DEPARTMENT OF LABOR

Top Management Challenges Facing the U.S. Department of Labor

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Statement by
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on
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Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to testify on the top three management challenges of the Department of Labor. The views expressed today are those of the Office of Inspector General (OIG), consistent with its independent role to provide oversight of the Department.

Mr. Chairman, as you know, the Department's programs are numerous and complex. In my opinion, effective management and accountability in these programs are high priorities of the Secretary and her team. It is also important to acknowledge the great strides that the Department has made in areas where other Federal agencies continue to struggle. For example, the Department achieved an unqualified audit opinion on its consolidated financial statements for the fifth year in a row. The Department has also implemented an integrated information technology capital planning process that has been identified as a best practice in government by the Office of Management and Budget.

Nonetheless, the Department faces a number of challenges that are included in the Department's Accountability and Performance Report, which was recently transmitted to the Congress. It is important to note that identifying an area as a management challenge does not automatically mean that there is mismanagement or fraud taking place. We identify as challenges those issues within major programs or operations that affect the Department's ability to carry out its mission effectively or efficiently. In some cases, the challenge may be posed by something outside the Department's control. However, if an issue impacts the Department's ability to fulfill its mandates, we believe we have a responsibility to raise it. Consistent with your request, we have selected three areas that present long-term challenges to the Department: (1) employment and training program results and accountability (2) pension and retirement plan protection, and (3) human capital management.

Results and Accountability of Employment and Training Programs

Over the past three decades, the performance of employment and training programs administered by the Department of Labor has been assessed by the OIG, its predecessor organizations, and the General Accounting Office. In that time, many deficiencies have been found, many problems have been addressed, and many changes to the job training system itself have been legislated by the Congress. Despite the attention given to this area, the Department is still challenged in demonstrating that its programs are effective and in ensuring accountability over this multi-billion dollar public investment.

With regard to program results, OIG audits continue to document that performance for some programs falls short of legislative intent. For example, we recently audited the Welfare-to-Work (WtW) competitive grant program. The purpose of this program is to place hard-to-employ welfare recipients and others in jobs leading to lasting, unsubsidized employment. Our audit found that only 25% of participants in our sample were continuously employed for more than 6 months. Another example is our recent audit of the Department's programs to serve workers dislocated as a result of trade policies. That audit estimated that, while most participants found employment, only 34% found jobs that paid enough to satisfy the programs' objective of helping individuals find "suitable employment", which is defined as jobs paying at least 80 percent of their pre-layoff wage.

In addition to documenting poor performance, our audits have illustrated the problems faced by the Department in obtaining quality performance data. Our audits continue to disclose high error rates in performance data reported to the Department by state partners and grantees. In fact, as is usually the case, to arrive at our findings and conclusions in the two audits I just mentioned, the OIG had to independently examine participant case files, counselors' notes, activity and training records, unemployment insurance wage data and other source documentation, as well as conduct interviews with program operators, participants and others.

For the WtW competitive grant program, we projected that performance data relative to the number of participants reported as being placed in unsubsidized full-time and part-time employment, were overstated by 27% and 43%, respectively. Moreover, in the Trade Programs, we found that the information in the reporting system often bore little relationship to what had occurred in the programs. It is particularly noteworthy that the central program weakness found through this audit – the lack of useful information on the program's effectiveness – had been identified as a major problem in a 1993 OIG audit report of the one of the trade programs. These are just two examples of this significant problem.

Our major concern involves the Department's ability to control the quality of the data reported below the Federal level, where over 90% of DOL's budget is actually spent. Erroneous data skews key performance outcomes, such as participants' wages, job placement rates, and job retention. Such outcomes information is key to determining whether a program is effectively meeting its established goals and legislative intent, and in making informed decisions on its future direction. This information also forms the basis for reporting to OMB and the Congress, as required by the Government Performance and Results Act. This data quality problem will have an added impact on the Workforce Investment Act (WIA) program because it will form the basis for financial incentives for, or financial sanctions against, state and local entities that receive WIA grants.

Mr. Chairman, the General Accounting Office (GAO) has also raised concerns relative to performance measurement in the WIA program. In a recent assessment of the effectiveness of performance measures established under WIA, GAO concluded that states and localities have taken action to implement the new performance management system established under WIA for three programs. However, GAO warned that "even when fully implemented, WIA performance measures may not provide a true picture of WIA-funded program performance largely because data are not comparable across states or timely." According to GAO, one of the chief reasons that performance data are not comparable "is the lack of guidance for collecting and reporting performance data on participants."

The Department has stated that emphasizing performance results is a vital component of an effective grants management system. Indeed, ETA has indicated that it has started a data validation project to create more precise programming specifications and standards for use in validating state data. It is clear that an aggressive effort is needed by the Department to address this problem.

Mr. Chairman, we believe that the Department's ability to verify and validate program outcomes data would be enhanced if the Department had access to a number of sources of data. Specifically, the Department needs to have statutory authority to easily obtain Unemployment Insurance and Social Security Administration wage records of individual program participants, as well as information contained in the National Directory of New Hires, which is administered by the Department of Health and Human Services. These sources of information would enable DOL to cross-check and verify whether a program participant obtained employment, their salary levels, and whether they remained in the job or were otherwise employed following their training. This recommendation has been advanced by the OIG for several years. Similarly, the General Accounting Office has supported wider access to, and inter-state sharing of, wage information.

Another aspect of the challenge that the Department faces in the employment and training area is that of grant management, which impacts both program performance and financial accountability. The Department provides almost $9.5 billion in grants each year, most of it in the employment and training area. Over the years, the OIG has conducted numerous audits that have raised concerns with the Department's ability to effectively manage its grants. Most recently, the OIG has worked with DOL's largest grantor agency, ETA, to help assess weaknesses in its grant accountability procedures and to draft potential solutions. To this end, we have identified the most serious weaknesses that, if addressed, offer the greatest potential for improving the stewardship of grant monies and the effectiveness of the programs that they fund. It is the opinion of the OIG that ETA needs to improve:

- <u>the award process</u>, by devoting better attention to grant provisions and the capabilities of potential grantees before they are awarded funds;
- <u>the grant execution process</u>, by ensuring grantees receive unambiguous guidance and that prompt corrective action is taken when problems are identified;
- <u>the report process</u>, by improving the accuracy of reported financial and performance data and more effectively using it as a tool for evaluating program results;
- <u>oversight procedures</u>, by early targeting of troubled grantees and improving the capabilities of Federal program monitors, who are responsible for providing grantees technical assistance; and
- <u>the audit resolution process</u>, by taking more punctual action on abuses and by ensuring corrective action occurs, in a timely manner.

ETA has indicated that it has established internal goals for improving grants management in FY 2002. The OIG is very encouraged by the Department's efforts in this area and we will continue providing technical assistance to ETA and audit oversight, as needed.

Protection of Pension and Retirement Assets

Mr. Chairman, a second major challenge for the Department is the protection of pension and retirement assets. Notably, this was a priority of the Department, even before the ENRON incident. Over the last several months, the Secretary and her team have been working to identify ways to further strengthen our pension system. The protection of pension assets has also been a priority of my office for many years. In fact, over the years, through our audit and criminal investigations programs, the OIG has supported efforts by the Department of Labor and the Department of Justice to protect pensions by ensuring that weaknesses, vulnerabilities, and criminal activity are identified and addressed.

Mr. Chairman, the pension and retirement benefit industry is enormous and continues to grow. Currently, it encompasses hundreds of thousands of plans and employers, millions of employees who have worked all of their lives to achieve financial security, and trillions of dollars invested in pension plans. As the Secretary recently testified, participants in defined contribution plans have grown from nearly 12 million in 1975 to over 58 million in 1998, with a commensurate increase in assets of $74 million in 1975 to $2 trillion in 1998. In addition to the magnitude of this industry, it is also important to acknowledge that this industry is governed by extremely complex statutes and regulations. Because of the magnitude and complexity of the retirement system, it is inherently vulnerable to error, mismanagement, and fraud.

Over the past decade, the OIG has largely focused its audit oversight efforts on the enforcement strategy used by the Pension and Welfare Benefits Administration (PWBA) to protect retirement assets. Through our audit work, we have identified weaknesses and recommended improvements. Chief among our findings have been weaknesses in PWBA's targeting of enforcement resources. In the past, our audits concluded that improvements were needed to focus enforcement efforts on those plans that presented the greatest risk to the greatest number of participants. Given the diversification and expansion that continues to take place in the pension arena, we believe that the Department faces an ongoing challenge to effectively target its enforcement program, to strike an appropriate balance between compliance assistance and enforcement, and to educate employers and employees on the complex rules that govern their plans.

On this latter point, I would add that we are currently completing an audit of the conversion of defined benefit plans to cash balance plans. Although the audit focuses on a small portion of the pension universe, we believe that it will be illustrative of the difficulties faced by employers in understanding the rules, the potential for losses to employees, and the need for more Federal oversight, education, and compliance assistance. We expect to issue this report in the next month.

Compounding the challenge faced by the Department in this area are weaknesses in the oversight provided through audits by independent public accountants (IPAs). The Employee Retirement Income Security Act (ERISA) requires that pension plans be audited by IPAs. However, ERISA contains a provision that exempts from audit all pension plan funds that have been invested in institutions such as savings and loans, banks, or insurance companies that are regulated by Federal or state governments. Currently, because of this provision, independent public accountants conducting audits of pension plans cannot render opinions on the plans' financial statements, in accordance with professional auditing standards. These "no opinion" audits provide no substantive assurance of asset integrity to benefit participants or the Department.

In addition, unlike reporting required on Securities and Exchange Commission matters, currently there are no requirements for IPAs to report directly to the Department of Labor irregularities found in plan records. Independent public accountants are only required to report their findings to the entity that hired them to do the audit. This may result in ENRON-type situations where only a selected few know the problems with a plan, which may then go unaddressed. The OIG believes that these two weaknesses result in inadequate auditing of retirement plan assets and insufficient reporting.

Mr. Chairman, our work has also documented the vulnerability of pension assets to fraud. This is an area where the OIG can offer a unique perspective because of our program function responsibility to investigate corruption involving union-sponsored benefit plans. Our major concern relative to fraud is the multi-million dollar fraud enterprises created by financial and investment service providers, who have the opportunity and ability to structure complex financial schemes to conceal their criminal activity. Since these providers typically render advice to more than one plan, the potential for losses to the pension funds rapidly multiplies. From our limited universe of cases, we have documented many complex fraud schemes. For example:

- An investment manager transferred funds from individual client accounts to cover $6 million in losses from his prohibited investment of a union's pension funds. To conceal his actions, the advisor sent clients phony quarterly statements on the supposed investment of their monies.

- The president of an investment services firm defrauded clients, including various union pension plans by misrepresenting and concealing facts relating to the repayment of a $160 million loan. This scheme resulted in millions of dollars in losses by pension plans and other large investors.

- The attorney for a union fund conspired with two investment brokers in a scheme to divert pension assets to high-risk offshore investments in exchange for kickbacks. As a result, over $9 million in assets were transferred into a third-party account and subsequently embezzled.

Human Capital Management

A third challenge for the Department involves the management of its human capital. In January 2001, the General Accounting Office added government-wide strategic human capital management to its list of federal programs and operations identified as high risk. The OIG agrees that no management issue facing federal agencies could be more critical to their ability to serve the public than having the necessary federal or contract personnel.

Last year, GAO estimated that by 2006, about 31% of employees of the agencies that comprise 98% of the executive branch will be eligible to retire. The Department of Labor faces a similar workforce shortage in the next decade. The Department projects that over 27% of its workforce (comprising approximately 4,700 employees), as well as almost 50% of its supervisors, are eligible to retire in the next five years.

Recognizing this challenge, the Department has made human capital management a priority. For example, DOL has instituted a number of policies and initiatives to attract and retain a quality workforce, including flexible work schedules, telecommuting, payment of student loans, transportation and child care subsidies, and training and professional development. In its recent *Score Card Report*, the Office of Management and Budget has acknowledged that DOL is using tools such as succession planning, and retention and recruitment bonuses.

Nonetheless, consistent and full utilization of current personnel flexibilities and DOL policies will be critical to the Department's ability to effectively address this challenge. In addition, there are a number of specific legislative, regulatory, and policy changes that would be helpful to Federal agencies like DOL, to more effectively compete with private industry for highly-skilled personnel and in retaining qualified employees. Among these are flexibilities relative to salaries, recruitment bonuses, promotions, and hiring rules.

Conclusion

Mr. Chairman, the mission of the Department of Labor is critical to the Nation's ability to compete in a global market and to ensure the security and well being of workers and their families. I appreciate your interest in what the OIG considers to be the top three management challenges for the Department of Labor. This concludes my statement and I will be pleased to answer any questions that the committee may have.