eligible participants.

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. Funds provided by the Recovery Act for the monitoring of grants expired on September 30, 2010, and this may have impacted the Department's ability to execute its Recovery Act grantee monitoring and oversight responsibilities. We remain concerned with previous 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 percent for the year ended June 30, 2005, to 76 percent 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 awarding subcontracts during this reporting period, an OIG audit questioned approximately $2.5 million related to subcontracting noncompliances. The Job Corps center improperly awarded several subcontracts because it failed to meet Federal Acquisition Regulation (FAR) requirements. In addition, OIG audits continued to identify unsafe or unhealthy conditions and the lack of required safety inspections at some centers.

Safeguarding Unemployment Insurance

Improper payments of UI compensation benefits are a continuing concern for the OIG. In 2010, ETA reported $16.5 billion in UI overpayments. The 2010 reported overpayment rate of 10.6 percent represented an increase from the 9.6 percent rate reported in 2009. ETA estimated that 2.4 percent of UI benefits were overpaid due to fraud in 2010, up from 2.0 percent in 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, the OIG's review of ETA's compliance with Executive Order 13520 identified improvements needed to measure and 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.

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 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 a recent performance audit of the inventory of DOL's sensitive IT hardware and software, we found that DOL cannot account for its sensitive IT assets and that several agencies have not certified their inventories in the Electronic Property Management System (EPMS).

Worker Safety, Health, and Workplace Rights

Occupational Safety and Health Administration

The Occupational Safety and Health Administration (OSHA) was established by the Occupational Safety and Health Act of 1970 (OSH Act). OSHA's mission is to assure, so far as possible, that every working man and woman in the American workplace has safe and healthy working conditions. OSHA ensures the safety and health of America's workers by setting and enforcing workplace safety and health standards; providing training, outreach, and education; and encouraging continuous improvement in workplace safety and health.

OSHA Had Not Determined Whether State Plans Were at Least as Effective in Improving Workplace Safety and Health as Federal OSHA Programs

The OSH Act authorized states to assume some responsibilities in developing and enforcing safety and health standards. The Act also provided funding through grants of up to 50 percent of operational costs to states with their own OSH programs (State Plans) that are at least as effective as Federal OSHA. Over a period of nearly 40 years, OSHA has granted $2.4 billion to states — $104 million in fiscal year (FY) 2010 — to develop and operate effective OSH programs. As of 2011, 27 states and territories operated these programs. We conducted a performance audit of OSHA's monitoring of State Plans to determine whether OSHA ensured that OSH programs operated by State Plans were at least as effective as the Federal OSHA program.

Our audit found that OSHA had not designed a method to examine the impact of state programs on workplace safety and health to ensure that they were effective and to fully evaluate the merits of any program changes. This was identified as an issue by 70 percent of State Plans surveyed. Although OSHA collected statistics on program activities, doing so was not sufficient to assess a state's effectiveness in protecting workers. As a result, OSHA lacked critical information on performance, which may have impacted its decisions on policies, enforcement priorities, and funding.

OSHA had not evaluated the impact of enforcement programs in order to arrive at a minimum criterion to evaluate state programs. With its performance goal to improve workplace safety and health, OSHA measured performance results using rates for injuries, illnesses, and fatalities. However, these measures were not sufficient to determine program effectiveness because the data were incomplete, unverified, and may be impacted by economic factors. OSHA had incomplete information on Federal OSHA programs and consequently lacked the requisite baseline against which to gauge state performance.

OSHA had not defined effectiveness in the context of State Plan programs. Without qualitative factors defining effectiveness, OSHA could not ensure that State Plans were operating in an effective manner. Moreover, OSHA needed to define when state programs would be deemed performance failures, to serve as a basis for using its ultimate authority to revoke State Plan approval. State Plan administrators expressed concerned about a lack of clear expectations, which has led to confusion. OSHA had not provided states with evidence to show that their activity-based framework (i.e., number of inspections) correlated to effectiveness. Although states thought their plans were effective, without an outcome-based framework they could not show that their activities had improved workplace safety and health.

We made four recommendations to OSHA: to define program effectiveness; to design measures to quantify the impact of state programs on workplace safety and

health; to establish a baseline to evaluate state program effectiveness; and to revise monitoring processes to include assessments about whether State Plans are at least as effective as Federal OSHA. OSHA agreed with the intent of the recommendations and stated it would continue to develop additional impact measures for both Federal OSHA and the states. The Assistant Secretary expressed concern that attempting to define the effectiveness of State Plans by relying exclusively on a system of impact or outcome measures is not only extremely problematic, but would not fulfill the more specific and extensive requirements of the OSH Act. We note that OIG is recommending that OSHA developing impact or outcome measures to be used in conjunction with activity-based measures, not to replace such measures. OSHA agreed with the intent of the recommendations and stated that it will continue to develop additional impact measures for both Federal OSHA and the States. (Report No 02-11-201-10-105, March 31, 2011)

Whistleblower Protection Program Complaint

OSHA is responsible for enforcing and administering the whistleblower protection provisions of 21 Federal statutes, including the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21). AIR21 protects employees of air carriers from retaliation for having disclosed information to their employer or to the government concerning "any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety..." Effective administration of the whistleblower program is integral to OSHA's core mission. If workers believe the system established by OSHA adequately protects them from retaliation, they will be more willing to report violations. Likewise, if employers believe they will suffer financial consequences for retaliating against whistleblowers, they will be less likely to do so.

At the request of then Chairman Edolphus Towns of the U.S. House Committee on Education and Labor, we conducted a performance audit to determine whether OSHA had conducted proper investigations of three whistleblower complaints filed by a complainant from September 2005 through May 2009. The complainant was a former employee of Bell Helicopter Textron (Bell-Textron) who allegedly was retaliated against by his employer for reporting a wide variety of wrongdoings, including air safety violations, under AIR21.

We found that in each of the investigations OSHA conducted, it asserted that the complainant's employer, Bell-Textron, was a "covered employer" under AIR21, but the agency did not adequately document how it made that determination. Additionally, OSHA conducted its investigation into the first complaint without documenting a specific activity that would have afforded the complainant protection under AIR21. As a result, OSHA had no assurance that the complainant was ever entitled to protection under Federal whistleblower statutes.

Despite OSHA's failure to establish a basis for its investigations into two of the complaints, it proceeded with field investigations. We found that OSHA did not follow its own policies and procedures during those investigations. It never conducted a formal interview with the complainant to detail his allegations; never obtained a signed statement from the complainant; never adequately corroborated Bell-Textron's defenses to the complainant's allegations; never allowed the complainant an adequate opportunity to refute Bell-Textron's defenses; and never conducted a closing conference with the complainant. OSHA had no documentary evidence that any of the investigations were adequately supervised. Moreover, OSHA exceeded its authority by dismissing the third complaint without conducting an investigation to determine the merits of the complaint.

The audit findings were consistent with our September 2010 audit report that had revealed pervasive and systemic

weaknesses in OSHA's Whistleblower Protection Program. The Government Accountability Office (GAO) cited similar internal control weaknesses in this program in an August 2010 report.

In addition to recommendations from our prior report on which OSHA is taking corrective actions, we recommended that OSHA implement controls to ensure that supervisors review all complaints for validity and coverage prior to beginning an investigation. OSHA stated that it is committed to improving the whistleblower protection program and intends to implement the recommendation by requiring supervisory review of complaints during the intake process. OSHA is also in the process of finalizing a top-to-bottom audit of the whistleblower program, which it says will address the weaknesses and inefficiencies in the program and incorporate the results of our prior audit. (Report No. 02-11-202-10-105, March 31, 2011)

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.

Extended Analysis of MSHA Pattern of Significant and Substantial Violation Rates

In September 2010, the OIG issued an audit report on MSHA's use of its Pattern of Violations (POV) authority, which included an analysis of safety-level improvements sustained at mines that MSHA had notified of a potential POV. This analysis reported that 94 percent of potential POV mines monitored by MSHA satisfied established improvement metrics after the first 90-day inspection period, but the success rate decreased incrementally in the second and third inspection periods.

The U.S. House of Representatives Committee on Education and the Workforce requested that the OIG perform an expanded analysis of mines that had received POV notifications to determine the extent to which safety improvements were maintained over a longer period of time. Our expanded analysis covered the period from 2007 to 2009—up to eight additional inspection periods — and also included a determination of the mines' success rates relative to strengthened improvement metrics, and the trend in the reduction rate of Significant and Substantial (S&S) violations at potential POV mines.

Our analysis showed that the ability of all mine operators to meet MSHA's POV improvement metrics up to eight inspection periods after receiving the potential POV notification fell from 94 percent to 79 percent. Surface mine and facilities operators met MSHA's POV improvement metrics 100 percent of the time for six of the eight inspection periods. However, the ability of underground mine operators to meet MSHA's POV improvement metrics declined from 92 percent to 79 percent over the eight inspection periods.

During our review period, MSHA's POV procedures at that time required mine operators to meet one of two improvement standards: (1) reduce the rate of S&S citations and orders at the mine by at least 30 percent or (2) reduce the rate of S&S citations and orders at the mine to at least the national average for similar mines. In most cases, the former standard was lower and therefore the one potential POV mines had to meet. Strengthening this standard (i.e., requiring a reduction of more than 30 percent in the rate of S&S violations) resulted in a gradual decrease in the percentage of mines that successfully met the overall improvement metrics. At a required S&S reduction rate of 50 percent, 69 percent of potential POV mines would meet the standards after eight inspection periods. Increasing the rate above 50 percent appeared to have little additional impact. Furthermore, requiring a reduction level greater than 70 percent had no further impact on success rates, as the second metric (reduction of the S&S rate to the national average for similar mines) becomes the deciding standard.

On September 30, 2010, MSHA announced more stringent POV improvement provisions requiring mines that implement appropriate corrective action programs to achieve a 50 percent reduction in the rate of S&S violations or a rate within the top 50 percent for all mines of similar type and classification. Furthermore, mines that do not choose to implement corrective action programs need to

achieve a reduction of 70 percent or more in their S&S issuance rates or a rate within the top 35 percent for all mines of similar type and classification.

Our analysis also showed that the average reduction in the rate of S&S violations declined when evaluated over eight subsequent inspection periods. Mines receiving a potential POV notification from MSHA reduced their rate of S&S violations by an average of 63 percent after one subsequent inspection period, but the average reduction rate declined to 51 percent after the eighth inspection period. (Report No. 05-11-002-06-001, December 15, 2010)

MSHA's Controls Over Contracting Need Strengthening

MSHA is one of several DOL agencies that has its own procurement authority. Federal procurement regulations require, among other things, that agencies: promote full and open competition; provide maximum opportunities to small businesses; and ensure compliance with general procurement requirements. Past OIG audit work of MSHA identified weaknesses in these areas. We conducted a performance audit covering 133 new contract awards totaling $16 million to determine whether MSHA complied with appropriate procurement regulations and procedures.

Our audit found that MSHA did not always adequately support sole-source awards, promote full and open competition, or maximize small business opportunities for 28 percent of the contract awards reviewed. Deficiencies we identified included the following: no justifications or inadequate justifications for making awards without full and open competition; no Procurement Review Board reviews and Chief Acquisition Officer approvals when required; no publication of solicitations; and no review of proposed procurements by the Office of Small Business Programs.

In addition, MSHA did not comply with applicable DOL procurement procedures for 38 percent of the awards reviewed. Deficiencies included no review of solicitations or pre-award packages by DOL's Office of the Solicitor (SOL) as required by a memorandum of agreement; no approval by the Office of the Assistant Secretary for Administration and Management (OASAM); no conflict-of-interest certifications from program officials; and incomplete Simplified Acquisition Documentation Checklists for contracts under $100,000.

These deficiencies occurred because of an overall lack of adequate controls, including appropriate management oversight. Based on the deficiencies we identified, MSHA could not demonstrate that it had made the best decisions in awarding contracts to carry out its activities. Furthermore, MSHA has not followed the procedural reforms it put into place in response to previous OIG audit reports. As a result, the procurement weaknesses identified in OIG reports issued in 2004, 2006, and 2008 are still present.

We made four recommendations to MSHA to ensure that procurement officials comply with procedures, require supervisory review of contracts, provide refresher training to personnel, and develop and implement controls to ensure that the SOL completes pre-award reviews of selected contracts as required. MSHA agreed with our recommendations and stated that it is taking aggressive action to review its procurement program, identify lapses, and develop and implement new management procedures to improve the effectiveness and accountability of its contracting. (Report No. 05-11-001-06-001, February 16, 2011)

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, child labor, record keeping, 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.

Recovery Act: WHD Conducted Effective and Compliant Davis-Bacon Act Outreach, Enforcement, and Wage Rate Determinations

The Recovery Act stipulates that all projects receiving funds must comply with the Davis-Bacon Act, which requires contractors to pay their laborers and mechanics no less than the prevailing wages for corresponding work on similar projects in the area. This resulted in an additional 40 Federally assisted construction programs spread across 12 Federal agencies that were to comply with the Davis-Bacon Act. The Department's WHD obligated $11.5 million for Recovery Act-related wage determinations and Davis-Bacon Act enforcement. Specifically, WHD conducted activities in the following three areas: outreach, prevailing wage enforcement, and wage determinations. The OIG conducted a performance audit to determine whether WHD provided adequate outreach to ensure that Recovery Act contractors and subcontractors complied with the Davis-Bacon Act, conducted timely prevailing wage complaint and directed investigations, and issued timely and reliable prevailing wage determinations in response to the Recovery Act.

Our audit found that WHD used Recovery Act funds to achieve positive results. We determined that WHD provided adequate outreach, implemented an improvedprevailing wage investigations process, and issued timely prevailing wage determinations.

WHD conducted outreach efforts such as conferences, seminars, and stakeholder meetings to ensure that all parties involved in Recovery Act-funded projects were aware of Davis-Bacon Act requirements. WHD also issued guidance and advisory letters and enhanced its Web site to disseminate information on Recovery Act requirements.

WHD implemented an improved process for conducting directed and complaint investigations that could have a lasting impact on future Davis-Bacon Act investigations. Given the focus placed on the Recovery Act, WHD placed a higher priority on Recovery Act-related prevailing wage rate complaint investigations. In FY 2010, these investigations took an average of 157 days to complete, as compared to 342 days for non-Recovery Act investigations.

Finally, WHD issued timely prevailing wage determinations for workers covered under the Department of Energy's Weatherization program. Prevailing wage rates were needed for these workers because contractor employees doing home weatherization were low-skilled workers and the existing residential wage rates were for skilled workers vailing wage rates already existed for all other types of work for programs funded by the Recovery Act.

We made no recommendations to WHD as a result of our audit. WHD agreed with the report results. (Report No. 18-11-009-04-420, March 31, 2011)

Federal Contract Compliance Programs

The Office of Federal Contract Compliance Programs (OFCCP) ensures workers are recruited, hired, promoted, trained, terminated, and compensated in a fair and equitable manner by Federal contractors.

Recovery Act: Enforcement of Federal Equal Employment Opportunity Laws

Title VIII of the Recovery Act provided the Department with $80 million for Departmental Management Funds specifically for enforcement of worker protection laws covered in the Recovery Act. The Department allocated $7.2 million of this amount to OFCCP for enforcement of Federal Equal Employment Opportunity (EEO) requirements on Recovery Act contracts. OFCCP's EEO enforcement workload was estimated to increase by an additional 3,350 contractors and 15,070 facilities and construction sites because of Recovery Act contracts. The OIG conducted a performance audit to determine which of OFCCP's compliance evaluations, pre-award reviews, and outreach activities were related to contractors that had received Recovery Act funding, as well as what impact the Recovery Act had on OFCCP's ability to meet its regularly scheduled workload in these same areas.

Our audit found that OFCCP conducted Recovery Act compliance evaluations, pre-award reviews, and outreach activities as follows:

- Of 649 compliance evaluations, our sample of 131 evaluations found that 51 resulted in OFCCP issuing Letters of Compliance, 67 resulted in OFCCP issuing Letters of Compliance with Conciliation Agreements for EEO violations, and the remaining 13 were administratively closed.

- Our review of all 14 pre-award reviews that OFCCP had conducted found that 12 resulted in OFCCP issuing Letters of Compliance, one resulted in OFCCP issuing a Letter of Compliance with a Conciliation Agreement for EEO violations, and one was administratively closed.

- Of 120 outreach activities, all the activities in our sample of 20 were conducted as required by Recovery Act provisions.

Our audit also found that OFCCP's ability to meet its regularly scheduled compliance evaluations, pre-award reviews, and outreach activities was not negatively impacted by its additional Recovery Act workload.

We made no recommendations to OFCCP as a result of our audit. OFCCP agreed with the report results. (Report No. 18-11-007-04-410, March 31, 2011)

Worker and Retiree
Benefit Programs

Office of Workers' Compensation Program

The Office of Workers' Compensation Programs (OWCP) administers four workers' compensation programs, including the Federal Employees' Compensation Act (FECA) and the Defense Base Act (DBA), which is an extension of the Longshore and Harbor Workers' Compensation Act. DBA provides workers' compensation benefits to workers of U.S. government contractors injured or killed while working overseas. Injuries and deaths reported under DBA rose from under 250 in FY 2001 to over 14,600 in FY 2010.

OWCP Needs to Improve Its Monitoring and Managing of Defense Base Act Claims

DBA, which was enacted in 1941, requires all Federal government contractors and subcontractors to provide workers' compensation insurance for their employees—both U.S. citizens and foreign nationals—who work outside the United States. DBA insurance is provided by private insurers or through self-insurance and is intended to be a counterpart to domestic workers' compensation coverage. As such, it is the sole recourse for U.S. and foreign workers who suffer on-the-job injuries or death while engaged in work in foreign locations under a Federal government contract. Benefit payments reported by insurers in calendar year 2009 totaled $242 million. OWCP is responsible for administering DBA and ensuring that workers' compensation benefits are provided for covered employees promptly and correctly. The OIG conducted a performance audit to determine the extent to which OWCP ensured that employers and insurers were adhering to DBA claims-processing requirements.

Our audit found that OWCP faced challenges to adequately administer DBA for several reasons. For example, the program was enacted during World War II and has not been modified to take into consideration the current use of contractors and foreign nationals in the wars in Iraq and Afghanistan. Likewise, the program has not been adequately staffed to handle the rapid increase in DBA cases that have resulted from these wars. As a result, OWCP could not ensure that workers injured while employed in dangerous war zones and supporting the U.S. military's overseas efforts received proper and timely workers' compensation benefits under DBA.

OWCP has been proactive in addressing DBA issues at the program level and active in resolving disputes. However, we found that improvements need to be made in case management to ensure that workers' benefits under the DBA are protected. Eighty-six percent of the cases we reviewed did not meet one or more of the criteria used for ensuring that workers received DBA protection related to injury reporting, compensation payments, notification of controverted claims, and responses to OWCP information requests. OWCP can improve its monitoring of DBA case management so that problems are identified and appropriate corrective action is promptly taken. In the area of penalty assessments, we found a need for centralized guidance regarding when penalties should be assessed to assist with program compliance.

We made five recommendations to the OWCP, including that it seek changes to DBA legislation to reflect the current environment and develop reports from its case management information system to assist management and claims examiners in identifying the problems identified in our audit. OWCP generally agreed with the recommendations to revise the DBA statute and enhance the DBA data system. However, while OWCP agreed that it did not always use fines and penalties to enforce compliance with DBA requirements, it believed doing so

would likely be counterproductive. OWCP also stated that claims from American workers are complicated by various circumstances, and information from foreign contract workers is simply not available to allow insurers to meet World War II–era statutory requirements. (Report No. 03-11-001-04-430, March 23, 2011)

Federal Employees' Compensation Act Program

The FECA program provides workers' compensation coverage to approximately 2.8 million Federal, Postal, and certain other employees for work-related injuries and illnesses. Benefits include wage-loss benefits, medical benefits, vocational rehabilitation benefits in returning to work 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.

California Man Sentenced to 10 Months in Prison for Making False Statements to Obtain Workers' Compensation Benefits Under FECA

Ronald Bernard Sheckler, a former civilian employee of the Department of the Army, was sentenced on March 9, 2011, to 10 months in prison and a year of supervised release, and ordered to pay $100,000 in restitution for making a false statement to obtain Federal workers' compensation.

Sheckler began receiving workers' compensation benefits under FECA in April 1998. He was required to submit an annual questionnaire to OWCP to certify his continued unemployment and disability. In 2000, Sheckler founded Amalgamated Video International (AVI), a Sacramento-based maker of Internet broadcast equipment. Sheckler, who was also Chairman of the Board, Chief Executive Officer, and majority shareholder of AVI, falsely stated on the annual questionnaire that he was not employed, self-employed, or engaged in any business enterprise. During a 10-year period, Sheckler received from OWCP approximately $100,000 in benefits to which he was not entitled as a result of the fraud.

This was a joint investigation with the Department of Defense (DoD)-OIG's Defense Criminal Investigative Service (DCIS) and the U.S. Army Criminal Investigation Command. *United States* v. *Ronald Sheckler* (E.D. California)

Illinois Chiropractor Pleads Guilty to Health Care Fraud in $1.5 Million Scheme

Darwin Minnis, a chiropractor who owned and operated the Spine and Joint Rehabilitation Center, pled guilty on November 17, 2010, to health care fraud. Two other defendants—a physician and a clinic employee who worked as a biller and claims processor—were indicted along with Minnis in March 2010.

The defendants submitted false claims totaling more than $1.5 million to obtain payments from OWCP and other insurers for services that were not provided. They also inflated claims under FECA for services that were provided. The physician signed false documents related to patients' work-related injuries, including medical, diagnostic, and physical therapy services. Minnis forged doctors' signatures on the documents supporting the false claims.

Most of the clinic's patients were U.S. Postal Service (USPS) employees.

This is a joint investigation with the USPS-OIG and the Federal Bureau of Investigation (FBI). *United States* v. *Darwin Minnis, et al.* (N.D. Illinois)

Two Brothers Charged Scheme to Overbill OWCP

Two brothers who owned a medical transportation business were indicted on November 3, 2010, with 30 counts of wire fraud and other charges relating to their roles in a scheme to defraud OWCP.

The company allegedly billed for transporting a FECA claimant to his medical appointments on 79 dates that did not have corresponding dates of medical services rendered by providers. From 2004 to 2008, the company allegedly submitted bills to OWCP totaling approximately $144,531. In January 2010, OIG special agents working in an undercover capacity obtained evidence that the company allegedly billed OWCP for 49 instances of medical transportation when only five instances had occurred. For these trips, the company allegedly billed OWCP $50,745.

The investigation has also revealed that the company allegedly billed an insurance company and its subsidiaries $13.1 million for providing nonemergency medical transportation services from 2004 to 2008.

This is a joint investigation with the FBI, USPS-OIG, California Department of Insurance, and California Department of Health Care Services. (C.D. California)

Durable Medical Equipment Company Owner Pleads Guilty to FECA Fraud

Kay Anne White, the owner and operator of Electra Enterprises and Electra Med, LLC, pled guilty on January 12, 2011, to making false statements with regard to a medical equipment supply company she operated. White's company was a durable medical equipment (DME) supply business that provided electrical stimulation units (ESUs) and related supplies to FECA and other beneficiaries. As part of a conspiracy, White also managed an additional 19 DME entities for local physicians who referred their patients to Electra. The DME entities were shell companies that used Electra's address as their own mailing address, which allowed White to receive and control the mail that was sent to the shell companies.

From October 2000 to May 2007, Electra rented or sold the ESUs to patients and provided the patients additional supplies on a monthly basis. White billed the health care benefit programs for substantially more supplies than she provided to the beneficiaries. Her scheme also included submitting claims for physician office visits that did not occur. White submitted $917,392 in fraudulent claims to OWCP and the Texas Workers' Compensation Act Program. She was paid $620,429.

This was a joint investigation with the USPS-OIG and the FBI, with significant assistance from Travelers Medical Investigative Services and Texas Mutual Insurance Company. *United States* v. *Kay Anne White* (N.D. Texas)

Texas Woman Charged with Mail Fraud and Making False Statement to Receive Nearly 1,000 Times Entitled FECA Reimbursement

A Texas woman was charged on February 8, 2011, with mail fraud and making a false statement regarding her receipt of Federal workers' compensation. The defendant allegedly filed medical travel refund requests with OWCP, claiming mileage reimbursements for physician and rehabilitation appointments that she did not attend. Between 2008-2010, the defendant allegedly filed hundreds of medical travel refund requests with OWCP claiming that she attended three appointments daily, six days a week. It is alleged that the defendant had only five appointments

with physicians and/or for rehabilitation during this time. As a result, OWCP issued payments totaling $173,163. The legitimate cost for five appointments would have been $175. This is a joint investigation with the USPS-OIG. (N.D. Texas)

Employee Benefits Security Administration

The Employee Benefits Security Administration (EBSA) is responsible for overseeing more than 150 million Americans covered by more than 718,000 private retirement plans, 2.6 million health plans, and similar numbers of other welfare benefit plans holding over $6.5 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 Needs to Monitor the Impact of the Qualified Default Investment Alternative Regulation on Retirement Plans

Approximately one-third of eligible workers do not participate in their employer-sponsored defined contribution plans, for example, 401(k) plans. The Pension Protection Act (PPA), enacted in 2006, removed some important impediments to employers adopting automatic enrollment, including employer fears about legal liability for market fluctuations and the applicability of state wage withholding laws. These impediments had prevented many employers from adopting automatic enrollment or had led them to invest workers' contributions in low-risk, low-return "default" investments. Under the PPA, employers are relieved of certain legal liabilities if they invest the nondirected assets in a "qualified default investment alternative" (QDIA). The PPA directed DOL to issue a regulation to assist employers in selecting optimal default investments that best serve the retirement needs of workers who do not direct their own investments. We conducted a performance audit to determine what EBSA is doing to assess whether employee participation in retirement plans and average retirement savings are increasing.

Our audit found that EBSA needs to develop a process to determine whether the QDIA regulation is helping to increase employee participation and average investment returns in retirement plans through automatic enrollments. EBSA had estimated that the QDIA regulation would increase average retirement savings from $70 billion to $134 billion by 2034. However, it did not develop plans to determine whether automatic enrollments resulted in greater employee participation or increased retirement savings subsequent to issuing the regulation. The Form 5500, Annual Return/Report of Employee Benefit Plan, was amended to collect information on plans with automatic enrollment features, but the form did not collect data on the number of employees automatically enrolled or average investment returns for those employees. EBSA officials said they did not develop a process to monitor the regulation's impact because it would be difficult to attribute any actual increases in retirement savings and plan participation to the regulation and EBSA did not believe it was necessary to monitor the separate effect of the regulation.

Using automatic enrollments to increase participation and savings in employee retirement plans was one of the goals of the PPA, and EBSA intended its QDIA regulation to help accomplish these goals. Since participation and investment returns are critical to the retirement savings of American workers, it is important to monitor these indicators. Without a monitoring process in place, EBSA cannot know if the QDIA regulation is having its intended effect.

We recommended that EBSA develop and implement a process to monitor whether average investment returns and employee participation in retirement plans increase over time. We also recommended that it take appropriate

action if needed, and determine whether any modifications to the QDIA regulation are warranted. EBSA stated that it did not plan to monitor the separate effect of the QDIA regulation because its existing processes for monitoring retirement plan trends and assessing whether and when regulations should be amended were effective. (Report No. 09-11-002-12-121, March 31, 2011)

Fiduciary Proxy Voting May Not Be Based Solely on the Economic Benefit to Retirement Plans

The private retirement system in the United States involves about $6 trillion of investments, including approximately $2.3 trillion of corporate stock for about 120 million Americans. Many retirement plans invest in corporate stock, and the retirement security of plan participants can be affected by how certain issues are voted on during company stockholders meetings. Owning corporate stock gives shareholders' the right to vote on proposals concerning corporate policies and governance. Proxy voting allows shareholders to vote when they cannot attend a shareholder meeting, and this option is integral to the fiduciary act of managing retirement plan investments. Voting can be exercised by either the plan trustee, a named fiduciary through instruction of the plan trustee, or the investment manager to whom investment authority of the relevant asset has been delegated. EBSA regulations require fiduciaries to vote solely for the plan's economic interests and require named fiduciaries to periodically monitor proxy-voting decisions made by third parties. We conducted a performance audit to determine to what extent EBSA had assurances that fiduciaries were voting solely for the economic benefit of plan participants and beneficiaries.

Our audit found that EBSA does not have adequate assurances that fiduciaries voted solely for the economic benefit of plans or that they monitored proxy voting activities because they do not require that plans document either of these. Our review of 42 plans for calendar year 2009 showed that only four plans had evidence that they had specifically monitored the proxy-voting activities of the plan. The remaining 38 plans could not provide documented support that they had monitored proxy-voting activities. In addition, for 2009 we found that proxy voters did not document the economic benefit of proxy-voting decisions for 77 percent of proposals, representing votes on 574 million shares of stock with values totaling $11.6 billion.

We also noted that EBSA has devoted few resources to enforcing proxy-voting requirements. EBSA conducted three proxy-voting projects between 1988 and 1996, and found that plans needed to improve their monitoring of investment managers to ensure proxies were voted in accordance with stated polices. However, EBSA did not routinely review proxy-voting decisions. According to EBSA, it lacks the statutory authority to assess penalties in cases that did not result in financial losses to plans. Furthermore, assessed penalties are based on monetary losses, and it is difficult to attribute monetary losses to proxy-voting decisions. EBSA also stated that fiduciary court cases have shown that, absent specific requirements, and depending on the facts and circumstances, fiduciaries may not have to document the rationale for their fiduciary decisions.

We made three recommendations to EBSA to strengthen its authority, so it can assess monetary penalties for proxy-voting noncompliance; require documented support for fiduciary monitoring and the economic benefit of proxy-voting decisions; and include fiduciary proxy-vote monitoring in its enforcement investigations. While EBSA supported expanding civil penalties for all fiduciary breaches, it did not believe proxy-voting activities warranted specific legislative changes, special documentation requirements, or increased enforcement activities. EBSA believes its present guidance in the form of an interpretative bulletin takes an appropriate approach to the type of documentation of proxy voting decisions and monitoring activities that are necessary to comply with ERISA's fiduciary responsibility provisions. (Report No. 09-11-001-12-121, March 31, 2011)

Unemployment Insurance Programs

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

Owner of Temporary Employment Agency Sentenced in UI Fraud Scheme

Cheang Chea, the owner of S&P Temporary Help Services, Inc., was sentenced on October 7, 2010, to two years in prison and three years' probation, and ordered to pay $14.3 million in restitution. Chea pled guilty in June 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 $7-20 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. S&P was also responsible for all payroll and employment tax withholdings, including UI, and for carrying 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 was a joint investigation with the Internal Revenue Service (IRS)-Criminal Investigation (CI) and U.S. Department of Health and Human Services (HHS)-OIG. *United States* v. *Cheang Chea* (D. Rhode Island)

Two Men Sentenced in New Jersey for $1.6 Million Unemployment Benefits Scheme

Thomas Cooper and Quentin Campbell were sentenced in January 2011 and February 2011, respectively, for their roles in a scheme that defrauded the New Jersey Department of Labor and Workforce Development of more than $1.6 million. Both men previously pled guilty in July 2010 to charges of mail fraud. Cooper was sentenced to 17 months in prison and ordered to pay restitution of $104,000. Campbell was sentenced to 27 months in prison and ordered to pay restitution of $119,000. Between 2006 and 2007, the defendants caused false UI benefit applications to be filed in order to obtain benefits that they were not entitled to receive. Cooper, Campbell, and two additional co-conspirators recruited approximately 78 individuals into the scheme. These individuals allowed their names to be used to file bogus UI claims that falsely reported their employment with a defunct company owned by a defendant who had previously pled guilty to committing mail fraud. *United States* v. *Quentin Campbell, Thomas Cooper, and Charles Palmer* (D. New Jersey)

Illinois Woman Sentenced to Eight Years in Prison for UI Scheme Involving State Employment Security Supervisor

Angelica Vasquez was sentenced on January 6, 2011, to eight years in prison and ordered to pay $724,596 in restitution and forfeit $172,499. Vasquez was found guilty in June 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 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 supervisor's acceptance and processing of the fraudulent UI applications. Vasquez charged undocumented workers as much as $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 U.S. Postal Inspection Service (USPIS) and Immigration and Customs Enforcement (ICE). *United States* v. *Angelica Vasquez* (N.D. Illinois)

Conspirators Fraudulently Receive Benefits Intended for Ex-Servicemembers

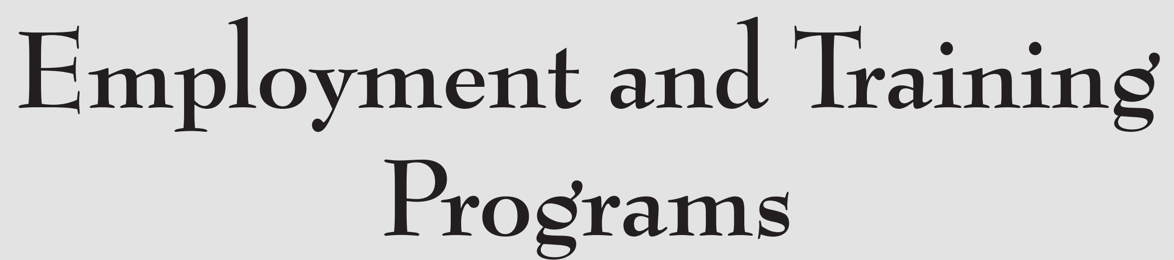
Eight individuals who pled guilty for their roles in an unemployment compensation scheme were sentenced between October 2010 and March 2011. The sentences ranged from four years of probation to three-and-a-half years in prison, with collective restitution totaling $188,228. Three of four additional defendants who were charged at the state level have been sentenced; one defendant remains at large. In November 2006, the defendants began filing fraudulent claims for unemployment compensation benefits for ex-servicemembers (UCX) with the Colorado Department of Labor. Their scheme involved using variations of the individuals' names and Social Security numbers and other names with nonrelated Social Security numbers, as well as one stolen identity, on falsified UCX claim forms and falsified military discharge forms. The scheme ended in January 2008 with losses totaling approximately $214,000. This was a joint investigation with the Colorado Department of Labor and DCIS. *United States* v. *Earl L. Hall; Renita L. Blunt; Eric G. Adams; Jermaine L. Hall; Conslyn L. Hall; Terrance R. Wray; Demetrius L. Harper; Corey D. Ladson* (D. Colorado)

Los Angeles Man Charged in $5 Million UI Fraud Scheme

A Los Angeles man was indicted on March 1, 2011, on charges of mail fraud for his alleged role in a UI fraud scheme. Between January 2008 and February 2011, the defendant allegedly registered fictitious employers with the California Employment Development Department (EDD) and then recruited other individuals to pose as laid-off employees of those companies. These fake employees would allegedly file for and collect UI benefits based on the wages reported to California EDD by the fictitious employers. The defendant's scheme allegedly resulted in more than $5 million in fraudulent benefits being paid. This is a joint investigation with California EDD and the FBI. (E.D. California)

Florida Man Charged in $1.3 Million Fictitious Employer Scheme

A Florida man was indicted on February 2, 2011, on charges of wire fraud and aggravated identity theft for his alleged scheme to defraud the Louisiana Workforce Commission (LWC) by providing false quarterly wage reports to the LWC in the names of fictitious companies. Following the alleged submission of these wage reports, the defendant fraudulently applied for UI benefits in the names of various third parties and thereby received money from the LWC. He allegedly submitted approximately 392 false applications for UI benefits, which resulted in a loss of approximately $1,254,533 to the LWC. The Social Security Administration (SSA)-OIG provided assistance in this investigation. (M.D. Louisiana)



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 Act provides funds to address the employment and training needs of adults, dislocated workers and youth. Within each state, clusters of counties or other government entities—referred to as Local Workforce Investment Areas (Local Areas)—are responsible for establishing program policy and conducting program oversight.

Father and Daughter Involved in More than $1 Million WIA Fraud Scheme

Eugene Lekhtman and his daughter, Yelena Raykhman, were sentenced on October 29, 2010, to one year of home confinement and six months of home confinement, respectively, and each received five years' probation. The two defendants pled guilty in December 2009 to theft of public money and were jointly ordered to pay $1,386,959 in restitution, as well as a separate forfeiture amount of $1,145,000. Lekhtman and Raykhman operated Centurion Professional Training (CPT), a WIA-sponsored school. CPT submitted falsified letters from local businesses in order to qualify for WIA funding. CPT also used the identity of a large number of its students and—without the students' knowledge or permission—filed for funding from WIA and the U.S. Department of Education (ED). Through their fraudulent scheme, CPT applied for nearly $2 million and received in excess of $1 million in combined WIA and ED funding. This was a joint investigation with ED-OIG. *United States* v. *Lekhtman* (E.D. New York)

Business Owner Pleads Guilty in Multimillion-Dollar Work Opportunity Tax Credit Scheme

Clyde H. Williams, the owner of Nunley, Williams & Associates (NWA), pled guilty on January 13, 2011, to making a false statement related to the submission of 253 false and counterfeit DOL-ETA 9063 Employer Tax Credit Certifications.

NWA is a tax consultant firm that assists businesses with the WOTC process. Williams engaged in fraudulent activity and concealed fraud pertaining to the WOTC certification process. NWA advised clients that they qualified for thousands of WOTC tax credits even though Williams failed to utilize the correct certification process. This caused one of NWA's clients to unknowingly file fraudulent claims for WOTC credits and file false tax returns over a 13-year period. The false tax returns caused the client to receive approximately $3.7 million in tax credits. Between 2005 and 2010, Williams received more than $240,000 in fees from the client for the fraudulent activity. He used false and counterfeit documents to conceal his scheme from the Federal government and Texas state government. Williams supplied the client with several hundred fraudulent ETA Form 9063s during an IRS tax audit.

This was a joint investigation with the Texas Workforce Commission. *United States* v. *Clyde H. Williams* (W.D. Texas)

Wagner-Peyser Act

The Wagner-Peyser Act of 1933 established a nationwide system of public employment offices, known as the Employment Service. In 1998 the act was amended by the Workforce Investment Act, and the Employment Service became part of the One-Stop workforce system. Its mission is to assist job seekers in finding jobs and employers in finding qualified workers.

Recovery Act: DOL Could Have Better Monitored the Use of Reemployment Services Funds

To better serve the sudden surge in UI claimants resulting from the 2008 recession, Title VIII of the Recovery Act provided the Department $400 million in funds for state UI and Employment Service Operations for grants to states and jurisdictions (states). Of this amount, Congress required that $250 million be spent for reemployment services (RES) for UI claimants, such as group workshops on résumé writing, interviewing skills, and labor market information. The Recovery Act also required DOL to establish planning and reporting procedures "necessary to provide oversight of funds used for the services." We conducted a performance audit to determine the adequacy of DOL's oversight of how RES funds were used, whether states used RES funds as intended, and the outcomes of the states' use of these funds.

Our audit found that DOL allocated RES funds quickly and provided general guidance in a timely manner to the states. However, DOL's spending guidance did not direct states to address long-term weaknesses and problems (e.g., outdated profiling models, and financial and program results tracking system deficiencies), thereby missing an opportunity to create long-lasting program improvements. Furthermore, the guidance did not require states to report information to DOL regarding what activities RES funds were expended on. It only required states to report obligations on a quarterly basis. As a result, DOL could not provide information regarding which activities the states spent the RES funding on.

DOL officials told the OIG there was not enough time to develop and implement a new data collection system, nor was it practical to do so, given the limited duration of the Recovery Act funding. While the four states we reviewed were able to provide RES expenditure data, the way they categorized their expenditures varied greatly, making comparisons difficult.

DOL could not demonstrate that direct and specific outcomes resulted from RES funds. RES funding was spent simultaneously with regular grant funding and on the same type of clients. DOL reporting requirements included all UI claimants who received staff-assisted services—regardless of funding source used—as an indicator of the effect of RES funds. This method overstated RES outcomes because it included clients serviced through regular grant funds.

In addition, states were not reporting the services provided to UI claimants consistently or correctly. DOL officials said this condition was due to the states' various interpretations of DOL's reporting guidelines, and acknowledged the difficulty in obtaining reporting consistency. We found that DOL was not adequately reviewing the accuracy of the information as we determined that the reporting data had errors and inconsistencies. (Report No. 18-11-005-03-315, March 31, 2011)

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.

Los Angeles Job Corps Center Did Not Ensure Best Value in Awarding Subcontracts

Job Corps centers are required to comply with specific Federal Acquisition Regulation (FAR) requirements for obtaining price quotes and competing and awarding subcontracts to ensure that the Federal government receives the best value. The FAR further requires the maintenance of records to demonstrate that claimed costs have been incurred. We conducted a performance audit to determine whether the Los Angeles Job Corps Center (LAJCC) had awarded subcontracts and claimed costs in accordance with the FAR. The audit covered FY 2010 activity and included review of 11 subcontracts awarded totaling $11.4 million and a statistical sample of 95 expenditures (primarily purchase orders) greater than $3,000, totaling $770,057.

Our audit found that LAJCC had improperly awarded seven of the 11 subcontracts we reviewed because of noncompliance with the FAR. In five instances, LAJCC did not maintain adequate support that the subcontract was awarded to the lowest bidder, resulting in our questioning $2.3 million. Also, in two instances, LAJCC did not properly compete and advertise a consulting position, resulting in our questioning $77,858.

We also found that 15 of 95 purchase orders were not properly awarded to vendors. In eight instances, LAJCC used a sole-source provider for the procurement without proper justification. In seven instances, LAJCC used the list of vendors approved by the General Services Administration to obtain two bids, but violated the FAR by selecting a vendor that was not on the list. As a result, we questioned $72,864, or 9.5 percent, of the $770,057 in expenditures tested.

We recommended that ETA recover the approximately $2.5 million we questioned, and direct the Young Women's Christian Association (YWCA) and LAJCC to establish procedures, training, and oversight to ensure compliance with the FAR. We also recommend that ETA contract personnel and Job Corps regional staff review all future LAJCC subcontracts for FAR compliance and approval prior to award. FAR compliance should also be reviewed by the Job Corps regional office during on-site visits conducted at LAJCC. ETA agreed with the findings and accepted all the recommendations. LAJCC responded that it had substantially complied with the FAR but fell short in adequately documenting its compliance. LAJCC stated that it will provide additional information to ETA to support its compliance. (Report No. 26-11-001-03-370, March 31, 2011)

YouthBuild

YouthBuild is a youth and community development program that simultaneously addresses a range core issues facing low-income communities: housing, education, employment, crime prevention, and leadership development. In YouthBuild programs, low-income people ages 16–24 work toward their general educational development (GEDs) or high school diplomas, learn job skills and serve their communities by building affordable housing, and transform their lives and roles in society.

Recovery Act: ETA Needs to Strengthen Management Controls to Meet YouthBuild Program Objectives

Beginning in FY 2007, ETA began administration of the YouthBuild program and since then has awarded 290 grants to 226 grantees totaling $280 million. Of these grants, 75 have been funded under the Recovery Act. The YouthBuild program provides educational and job training opportunities within the construction industry for at-risk youth who are ages 16–24, are school dropouts, and are members of at least one of the disadvantaged groups (e.g., youth offender, foster, or low-income youth). We conducted a performance audit covering the period July 1, 2007, through December 31, 2010, and 27 grantees in eight states to determine ETA's effectiveness in administering the YouthBuild program. Included in our work was an evaluation of eight allegations made in two hotline complaints, all of which we determined to be unsubstantiated.

Our audit found that 10 of 27 grantees did not enroll eligible youth ages 16–17, due to concerns that this age group was more susceptible to worksite injury and had more limited employment potential than older youth. ETA identified 3,220 youth in the overall YouthBuild population who were in this age group. ETA's grant application allowed grantees to decide who to serve without consequence for excluding specific members of the youth population. Conversely, we found that 21 of 27 grantees provided program services to ineligible participants. We questioned costs of $214,124 related to 103 ineligible participants, and estimate that $5.7 million could have been put to better use if funds had been expended on eligible participants.

ETA officials reported that they met three of the five YouthBuild performance goals, but did not meet the goals for placement or retention. Only 43 percent of youth who exited the program were placed in jobs or other educational programs, as compared to the goal of 70 percent; and 64 percent of those youth who attained placement retained employment or stayed in school, as compared to the goal of 75 percent. We also estimate that 319 of 5,975 participants' outcomes were overstated because of outcomes reported for ineligible participants.

Our review of YouthBuild grant agreements showed the agreements either did not specify performance goals, or the goals specified fell below ETA's program goal levels. We also found that ETA did not attempt to measure the increase in the supply of affordable homes for low-income families – a core program objective.

Finally, ETA implemented a requirement that grantees provide 25 percent in matching funds. However, seven of the 27 grantees either did not track or report, or could not demonstrate that they had met the 25 percent matching requirement. As a result, we noted an unsupported or unreported matching amount of $768,356 for these seven grantees.

We made eight recommendations to ETA to ensure that the YouthBuild program meets program objectives. We also

questioned costs associated with ineligible participants and undocumented matching funds. ETA generally agreed with our findings and recommendations. However, ETA stated that local grantees have flexibility under the YouthBuild Transfer Act and Solicitation for Grant Applications to determine which ages among eligible youth they will serve based upon locally determined factors. (Report No. 18-11-001-03-001, March 31, 2011)

Foreign Labor Certification Programs

ETA administers a number of foreign labor certification programs that allow U.S. employers to employ foreign labor to meet American worker shortages. The H-1B visa specialty workers' program requires employers that 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 that workplace guidelines will be followed. The H-2B program establishes 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. OIG investigations are finding that emerging organized criminal groups are using DOL foreign labor certification processes in illegal schemes, and in so doing are committing crimes that negatively impact workers.

Court Imposes $55 Million Judgment in Visa Fraud Conspiracy

Wilson and Valeria Barbugli, a husband and wife who, along with their son Eduardo, owned and operated 11 staffing companies, were sentenced on October 14, 2010, to 24 months, 18 months, and 20 months in prison, respectively, followed by two years of supervised release. Upon completion of their prison sentences, all defendants face deportation. As part of their sentence, the court imposed a monetary judgment in the amount of $55 million to be divided and paid jointly and severally between the defendants. The money judgment represents the proceeds generated during the course of their H-2B visa fraud conspiracy.

The Barbuglis ran a large contract labor business that 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 conspired to prepare and submit numerous fraudulent labor certification applications and visa petitions to DOL and United States Citizenship and Immigration Service (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 had been hired.

In addition, Jose Maria Meza, the company controller, pled guilty on February 23, 2011, to mail fraud and conspiracy charges for his involvement in concealing approximately $11 million in workers' payroll, thus evading UI taxes and workers' compensation insurance premiums.

This was a joint investigation with the Document Benefit Fraud Task Force; U.S. Department of State (DOS)-Diplomatic Security (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 Barbugli Dozzi*, and *United States* v. *Jose Maria Meza Diaz* (M.D. Florida)

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

Abrorkhodja Askarkhodjaev, the kingpin of an enterprise in which hundreds of foreign workers were illegally employed at hotels and other businesses across the country, pled guilty on October 20, 2010, to racketeering conspiracy, fraud in foreign labor contracting, identity theft, and corporate tax evasion. In addition, between October 2010 and March 2011, eight other defendants were sentenced and one defendant was found guilty for their roles in the scheme. Askarkhodjaev and the other defendants were indicted in May 2009 on the Racketeer Influenced and Corrupt Organizations Act (RICO) charges for fraudulent activities that occurred in 14 states. The sentences imposed during this reporting period range from probation to 41 months in prison and restitution totaling $227,340. 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.

Using false information to acquire DOL certification for 1,288 H-2B temporary work visas, the defendants created Internet 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 disguised their criminal activities by incorporating multiple businesses in Missouri and Kansas, processed payrolls for both temporary and undocumented workers, and evaded employment tax liability such as that required under the Federal Insurance Contributions Act and the Federal Unemployment Tax Act. Many of the foreign workers were victims of human trafficking who were coerced to work in violation of the terms of their visas 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 the U.S. Department of Homeland Security-Homeland Security Investigations (DHS-HSI), the IRS-CI, the FBI, USCIS-Office of Fraud Detection and National Security, the Kansas Department of Revenue, and the Independence (Missouri) Police Department. *United States* v. *Abrorkhodja Askarkhodjaev, et al*. (W.D. Missouri)

DHS Official Sentenced to More Than 17 Years for Filing Fraudulent Labor Certifications and FECA Fraud

Constantine Peter Kallas, an Assistant Chief Counsel at ICE, was sentenced on March 21, 2011, to over 17-and-a-half years in prison for conspiring to defraud the foreign labor certification (FLC) process and, in a separate scheme, making false statements to obtain FECA benefits. In addition to the prison term, Kallas was ordered to pay $296,865 in restitution for his fraudulent receipt of workers' compensation benefits. He was convicted in April 2010 on three dozen felony counts, including conspiracy, bribery, obstruction of justice, fraud and misuse of entry documents, aggravated identity theft, making false statements to DOL, making false statements to obtain Federal employee compensation, and tax evasion. Kallas' wife pled guilty to conspiracy, bribery, and conspiracy to commit money laundering in November 2009.

In the FLC scheme, the couple accepted approximately $425,854 in bribes to illegally adjust the immigration status of foreign nationals. Utilizing the identity of three inactive companies, they falsely petitioned ETA on behalf of the foreign nationals for employment-based visas. From 2005 to 2007, the defendants filed several false applications with the Office of Foreign Labor Certification (OFLC) and the USCIS on behalf of their clients, charging between $16,000-$20,000 per petition.

In the FECA scheme, Kallas personally filed workers' compensation claims for two separate work-related injuries with OWCP and received full disability benefits for both

claims. While under oath during a November 2007 DOL hearing regarding Kallas' workers' compensation claims, Kallas testified that he and his wife were unemployed and that their only source of income was his monthly workers' compensation benefits. He made these declarations despite receiving hundreds of thousands of dollars from clients during the FLC scheme.

This was a joint investigation with the FBI, ICE's Office of Professional Responsibility, and the IRS-CI. *United States* v. *Constantine P. Kallas, et al.* (C.D. California)

Staffing Company Owners Sentenced to Prison for Forced Labor Conspiracy

Sophia Manuel and Alfonso Baldonado, Jr., the owners of Quality Staffing Services Corporation, were sentenced on December 10, 2010, to six-and-a-half years and over four years in prison, respectively, to be followed by three years of supervised release. The defendants were also ordered to pay restitution of $743,381 to their victims. They previously pled guilty to forced labor conspiracy. Manuel also pled guilty to making false statements to DOL regarding FLC applications. Quality Staffing Services Corporation, a staffing company that provided food and beverage workers to country clubs located in Florida, defrauded DOL's FLC program by filing ETA-750 applications for 50 food service workers and obtaining H-2B certifications using fictitious client support letters that contained false statements and forged signatures of country club managers. This was a joint investigation with the ICE Human Trafficking Task Force in Miami, Florida. *United States* v. *Manuel, et al.* (S.D. Florida)

Law Firm Employee Pleads Guilty to Misprision of Felony in Visa Fraud Scheme

Andres Lorenzo Acosta Parra, who was a law firm employee, pled guilty on October 28, 2010, to misprision of felony for failing to notify U.S. government officials that he was aware that his employer was fraudulently obtaining H-2B visas. Parra is one of eight individuals who, along with a law firm and a property management company, were indicted in July 2009 on charges of conspiracy to commit alien smuggling and visa fraud; encouraging and inducing illegal aliens to come to, enter, or remain in the United States; and visa fraud. Parra worked for a law firm in Utah from November 2008 through June 2009 and assisted clients with obtaining H-2B visas for their employees. Prior to working for the law firm, Parra worked for 10 years as a visa assistant in the U.S. consulate in Ciudad Juarez, Mexico. This is a joint investigation with the District of Utah, DOS, and ICE.

Alleged Conspirators Charged in Foreign Labor Certification Fraud Scheme

The owner of an employment services company in New Jersey was indicted on December 20, 2010, and charged with conspiracy to harbor undocumented foreign workers, conspiracy to make false statements to immigration officials, and making false statements to immigration officials. The company owner allegedly conspired with her company's office manager, an income tax preparer, and another company's warehouse manager to submit 32 fraudulent FLC applications to DOL. The FLC applications were allegedly for non-existent jobs and contained false information, including prevailing wage data, job experience, and corporate tax returns that were created by the income tax preparer. In addition to the FLC applications, the company owner allegedly made arrangements with the warehouse manager to employ more than 100 undocumented workers at his company's warehouse for approximately five years. The other three defendants were charged with conspiracy and visa fraud. This is a joint investigation with the ICE-Document and Benefit Fraud Task Force. (S.D. New York)

Veterans' Employment and Training Service

The mission of the Veterans' Employment and Training Service (VETS) is to provide veterans with the resources and needed 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.

Kansas' Controls over Jobs for Veteran State Grant Contract Reporting and Monitoring Needs to be Strengthened

VETS offers assistance to veterans seeking jobs through the Jobs for Veterans State Grants (JVSG) Program. The purpose of these grants is to fund Disabled Veterans' Outreach Program (DVOP) Specialists, Local Veterans' Employment Representatives (LVER), and Transitioning Assistance Program (TAP) workshops. The Kansas JVSG totaled $1,610,000 for FY 2008. The program's daily operations are run by the State of Kansas, Workforce Services, under the Kansas Department of Commerce (DOC). We conducted a performance audit of the FY 2008 Kansas JVSG to determine whether errors occurred within the financial reports for DVOP, LVERs, and TAP workshops, and whether the financial reports were complete and in accordance with Federal requirements.

Our audit found that the Kansas DOC's lack of effective management controls and appropriate supervisory oversight undermined its ability to ensure that expenditures were properly reported, recorded, and supported. We reviewed a statistical sample of 158 transactions totaling $183,000 charged to the "Other" budget category and found that 135 transactions could not be properly supported. Specifically, we questioned $152,096 that was charged for DVOP, LVERs, and TAP using an allocation methodology based on estimated employee hours worked by program. We also questioned $14,969 in indirect costs.

The Kansas DOC's lack of internal control policies and procedures hampered its ability to provide accurate financial reports in accordance with Federal requirements. Accordingly, financial reports were not complete or in compliance with Federal regulations.

We made two recommendations to VETS: to recover $167,065 in questioned costs; and to direct the Kansas DOC to develop and implement internal control policies and procedures to improve program management, and to ensure that JVSG funds are properly recorded and reported. VETS agreed with all the recommendations and stated that it will require the Kansas DOC to develop internal control policies and procedures and report within 60 days. VETS will consider recovery of the unsupported and questioned grant costs. The Kansas DOC also agreed with our recommendations, stating that internal control weaknesses did exist and certain costs were not supported, but the agency said it would be able to subsequently provide the necessary documentation to support the questioned costs. (Report No. 04-11-02-02-201, March 31, 2011)

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, and 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.

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 the scheme often affects several plans simultaneously. The OIG is committed to safeguarding American workers from being victimized through labor racketeering and/or organized crime schemes.

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.

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 those 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.

Boilermakers' Financial Secretary Sentenced for Embezzling More than $1.25 Million

Carolyn Sue Alderman-Connon, a financial secretary for the Boilermakers Southeastern Area Joint Apprenticeship Committee (SAJAC) fund, was sentenced on March 25, 2011, to two-and-a-half years in prison, three years supervised release, and restitution of $1,281,270. She pled guilty on October 20, 2010, to embezzlement from an employee benefit plan. Alderman-Connon—routinely and without authorization—used an online banking system to transfer funds from the SAJAC general fund account to the local SAJAC bank accounts. She then created and printed checks made payable to either herself or a fictitious payee that were automatically signed by the SAJAC system software. Through her scheme, Alderman-Connon embezzled $1,254,129 from SAJAC, as well as an additional $27,140 by fraudulently creating and printing similar checks for another clerical employee at SAJAC. The other employee was indicted on March 24, 2011, for her alleged role in the scheme. This was a joint investigation with EBSA. *United States* v. *Alderman-Connon* (M.D. Florida)

Chiropractor Sentenced for Fraudulently Billing More than $14 Million

Dr. John Hardimon, a chiropractor who owns Hardimon Chiropractic and Physical Therapy, was sentenced on March 24, 2011, to over five-and-a-half years in prison and three years of supervised release. He pled guilty on October 19, 2010, to 14 counts of health care fraud and one count of money laundering. Dr. Hardimon fraudulently billed private insurance companies, union health and welfare plans, Medicare and Medicaid for $14,102,785 and was paid $2,086,705 for services not rendered. He was also ordered to pay restitution to his victims through the forfeiture of $912,125 and the proceeds from the sale of his property, including two homes and three vehicles.

Dr. Hardimon solicited individuals by offering free services for their initial visit. Some of his patients came from the college where Dr. Hardimon taught classes, and others had won raffles for free services at various events in the area. During the patient's initial visit, he requested patient insurance provider information, which he advised was being used to determine which services were covered by their plans to prevent out-of-pocket cost to them for future services provided. Dr. Hardimon charged the insurance plans for the patient's initial visit and for additional visits that had not occurred.

This is a joint investigation with IRS-CI, HHS-OIG, and EBSA. *United States* v. *John M. Hardimon, D.C., d/b/a/ Hardimon Chiropractic Center & d/b/a Hardimon Chiropractic and Physical Therapy* (S.D. Illinois)

Florida Pastor Sentenced for Embezzling More than $800,000 from Health and Welfare Fund

Gregory Sims, 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, was sentenced on January 18, 2011, to two-and-a-half years in prison and three years' supervised release, and ordered to pay restitution of $813,342 for embezzling from the fund. In his role as fund manager, Sims was responsible for the fund account reconciliation, check issuance, and preparation of financial statements. He 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. After issuance, Sims would alter the fund's computer account records to conceal the checks written to CDC. This was a joint investigation with EBSA. *United States* v. *Gregory Sims* (M.D. Florida)

Physician Sentenced for Submitting False Health Insurance Claims

Otto Garcia Montenegro, a general practice physician, was sentenced on January 20, 2011, to 15 months in prison followed by two years' supervised release, and ordered to repay $406,514 in losses for his role in a health care fraud scheme. Montenegro owned a medical clinic through which he created hundreds of bills falsely identifying visits and treatments that never occurred. Between 2003 and 2007, he submitted false health insurance claims totaling approximately $500,000 to Blue Cross Blue Shield of Illinois and other private medical insurance providers, including several union Health and Welfare Funds. Montenegro did not collect deductibles and co-payments from patients, and instead submitted fraudulent insurance claims to insurers for services and treatments that he did not actually provide. The insurers paid the defendant approximately $373,000 based on the false claims. This was a joint investigation with the FBI. *United States* v. *Otto Garcia Montenegro* (N.D. Illinois)

Union Timekeepers Sentenced for Wire Fraud Conspiracy in Scheme to Defraud Employer

William Zichos Jr., Dale Kowalewski, and Joseph Bell were sentenced on January 28, 2011, after being convicted in September 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 was sentenced to a year and a day in prison, followed by three years' supervised release; Kowalewski was sentenced to 10 months in prison, followed by two months of home detention as part of three years' supervised release; and Bell was sentenced to six months in prison, followed by six months of home detention as part of three years' supervised release. The defendants were also sentenced jointly and severally to pay $39,874 in restitution to Ports America Baltimore, Inc.

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

Organized Crime Associates and Union Officials Charged with Participation in Three-Decade Conspiracy to Extort Dock Workers

This case was part of a nationally coordinated multiagency effort to attack organized crime that resulted in 16 indictments within four judicial districts and the charging of 127 members and associates of La Cosa Nostra (LCN) with racketeering and related crimes, including murder and extortion.

The Eastern District of New York and the District of New Jersey unsealed two indictments on January 20, 2011, outlining a 30-year conspiracy by the Genovese Organized Crime Family and the ILA to control the ports in New Jersey. The conspiracy involves, in part, an extortion scheme in which ILA members are required to provide tribute payments to ILA union officials or members around Christmas. These payments, which were transmitted to the Genovese Organized Crime Family, were made by the ILA members in order to protect their jobs. Union officials arrested as part of the extortion scheme include the current President of ILA Local 1235; the current Delegate of ILA Local 1235; the past two Presidents of ILA Local 1235; the Vice President of ILA Local 1235; and the Vice President of ILA Local 1478. Several of these union officials also held positions with the ILA national office.

A separate indictment in a Brooklyn Federal court charged three ILA members with impeding a proceeding before a Federal grand jury in the Eastern District of New York by committing perjury.

This was a joint investigation with the FBI, the New York City Police Department, and the Waterfront Commission of New York Harbor.

New York Businessman Charged with Embezzlement of Union Funds

A New York businessman whose company is signatory to a CBA with Bricklayers Local 1 was charged on December 9, 2010, with embezzlement from the pension and welfare funds operated on behalf of the Laborers' International Union of North America (LIUNA) Locals 66, 78, and 79. Also included in the indictment is a criminal forfeiture allegation. The defendant allegedly instructed his bookkeeper not to make Local 1 benefit fund contributions for the defendant's employees working on a particular job site. Additionally, the defendant was allegedly paying a Luchese LCN associate for a no-show job in exchange for his influence with Local 1 of the Bricklayers union. This is a joint investigation with the FBI. (E.D. New York)

Former Executive of Company that Sold Self-Funded Insurance to Unions Indicted

A former health insurance executive was indicted on October 27, 2010, for mail fraud, wire fraud, and making false material statements to an insurance regulatory agency. The defendant is the former Chief Executive Officer of a Massachusetts-based company that sold self-funded insurance to ERISA-covered entities. Included among the defendant's clients were at least three union benefit plans. He was charged in a five-count indictment on false statements he made on applications for licenses to sell insurance. Allegedly, the defendant applied for insurance producer licenses in five states. On the applications he submitted to regulatory agencies in each of the states, the defendant allegedly falsely denied that he had ever been convicted of a crime. In addition, the indictment alleges that on an application he submitted in May 2009 to renew his Rhode Island license, the defendant falsely denied that any company of which he was an officer had ever been involved in an administrative proceeding regarding any professional or occupational license. This is a joint investigation with the FBI, EBSA, and USPIS. (D. Massachusetts)

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 hardworking 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 Business Manager and Secretary Treasurer Sentenced for Embezzlement

Patrick Brennan, the former business manager and secretary treasurer of the International Union of Painters and Allied Trades District Council 711 (DC 711), was sentenced on October 25, 2010, to serve six months in prison and six months of home confinement, to be followed by three years' supervised release. He was also ordered to pay $32,487 in restitution to DC 711 and Zurich, the union's insurer, for union funds that he had embezzled. Brennan is barred from holding various union and fund positions for 13 years following the expiration of his sentence.

Brennan pled guilty on May 12, 2010, to charges of theft of union assets. He embezzled funds from DC 711 by using the union credit card and its corresponding membership rewards points to purchase items and services for personal use rather than for union business, including airfare, for himself and others. Brennan concealed certain material facts concerning these purchases from DC 711's trustees. He also embezzled funds from DC 711 in 2006 by giving a union car valued at approximately $11,200 to a family member without requiring payment. Additionally, Brennan embezzled funds from the union by issuing himself Christmas bonus checks totaling approximately $8,652. These unauthorized checks were drawn on a DC 711 bank account and signed by him.

This was a joint investigation with the FBI and Office of Labor Management Standards (OLMS). *United States* v. *Patrick James Brennan* (D. New Jersey)

Former Union Business Manager Sentenced to 27 Months in Prison

Robert Rybak, a former Plumbers Local 55 business manager, was sentenced on January 20, 2011, to over two years in prison and ordered to pay $11,158 in restitution after pleading guilty in October 2010 to several crimes, including Hobbs Act conspiracy, embezzlement or theft from a labor union, embezzlement or theft from employee benefits funds, conspiracy to obstruct justice, and tampering with a witness.

Rybak admitted to participating in a bribery scheme in which he, using union personnel, provided free and reduced home improvements to an Ohio county commissioner, as well as meals, entertainment, and political donations, in return for county personnel actions that were favorable to Rybak. He also pled guilty to improperly using union property to perform work on the homes of Rybak's friends, and instructing others to mislead investigators after the corruption investigation became public. Additional defendants in this case were convicted of crimes, including lying to Federal agents, conspiracy to commit mail fraud, and honest services fraud. A former county employee pled guilty in February 2011 for his role in the scheme, and in March 2011 a former judge was found guilty of 10 counts of lying to Federal agents. A superseding RICO indictment,

which includes three counts that relate to activities by Rybak, was filed on March 30, 2011. The "enterprise" associated with the RICO indictment is the County (Cuyahoga County, Ohio). The superseding indictment alleges that the purpose of the RICO enterprise was for the defendants to use their power and authority for personal and financial benefit for themselves, their co-conspirators, and designees.

This was a joint investigation with the FBI, IRS, and OLMS. *United States* v. *Robert W. Rybak, et al.* (N.D. Ohio)

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.

Former Carpenters Union Leader Sentenced in Manhattan Federal Court to 11 Years in Prison for Racketeering and Related Crimes

Michael Forde, the former executive secretary treasurer of the District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America (UBCJ) and Chairman of the District Council benefit funds, was sentenced on November 19, 2010, to 11 years in prison for his participation in a racketeering scheme that defrauded his union and its benefit funds out of millions of dollars. Forde also received three years' supervised release and was ordered to pay a $50,000 fine and a forfeiture of $100,000. During this reporting period, five additional defendants were sentenced, one defendant was convicted, another defendant pled guilty, and six defendants were barred from serving in any union position or in any official capacity of any labor organization, or as a consultant or advisor to any labor organization for a period of 13 years. Brian Hayes, a former Carpenters Local 608 business agent, was sentenced to two-and-a-half years in prison followed by two years' supervised release, and ordered to forfeit $30,000. Forde and Hayes will also be required to pay restitution to the union and its benefit funds; the amount of restitution to be paid is still under review. Additionally, five former UBCJ shop stewards were sentenced.

Forde pled guilty to racketeering charges in July 2010. While he was an officer and the head of the Carpenters Union in New York City, he engaged in a 15-year racketeering scheme in which he, among other things, took bribes from multiple contractors; betrayed the union's members and rigged job assignments; lied under oath; and obstructed investigations into his conduct. The Carpenters Union is a national labor union that represents skilled workers at construction sites. In New York City, the approximately 20,000 members of the union are divided into 10 locals, overseen by the District Council.

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

New Jersey Member of Gambino Crime Family and Twenty Other Defendants Sentenced for Racketeering Conspiracy and Related Crimes

Andrew Merola, one of the Gambino Crime Family's highest-ranking members in New Jersey, was sentenced on October 29, 2010, to 11 years in prison on a Federal racketeering conspiracy charge for his role in multiple fraud schemes, including an illegal gambling operation. He was also sentenced to three years' supervised release and ordered to forfeit $100,000 and pay $161,481 in restitution.

Michael Urgola, the former business manager of Local 1153 of LIUNA, was sentenced on February 7, 2011, to over two-and-a-half years in prison and three years' supervised release, and ordered to pay a $10,000 fine for conspiring with others to bypass deserving union members to provide jobs to friends and criminal associates. In addition, Ralph Cicalese, a top Gambino Associate, former LIUNA shop steward, and former police officer and investigator, was sentenced in October 2010 to 59 months in prison for his

involvement in the racketeering conspiracy. A total of 21 defendants were sentenced during this reporting period.

Between January 2006 and November 2007, Urgola conspired with Merola, Cicalese, and others to defraud Local 1153 of its property—namely, of union membership cards, which were issued to persons not entitled to journeyman membership in the union. As a result of the scheme, Urgola's friends and criminal associates were given jobs they would otherwise not have been able to obtain—receiving work referrals ahead of other employees and Local 1153 members on the union's out-of-work list. As a result of the fraud, union members were deprived of between $400,000 and $1 million in lost wages and benefits.

Joseph Manzella, a LIUNA Local 1153 business agent and associate with the Gambino LCN Crime Family, was sentenced on February 1, 2011, to one year of home confinement and five years of probation after pleading guilty to RICO conspiracy. Manzella admitted his role in conspiring with Cicalese and the officials of a demolition company to accept a cash bribe in exchange for allowing the demolition company to employ nonunion laborers.

This is an ongoing, large scale, multi-agency investigation involving numerous law enforcement agencies, including the FBI, IRS-CI, the New Jersey State Police, and the Union County (New Jersey) Prosecutor's Office. *United States* v. *Andrew Merola, et al.* (D. New Jersey)

Attorney and Union Official Plead Guilty to Bribery Involving Former Union President

Robert L. McKinney, a personal injury attorney, pled guilty on February 23, 2011, to conspiracy to commit bribery in Federally funded programs. Thomas Miller, a Brotherhood of Locomotive Engineers and Trainmen (BLET) special representative, pled guilty on March 21, 2011, to the same charge.

McKinney, who practiced at the law firm of McKinney & McKinney, LLP, desired to become a Federal Employers Liability Act Designated Legal Counsel (DLC) for BLET. BLET represents more than 55,000 members and in 2004 merged with, and is now a division of, the Rail Conference of the International Brotherhood of Teamsters. As a DLC, McKinney would have access to BLET members and family members who were injured on the job. McKinney paid cash bribes to Miller and to the former BLET president, Edward W. Rodzwicz. As the lead executive officer of BLET, Rodzwicz had control over the designation status of DLC attorneys. From 2006–2009, McKinney conspired with Rodzwicz and Miller by paying them cash bribes in order for McKinney to be placed on the DLC list. The conspirators referred to these payments as "campaign contributions" in an effort to conceal the true nature of the payments. Rodzwicz was sentenced in September 2010 for his role in a related scheme.

This is a joint investigation with the FBI. *United States* v. *Robert L. ("Pete") McKinney* and *United States* v. T*homas E. Miller* (N.D. Ohio)

Departmental Management

The Department Could Do More to Strengthen Controls over Its Personal Identity Verification System

On August 27, 2004, the President issued Homeland Security Presidential Directive-12 (HSPD-12), which mandated a Federal standard for secure and reliable forms of identification issued by the Federal government to its employees and contractors. HSPD-12 is intended to enhance security, increase government efficiency, reduce identity fraud, and protect personal privacy. Within DOL, OASAM leads the Department-wide program for implementing HSPD-12. We conducted a performance audit to determine whether the Department has adequate internal controls over the PIV card issuance and maintenance processes and has implemented required Office of Management and Budget (OMB) HSPD-12 milestones.

While we found that the Department substantially met the intent of the OMB milestones, DOL was unable to meet all of OMB's scheduled completion dates for issuing PIV cards to all employees and contractors who required cards. The Department reported to OMB that it had issued PIV cards to more than 90 percent of employees as of December 2010. However, the Department did not meet OMB guidance of issuing 100 percent, as required, primarily due to the cost associated with traveling to a PIV issuing station for those who work in remote locations, as well as continual employee and contractor turnover. We estimated that more than 1,700 DOL employees and contractors had not been issued cards as required. Officials told us DOL is working toward establishing an agreement with the General Services Administration to issue PIV cards for those DOL employees in remote locations and that they will continue to use mobile stations to issue cards during activities such as DOL conferences, where a large number of employees can be issued cards more cost effectively. We also identified control weaknesses in DOL's PIV card issuance and maintenance processes, and inaccuracies in PIV system data.

We made seven recommendations to OASAM to improve the Department's internal controls over and tracking of PIV cards and records. OASAM agreed with the recommendations in the report and has planned to take actions to address them. (Report No. 04-11-001-07-001, March 31, 2011)

Ineffective Accounting for Sensitive IT Hardware and Software Assets Places DOL at Significant Risk

Due to recent high-profile instances of laptop thefts and data breaches, the Federal government has been concerned about agencies' ability to account for their sensitive information technology (IT) assets. To push agencies to examine their risks and make substantial security improvements to address these concerns, OMB developed in 2010 an outcome-focused metric for information security performance for Federal agencies, designed in part to ensure that Federal agencies are accountable for sensitive IT assets. We conducted a performance audit of the inventory of DOL's sensitive IT hardware and software to gauge the Department's ability to account for these assets. Our work covered the primary inventory processes—procurement, asset distribution and assigned accountability, disposal, reconciliation, and the updating of inventory in the Department's official system of record, the Electronic Property Management System (EPMS).

Our audit found that DOL cannot account for its sensitive IT assets. Our statistical sampling found that:

- Approximately 50 percent of assets recorded in EPMS could not be physically located.
- Approximately 14 percent of IT assets observed during testing were not recorded in EPMS.
- Approximately 71 percent of IT assets that had been procured using the Electronic Procurement System could not be physically located.

The Department confirmed that it had not certified its IT inventory since 2007, and its January 2010 effort to require all 24 program agencies to certify their IT inventories was not successful. As of July 2010, 13 program agencies had not certified their inventories in EPMS.

We also found that program agencies did not consistently update EPMS to record the disposal of sensitive IT assets. OASAM was responsible for the Department's disposal guidelines. However, written Department-wide policy or procedures that should govern how program agencies are to dispose of IT assets did not exist. Our reconciliation of disposal documentation with EPMS as of June 1, 2010, identified discrepancies with 1,576 assets.

Department security officials could not determine whether sensitive data such as personally identifiable information (PII) existed on 377 sensitive IT assets in OASAM that had been reported lost, missing, or stolen. The Department could not determine whether these items—which included laptops, desktops, printers, and a server—represented a potential information security breach.

Without significant improvements in oversight, accountability, and inventory controls, the Department risks the potential of eroding the public's trust should an undetected information security breach occur.

We made six recommendations to OASAM to enforce accountability over current policies and develop policies for areas such as disposal where it is presently lacking, and to ensure that the Department has a consolidated, viable inventory management system that is properly updated. While management questioned the use of the term "sensitive IT assets," it acknowledged that the property management system had deficiencies and that it was prepared to take corrective action. (Report No. 23-11-001-07-001, March 31, 2011)

Consolidated Financial Statement Audit

The Department's inability to provide timely and accurate financial data resulted in the Department receiving a disclaimer of opinion on its FY 2010 Consolidated Financial Statements. This was the result of a host of system migration, integration, and configuration problems that occurred when the Department implemented a new financial management system. Specifically, DOL was unable to provide sufficient evidence that supported certain balance sheet accounts, including the fund balance with Treasury, accounts receivable, accounts payable, accrued benefits, and the components of net position, as reported in the accompanying consolidated balance sheet as of September 30, 2010. It is important to note that prior to this, the Department had received an unqualified opinion on its annual consolidated financial statements since 1997.

In addition, KPMG's consideration of internal controls over financial reporting identified four deficiencies considered to be material weaknesses and two deficiencies considered to be significant deficiencies. With the exception of a significant deficiency identified in the Department's processing of property, plant, and equipment (PP&E) transactions, all of the following deficiencies had been reported in one or more prior years:

Material Weaknesses

1. Lack of Sufficient Controls over Financial Reporting

KPMG noted that the Department failed to address numerous implementation risks prior to replacing its legacy accounting and reporting system, the Department of Labor Accounting and Related Systems (DOLAR$), with the New Core Financial Management System (NCFMS). DOL encountered issues related to migrating data from DOLAR$ to NCFMS, completing the interfaces between

the legacy subsystems and NCFMS, developing new accounting processes to effectively use NCFMS, and identifying all the necessary reporting requirements. In addition, reports needed for management, control, and audit purposes were not readily available or had not been created upon activation of NCFMS. As a result, the ability of management officials to monitor their budgets was significantly impacted and operational control procedures were not performed routinely throughout FY 2010. DOL also experienced delays in meeting certain OMB reporting deadlines and in preparing audit deliverables. Despite substantial effort by the OCFO, DOL has been unable to fully address many of these implementation problems.

2. Lack of Sufficient Controls over Budgetary Accounting

The OCFO staff had limited time available to sufficiently and timely perform control activities due to its efforts in resolving issues related to the NCFMS implementation. For example, KPMG's testing found that adjustments recorded in the general ledger during one period were not properly reversed in the subsequent period, budgetary reconciliations were not prepared by management, and apportionments approved by OMB for multiyear and no-year funds were not recorded in the general ledger. Management generally corrected the misstatements that KPMG had identified as of September 30, 2010.

3. Improvements Needed in the Preparation and Review of Journal Entries

OCFO was unable to provide any supporting documentation for 181 of the 242 journal entries that KPMG selected for review, and none of the remaining 61 journal entries had sufficient documentation to evidence that someone other than the preparer had properly reviewed the entries prior to their being posted. DOL supervisors did not sufficiently review journal entries to ensure that they were properly prepared and supported before posting to the general ledger. In addition, certain individuals did not follow, or document that they followed, DOL policies for the proper segregation of duties related to the preparation and posting of journal entries.

4. Lack of Adequate Controls over Access to Key Financial and Support Systems

KPMG's testing of DOL's IT systems indicated that access control weaknesses continued to be systemic across various DOL agencies, having been reported previously in FYs 2006–2009. These weaknesses were classified into the following three categories: Account Management, System Access Settings, and System Audit Logs Review. The Office of the Assistant Secretary for Administration and Management did not concur with our classification of this finding as a material weakness. OASAM stated that DOL policies, procedures, and standards collectively provided compound safeguards and redundant security measures to ensure the integrity of DOL financial systems. Our conclusion that a material weakness existed was based on findings, when assessed in aggregate, which identified deficiencies in both detective and preventive access controls related to one or more financial systems. Although management stated that it does not concur with our finding, it plans on taking steps to address our recommendations for corrective actions.

Significant Deficiencies

1. Weakness Noted over Payroll Accounting

DOL relies on the U.S. Department of Agriculture's National Finance Center (NFC) to process its payroll and should have controls in place to ensure the accuracy and reliability of DOL payroll transactions. KPMG sampled 25 reviews of payroll-related items from various agencies to test the revised policies and procedures issued by DOL in July 2009 in response to a prior-year recommendation.

KPMG found that insufficient evidence existed to determine that the preparation and review of payroll-related items, including time and attendance and gross pay, were

completed properly and timely, and that identified issues were resolved. The OCFO's new policy and procedures requiring the responsible human resources (HR) official to review Payroll / Time and Attendance Reconciliation Reports and investigate issues identified were not adequately enforced by the HR officials' supervisors and were not operating effectively. In addition, OCFO management stated that the use of OFCO resources to resolve NCFMS implementation issues did not allow it to also perform payroll reconciliations, which had not been accomplished for the majority of FY 2010. The lack of compensating reconciliation controls regarding the NFC compensation outputs increases the risk that payroll-related line items may be misstated due to errors in payroll processing by the NFC. In addition, DOL's failure to reconcile the NFC payroll registers to the general ledger since the implementation of NCFMS further increases the risk that a payroll-related misstatement would not be detected by management.

2. Untimely and Inaccurate Processing of PP&E Transactions

Because of the NCFMS implementation, DOL had to revise its process for recording PP&E transactions in the general ledger. KPMG noted that DOL's revised process had not been implemented as of June 30, 2010, which resulted in the untimely processing of certain PP&E transactions. KPMG's testing of PP&E balances as of this date noted errors in both the general ledger and the related PP&E module in the areas of recording PP&E additions and deletions and calculating accumulated depreciation and depreciation expense. Although the Department performed certain analyses of PP&E and made adjustments to its general ledger and PP&E module, we continued to identify significant errors that resulted in the book value of PP&E being understated by $37.7 million in the Department's general ledger and $266.3 million in its PP&E module as of August 31, 2010. (Report No. 22-11-002-13-001, November 15, 2010)

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. 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 16 recipients.

Single Audits Identify Material Weaknesses and Significant Deficiencies in 34 of 68 Reports

We reviewed 68 single audit reports this period, covering DOL expenditures of more than $12 billion during audit years 2009 through 2010. These expenditures included more than $5 billion related to Recovery Act funding. The non-Federal and state auditors issued 13 qualified or adverse opinions on awardees' compliance with Federal grant requirements, their financial statements, or both. In particular, the auditors identified 89 findings and more than $500,000 in questioned costs in 34 of the 68 reports reviewed as material weaknesses or significant deficiencies, indicating serious concerns about the auditees' ability to manage DOL funds and comply with the requirements of major grant programs. We reported these 89 findings and 89 related recommendations to DOL managers for corrective action. Not correcting these deficiencies could lead to future violations and improper charges.

During the period, we also conducted three quality control reviews of auditors' reports and supporting audit documentation. 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. In most cases, the audit work performed was generally acceptable and met the requirements of the Single Audit Act and OMB Circular A-133. In one audit, additional work was required to bring the audit 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 NDNH data, states can better detect overpayments to UI claimants who have gone back to work but who continue to collect UI benefits. However, the law (42 U.S.C. 653 (i)) does not permit DOL or the OIG access to the NDNH. 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 financial institutions such as banks and savings and loans from audits of employee benefit plans. The limited audit 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 auditors 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 U.S.C. 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 prohibited by Section 1954. Sections 664 and 1027 subject violators up to five years' imprisonment, while Section 1954 calls for up to three years' imprisonment. We believe the maximum penalty should be raised to 10 years for all three violations, which would serve as a greater deterrent and 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 believes reforms should be considered to improve the effectiveness and integrity of the FECA program in the following areas:

- **Statutory access to Social Security wage records and the National Directory of New Hires.** Currently, the Department can only access Social Security wage information if the claimant gives it permission to do so, and has no access to the New Hire Directory. Granting the Department routine access to these databases would aid in the detection of fraud committed by individuals receiving FECA wage loss compensation but failing to report income they have earned.

- **Benefit rates when claimants reach normal Federal or Social Security retirement age.** Alternate views have arisen as to whether and how benefit rates should be adjusted when beneficiaries reach Federal or Social Security retirement age. The benefit rate structure for FECA should be reassessed to determine what an appropriate benefit should be for those beneficiaries who remain on the FECA rolls into retirement. Careful consideration is needed to ensure that the benefit rates ultimately established will have the desired effect while ensuring fairness to injured workers, especially those who have been determined to be permanently injured and thus unable to return to work.

- **Three-day waiting period.** The FECA legislation provides for a 3-day waiting period, which is intended to discourage the filing of frivolous claims. As currently written, the legislation places the waiting period at the end of the 45-day continuation of pay period; thereby negating its purpose. Legislation passed in 2006 placed the waiting period immediately after an employment-related injury for Postal employees. If the intent of the law is to have a true waiting period before applying for benefits, then it should likewise come immediately after an employment-related injury for all workers.

Clarify 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—including 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

Index of Reporting Requirements Under the IG Act of 1978

REPORTING	REQUIREMENT	PAGE
Section 4(a)(2)	Review of Legislation and Regulation	52
Section 5(a)(1)	Significant Problems, Abuses, and Deficiencies	ALL
Section 5(a)(2)	Recommendations with Respect to Significant Problems, Abuses, and Deficiencies	ALL
Section 5(a)(3)	Prior Significant Recommendations on Which Corrective Action Has Not Been Completed	63
Section 5(a)(4)	Matters Referred to Prosecutive Authorities	66
Section 5(a)(5) and Section 6(b)(2)	Summary of Instances Where Information Was Refused	NONE
Section 5(a)(6)	List of Audit Reports	58
Section 5(a)(7)	Summary of Significant Reports	ALL
Section 5(a)(8)	Statistical Tables on Management Decisions on Questioned Costs	57
Section 5(a)(9)	Statistical Tables on Management Decisions on Recommendations That Funds Be Put to Better Use	57
Section 5(a)(10)	Summary of Each Audit Report over Six Months Old for Which No Management Decision Has Been Made	63
Section 5(a)(11)	Description and Explanation of Any Significant Revised Management Decision	NONE
Section 5(a)(12)	Information on Any Significant Management Decisions with Which the Inspector General Disagrees	NONE

Requirement Under the Dodd-Frank Wall Street Reform Act of 2010

Section 3(d)	Peer Review	67

Reporting Requirement Under the Recovery Act of 2010

Section 1553(b)(2)(B)(iii)	Whistleblower Reporting	69

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	5	1,340.5
Issued during the reporting period	1	5.7
Subtotal	6	1,346.2
For which management decision was made during the reporting period:		
•Dollar value of recommendations that were agreed to by management		0
•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	6	1,346.2

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	5	33.6
For which management or appeal decisions were made during the reporting period		
Subtotal	5	33.6
For which final action was taken during the reporting period:		
•Dollar value of recommendations that were actually completed		32.5
•Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed		1.0
For which no final action had been taken by the end of the period	1	0.1

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)	29	20.5
Issued during the reporting period	8	3.4
Subtotal	37	23.9
For which a management decision was made during the reporting period:		
•Dollar value of disallowed costs		8.0
•Dollar value of costs not disallowed		6.6
For which no management decision had been made as of the end of the reporting period	17	9.3
For which no management decision had been made within six months of issuance	8	5.9

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	33.1
For which management or appeal decisions were made during the reporting period	14	9.9
Subtotal	93	43.0
For which final action was taken during the reporting period:		
•Dollar value of disallowed costs that were recovered		9.4
•Dollar value of disallowed costs that were written off by management		0.5
•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	65	33.1

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				
Veterans Employment and Training Service				
Kansas' Controls Over Jobs for Veteran State Grant Contract Reporting and Monitoring Need to Be Strengthened; Report No. 04-11-002-02-001; 03/31/11	1	167,065	0	0
Job Corps Program				
Los Angeles Job Corps Center Did Not Ensure Best Value in Awarding Sub-Contracts; Report No. 26-11-001-03-370; 03/31/11	5	2,475,460	0	0
YouthBuild				
Recovery Act: ETA Needs to Strengthen Management Controls to Meet YouthBuild Program Objectives; Report No. 18-11-001-03-001; 03/31/11	6	214,124	5,700,000	
Workforce Investment Act				
Recovery Act: Workforce Investment Act Youth Program; Report No. 18-11-006-03-390; 03/31/11	0	0	0	0
Bureau of Labor Statistics				
BLS Could Do More to Ensure that Labor Force Statistics Program Funds Are Expended and Reported in Accordance with the Labor Market Information Agreement, Report No. 17-11-001-11-001; 03/31/11	2	39,273	0	0
Goal Totals (5 Reports)	**14**	**2,895,922**	**5,700,000**	**0**
Worker Benefit Programs				
Unemployment Insurance Service				
Recovery Act: DOL Could Have Better Monitored the Use of Re-employment Services Funds to Adhere to Standards for Transparency and Accountability; Report No. 18-11-005-03-315; 03/31/11	3	0	0	0
Office of Workers' Compensation Programs				
OWCP Needs to Improve Its Monitoring and Managing of Defense Base Act Claims; Report No. 03-11-001-04-430; 03/23/11	5	0	0	0
Federal Employees' Compensation Act				
Special Report Relating to the Federal Employees' Compensation Act Special Benefit Fund September 30, 2010; Report No. 22-11-001-04-431; 10/29/10	0	0	0	0
Employee Benefit Security Program				
Proxy-Voting May Not be Solely for the Economic Benefit of Retirement Plans; Report No. 09-11-001-12-121; 03/31/11	3	0	0	0
EBSA Needs to Monitor the Projected Impact of the Qualified Default Investment Alternative Regulation; Report No. 09-11-002-12-121; 03/31/11	1	0	0	0
Goal Totals (5 Reports)	**12**	**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 ($)
Employment and Training Programs				
Worker Safety, Health, and Workplace Rights				
Office of Federal Contract Compliance				
Recovery Act: Enforcement of Federal Equal Employment Opportunity Laws; Report No. 18-11-007-04-410; 03/31/11	0	0	0	0
Wage and Hour Division				
Recovery Act: Enforcement of Davis-Bacon Act Prevailing Wage Rate Determinations; Report No. 18-11-009-04-420; 03/31/11	0	0	0	0
Mine Safety and Health				
MSHA's Controls Over Contract Awards Need Strengthening; Report No. 05-11-001-06-001; 02/16/11	4	0	0	0
Occupational Safety and Health				
OSHA Has Not Determined If State OSH Programs Are at Least as Effective in Improving Workplace Safety and Health as Federal OSHA's Program; Report No. 02-11-201-10-105; 03/31/11	4	0	0	0
Whistleblower Protection Program Complaint; Report No. 02-11-202-10-105; 03/31/11	1	0	0	0
Goal Totals (5 Reports)	**9**	**0**	**0**	**0**
Departmental Management				
OASAM Management				
The Department Could Do More to Strengthen Controls Over Its Personal Identify Verification System; Report No. 04-11-001-07-001; 03/31/11	7	0	0	0
Findings Over General and Application Controls for Selected DOL Information Technology Systems Identified in the Engagement to Audit the Consolidated Financial Statements for the Year Ended September 30, 2010; Report No. 22-11-007-07-001; 03/31/11	0	0	0	0
Ineffective Accounting for Sensitive Information Technology Hardware and Software Assets Placed DOL at Significant Risk; Report No. 23-11-001-07-001; 03/31/11	6	0	0	0
Office of the Chief Financial Officer				
Independent Auditors' Report on the U.S. Department of Labor's FY 2010 Consolidated Financial Statements; Report No. 22-11-002-13-001; 11/15/10	31	0	0	0
Management Advisory Comments Identified in the Engagement to Audit the Consolidated Financial Statements for the Year Ended September 30, 2010; Report No. 22-11-006-13-001; 03/31/11	19	0	0	0
Goal Totals (5 Reports)	**63**	**0**	**0**	**0**
Final Audit Report Totals (20 Reports)	**98**	**2,895,922**	**5,700,000**	**0**

Other Reports

Program Name Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)
Employment and Training Programs		
Employment and Training - Multiple Programs		
Recovery Act: Quality Control Review of the Single Audit of New Mexico Department of Workforce Solutions for the Year Ended June 30, 2009; Report No. 18-11-002-03-001; 03/21/11	3	0
ETA - Notification of Findings and Recommendations (NOFRs) Related to the General and Application Controls Testing Pertaining to the Fiscal Year 2010 Audit of the Department of Labor's Consolidated Financial Statements; Report No. 22-11-011-03-001; 3/31/11	15	0
Seasonal Farmworkers Programs		
Recovery Act: Quality Control Review of the Single Audit of Pathstone Corporation and Affiliates for the Year Ended September 30, 2009; Report No. 18-11-008-03-365; 03/08/11	0	0
Goal Totals (3 Reports)	**18**	**0**
Worker Benefit Programs		
Unemployment Insurance Service		
Recovery Act: Quality Control Review of the Single Audit of the State of Michigan Unemployment Insurance Agency Administration Fund for the Year Ended September 30, 2009; Report No. 18-11-003-03-315; 02/24/11	0	0
Office of Workers Compensation Program		
OWCP - Notification of Findings and Recommendations (NOFRs) Related to the General and Application Controls Testing Pertaining to Fiscal Year 2010 Audit of the Department of Labor's Consolidated Financial Statements; Report No. 22-11-010-04-430; 03/31/11	27	0
Goal Totals (2 Reports)	**27**	**0**
Worker Safety, Health, and Workplace Rights		
Pattern of Significant and Substantial Violation Rate Extended Analysis; Report No. 05-11-002-06-001; 12/15/10	0	0
Goal Totals (1 Report)	**0**	**0**
Departmental Management		
Office of the Assistant Secretary for Administration and Management		
OASAM - Notification of Findings and Recommendations (NOFRs) Related to the General and Application Controls Testing Pertaining to Fiscal Year 2010 Audit of the Department of Labor's Consolidated Financial Statements; Report No. 22-11-012-07-001; 03/31/11	9	0
Notifications and Findings and Recommendations Related to the Federal Information Security Management Act Audit; Report No. 23-11-003-07-001; 11/01/10	4	0
Office of the Chief Financial Officer		
OCFO - Notification of Findings and Recommendations (NOFRs) Related to the General and Application Controls Testing Pertaining to Fiscal Year 2010 Audit of the Department of Labor's Consolidated Financial Statements; Report No. 22-11-009-13-001; 03/21/11	12	
Goal Totals (3 Reports)	**25**	**0**
Other Report Totals (9 Reports)	**70**	**0**

Single Audit Reports Processed

Program Name Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)
Employment and Training Programs		
Employment and Training - Multiple Programs		
Commonwealth of Puerto Rico Department of Labor and Human Resources; Report No. 24-11-501-03-001; 10/25/10	22	0
State of Florida; Report No. 24-11-518-03-001; 01/19/11	3	0
United States Employment Service		
State of Georgia; Report No. 24-11-517-03-320; 01/19/11	3	0
Indian and Native American Programs		
Comanche Nation; Report No. 24-11-526-03-355; 03/04/11	1	0
Senior Community Service Employment Program		
National Able Network, Inc. and Its Subsidiary; Report No. 24-11-510-03-360; 10/18/10	1	0
Experience Works; Report No. 24-11-515-03-360; 12/15/10	2	0
Seasonal Farmworker Programs		
NAF Multicultural Human Development Corporation; Report No. 24-11-505-03-365; 10/13/10	3	0
La Cooperativa Campesina De California; Report No. 24-11-514-03-365;12/9/10	4	0
School-to-Work		
Turtle Mountain Band of Chippewa Indians; Report No. 24-11-502-03-385; 10/7/10	1	0
Workforce Investment Act		
Livng Classroom Foundation; Report No. 24-11-500-03-390; 10/12/10	2	0
City of Chicago, Illinois; Report No. 24-11-503-03-390; 10/13/10	1	0
Venice Community Housing Corporation; Report No. 24-11-506-03-390; 10/18/10	2	0
Garfield Jubliee Association, Inc.; Report No. 24-11-507-03-390; 10/18/10	5	0
Project Adventure, Inc. and Subsidiary; Report No. 24-11-509-03-390; 10/25/10	2	0
Comprehensive Community Solutions, Inc.; Report No. 24-11-511-03-390; 10/26/10	3	0
Arizona Women's Education and Employment, Inc.; Report No. 24-11-512-03-390; 10/26/10	2	0
Metro United Methodist Urban Ministry; Report No. 24-11-513-03-390; 11/29/10	1	0
State of Utah; Report No. 24-11-521-03-390; 02/01/11	2	296,862
Tennessee Opportunity Programs, Inc.; 24-11-522-03-390; 03/04/11	1	147,039
Maui Economic Development Board, Inc.; Report No. 24-11-523-03-390; 02/09/11	1	0
Amarillo Senior Citizens Association, Inc.; Report No. 24-11-524-03-390; 02/09/11	4	30,000
Government of Puerto Rico Human Resources and Occupational Development Council; Report No. 24-11-525-03-390; 02/08/11	1	0

Single Audit Reports Processed, continued

Program Name Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)
Employment and Training Programs		
State of New York, Report No. 24-11-527-03-390; 02/25/11	3	0
High Plains Community Development Corporation, Inc.; Report No. 24-11-528-03-390; 02/25/11	3	0
Berkshire Union Freeschool District; Report No. 24-11-529-03-390; 02/25/11	1	0
Human Resources and Occupational Development Council; Report No. 24-11-530 03-390; 03/07/11	1	0
Citrus Levy Marion Regional Workforce Development Board, Inc.; Report No. 24-11-533-03-390; 03/22/11	1	45,271
School District of Philadelphia; Report No. 24-11-534-03-390; 03/21/11	1	0
Goal Totals (28 Reports)	**77**	**519,172**
Worker Benefit Programs		
Unemployment Insurance Service		
Government of the United States Virgin Islands; Report No. 24-11-508-03-315; 10/18/10	4	0
State of Ohio Interim Reporting of Material and Siginificant Deficiencies - Phase II; Report No. 24-10-516-03-315; 01/20/11	2	0
State of Alaska Interim Reporting of Material and Siginificant Deficiencies - Phase II; Report No. 24-11-519-03-315; 01/19/11	1	0
State of Louisiana Interim Reporting of Material and Siginificant Deficiencies - Phase II; Report No. 24-11-520-03-315; 01/25/11	3	0
Goal Totals (4 Reports)	**10**	**0**
Worker Safety, Health, and Workplace Rights		
International Labor Affairs		
Partners of Americas, Inc.; Report No. 24-11-504-01-070; 10/07/10	1	
Occupational Safety and Health		
University of Medicine and Denistry of New Jersey; Report No. 24-11-531-10-001; 03/17/11	1	0
Goal Totals (2 Reports)	**2**	**0**
Report Totals (34 Reports)	**89**	**519,172**

Unresolved Audit Reports Over Six Months Old

Agency	Date Issued	Name of Audit	Report Number	# of Recommendations	Questioned Costs ($)
Nonmonetary Recommendations and Questioned Costs					
Final Management Decision/Determination Issued By Agency Did Not Resolve; OIG Negotiating with Agency					
ETA	09/30/10	Recovery Act: More Than $1.3 Billion in Unemployment Insurance Modernization Incentive Payments Are Unlikely to Be Claimed by States	18-10-012-03-315	1	0
ETA	09/30/10	Debarment Authority Should Be Used More Extensively in Foreign Labor Certification Program	05-10-002-03-321	3	0
Job Corps	09/15/09	Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit of: Job Corps' General Support	23-09-006-01-370	4	0
ETA	09/30/10	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	18-10-009-03-370	1	0
ETA	03/31/10	Recovery Act: Actions Needed to Better Ensure Congressional Intent Can Be Met in the Workforce Investment Act Adult and Dislocated Worker Programs	18-10-004-03-390	1	0
ETA	09/30/10	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	18-10-013-03-390	2	0
WHD	03/31/10	WHD Northeast Region's Management of CMP Penalties and Back Wages Could Be Improved	04-10-001-04-420	2	0
WHD	12/16/09	Wage and Hour's Management Oversight of the FLSA'S Minimum Wage and Overtime Exemption Provisions Under CFR Part 541 Could Be Strengthened	04-10-002-04-420	3	0
OASAM	03/30/10	Actions Required to Resolve Significant Deficiencies and Improve DOL's Overall IT Security Program	23-10-001-07-001	3	0
OASAM	01/29/10	Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit	23-10-002-07-001	3	0
OSHA	09/30/10	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	02-10-201-10-105	7	0
OSHA	09/30/10	Complainants Did Not Always Receive Appropriate Investigations Under the Whistleblower Protection Program	02-10-202-10-105	6	0
EBSA	09/30/10	Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit: EBSA's General Support System	23-10-020-12-001	5	0

Unresolved Audit Reports Over Six Months Old, continued

Determination Not Issued by Grant/Contracting Officer by Close of Period					
Job Corps	09/30/08	Performance Audit of Applied Technology System, Inc. Job Corps Centers	26-08-005-01-370	2	678,643
Job Corps	09/30/09	Performance Audit of Management and Training Corporation	26-09-001-01-370	1	63,943
OSHA	01/09/09	Procurement Violations and Irregularities Occurred In OSHA’s Oversight of a Blanket Purchase Agreement	03-09-002-10-001	1	681,379
Job Corps	03/03/10	Performance Audit of Rescare, Inc.	26-10-002-01-370	2	116,794
Job Corps	03/18/10	Performance Audit of Education and Training Resources	26-10-003-01-370	5	22,758
Job Corps	08/10/10	Performance Audit of MINACT, Inc. Job Corps Operator	26-10-004-01-370	6	203,921
Job Corps	09/24/10	Applied Technology Systems, Inc. Overcharged Job Corps for Indirect Costs	26-10-006-01-370	1	1,800,000
VETS	05/28/10	Texas Veterans Commission Could Enhance Services to Veterans with Barriers to Employment	06-10-001-02-201	1	0
Final Management Decision Not Issued by Agency by Close of Period					
VETS	09/30/10	VETS Needs to Strengthen Management Controls Over the Transition Assistance Program	06-10-002-02-001	5	2,300,000
VETS	09/30/10	The Homeless Veterans Reintegration Program Needs to Make Improvements to Ensure Homeless Veterans' Employment Needs Are Met	06-10-003-02-001	3	
CFO	09/30/10	DOL Needs to Establish a Central Point of Accountability Over The Department's Working Capital Fund Operations to Ensure It Meets the Legislative Intent	03-10-002-13-001	9	0
Recommendations Re-Classified to Unresolved Based on OIG Follow-up Work					
UIS	09/30/04	FISMA Audit: Employment and Training Administration Unemployment ICON Network	23-04-027-03-315	2	0
ESA	08/27/08	Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit of: Central Bill Processing System	23-08-007-04-001	4	0
Total Nonmonetary Recommendations, Questioned Costs				**85**	**5,867,438**

Unresolved Audit Reports Over Six Months Old, continued

Cost Efficiencies					
Final Management Decision Not Issued by Agency by Close of Period					
VETS	09/30/10	VETS Needs to Strengthen Management Controls Over the Transition Assistance Program	06-10-002-02-001	1	713,000
VETS	09/30/10	The Homeless Veterans Reintegration Program Needs to Make Improvements to Ensure Homeless Veterans' Employment Needs Are Met	06-10-003-02-001	1	5,900,000
Final Determination Not Issued by Grant/Contracting Officer by Close of Period					
VETS	05/28/10	Texas Veterans Commission Could Enhance Services to Veterans with Barriers to Employment	06-10-001-02-201	1	2,900,000
Final Management Decision/Determination Issued by Agency Did Not Resolve; OIG Negotiating with Agency					
ETA	09/30/10	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	18-10-012-03-315	1	31,000,000
ETA	09/30/10	Recovery Act: More Than $1.3 Billion in Unemployment Insurance Modernization Incentive Payments Are Unlikely to Be Claimed by States	18-10-012-03-315	1	1,300,000,000
Total Cost Efficiencies				**5**	**1,340,513,000**
Total Audit Exceptions and Cost Efficiencies				**90**	**1,346,380,438**

Investigative Statistics

	Division Totals	Total
Cases Opened:		279
Program Fraud	236	
Labor Racketeering	43	
Cases Closed:		234
Program Fraud	155	
Labor Racketeering	79	
Cases Referred for Prosecution:		175
Program Fraud	137	
Labor Racketeering	38	
Cases Referred for Administrative/Civil Action:		76
Program Fraud	65	
Labor Racketeering	11	
Indictments:		207
Program Fraud	135	
Labor Racketeering	72	
Convictions:		134
Program Fraud	96	
Labor Racketeering	37	
Debarments:		49
Program Fraud	11	
Labor Racketeering	38	
Recoveries, Cost Efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions:		$155,086,079
Program Fraud	$109,499,118	
Labor Racketeering	$45,586,961	

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	$25,935,108
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	$7,263,718
Restitutions/Forfeitures: The dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations	$95,043,501
Fines/Penalties: The dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations	$4,357,310
Civil Monetary Actions: The dollar amount/value of forfeitures, settlements, damages, judgments, court costs, or other penalties resulting from OIG civil investigations	$22,486,442
Total	**$155,086,079***

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

- A total forfeiture of $1,961,476 was ordered to be paid by several defendants who were involved in a harboring scheme which included transportation and housing of workers, attempted evasion of Federal Unemployment Tax Act payments and other violations.

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.

Peer Review Reporting, continued

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 revises 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 plans to issue a new audit manual in the fourth quarter of 2011 which will address Government Auditing Standards, paragraphs 7.57 and 7.59. DHS also reported that, through training classes and daily supervisory guidance, it has notified auditors to better document fraud consideration. As an additional control, the Supervisory Review Checklist will be expanded to include the requirement to document consideration of fraud, starting in the audit planning phase when the new audit manual is issued.

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 in full compliance with the quality standards established by both the Council of Inspectors General on Integrity and Efficiency and the Attorney General's guidelines.

Whistleblower Reporting

Under the American Recovery and Reinvestment Act of 2009 (Recovery Act) (P.L. 111-5), an employee of any non-Federal employer receiving covered Recovery Act funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information that the employee reasonably believes is evidence of: 1) gross mismanagement of an agency contract or grant relating to covered funds; 2) a gross waste of covered funds; 3) a substantial and specific danger to public health or safety related to the implementation or use of covered funds; 4) an abuse of authority related to the implementation or use of covered funds, or 5) a violation of law, rule, or regulation related to an agency contract or grant, awarded or issued relating to covered funds.

The following meets the requirements under this Act that the Inspectors General include in each semiannual report: a list of those investigations for which the Inspector General received an extension beyond the applicable 180-day period to conduct an investigation and submit a report (Section 1553(b)(2)(B)(iii)), and a list of those investigations the inspector general decided not to conduct or continue (Section 1553(b)(3)(C)).

The Inspector General decided not to conduct or continue an investigation with respect to two Recovery Act whistleblower complaints that it received during this semiannual reporting period.

With respect to the first complaint, an individual submitted a complaint to the OIG claiming that he had been terminated from a Recovery Act-funded position in retaliation for having questioned the appropriateness of his work assignments, which he believed were not consistent with the funding of his position under the Recovery Act. This complaint was reviewed by the OIG, which found that the Recovery Act funds in question were not DOL Recovery Act funds, but instead were Recovery Act funds received from other Federal agencies. We notified the complainant's attorney that the funds were received from other agencies.

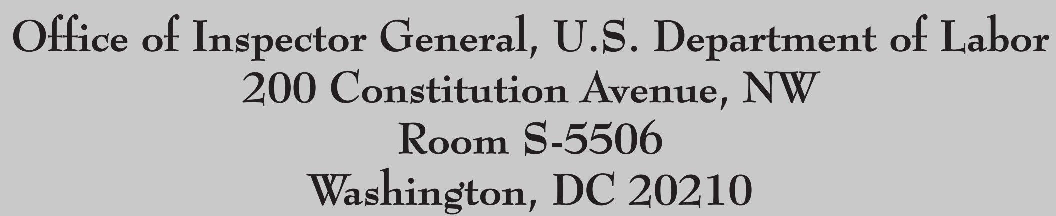
With respect to the second complaint, an individual submitted a complaint to the OIG regarding the alleged improper award of a Recovery Act contract, and the individual alleged that, in retaliation for raising this issue, he/she was terminated from employment. The OIG contacted the complainant on several occasions in an attempt to schedule an initial interview to obtain further details and information regarding the allegations related to the termination. However, the complainant did not agree to be interviewed and, based upon this lack of cooperation, the OIG closed its investigation.

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 of October 1, 2010, through March 31, 2011, the OIG Hotline received a total of 910 contacts. Of these, 647 were referred for further review and/or action.

Complaints Received (by method reported):	**Totals**
Telephone	543
E-mail/Internet	194
Mail	148
Fax	22
Walk-In	3
Total	**910**
Contacts Received (by source):	**Totals**
Complaints from Individuals or Nongovernmental Organizations	842
Complaints/Inquiries from Congress	3
Referrals from GAO	16
Complaints from Other DOL Agencies	18
Complaints from Other (non-DOL) Government Agencies	31
Total	**910**
Disposition of Complaints:	**Totals**
Referred to OIG Components for Further Review and/or Action	43
Referred to DOL Program Management for Further Review and/or Action	321
Referred to Non-DOL Agencies/Organizations	283
No Referral Required/Informational Contact	73
Total	**936***

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

http://www.oig.dol.gov/

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.

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