

# U.S. Department of Labor

Office of Inspector General—Office of Audit



## OFFICE OF AUDIT WORKPLAN FISCAL YEAR 2009

October 2008

## ***FOREWORD***

The Office of Inspector General (OIG), Office of Audit (OA), is pleased to present its Workplan for FY 2009. The Workplan is the product of OA's continual planning process which includes a detailed risk assessment.

In recent fiscal years, unanticipated requests for audits from the Secretary of Labor and the Congress and external events such as natural disasters impacted OA's annual workplan. Some of the discretionary projects presented in this workplan likewise could be deferred to respond to emerging issues.

In FY 2007, to better align OA's operations with how the Department does business, the OA senior operational staff were assigned on a programmatic rather than a geographic basis. Therefore, the FY 2009 Workplan identifies the Office Director assigned to each audit rather than the name of a responsible Regional Office or Operating Office. See page 20 for a list of Office Directors and their contact information.

Suggestions of issues to which the OA might give attention in future activities are welcome. Please contact Elliot P. Lewis, Assistant Inspector General for Audit, at (202) 693-5170, or via e-mail at [lewis.elliott@oig.dol.gov](mailto:lewis.elliott@oig.dol.gov).

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## **INTRODUCTION**

### PURPOSE

The OA has prepared this Audit Workplan to inform departmental agencies of ongoing and planned projects.

### MANDATORY VS DISCRETIONARY ACTIVITIES

Mandatory activities are those the Office of Audit is required to conduct by law or regulation. Activities carried out as a result of the Office of Audit's internal selection and prioritization process are referred to as discretionary.

Mandatory audits are conducted as required by Federal statute, regulation, or other authority. Our largest mandatory project is the yearly audit of the Department's annual financial statements as required by the *Chief Financial Officers Act*. The *Federal Information Security Management Act of 2002* requires the Inspector General to evaluate the Department Of Labor's (DOL) mission-critical information systems. We also have a statutory mandate to perform triennial audits of all Job Corps Centers and service providers.

Discretionary resources are those remaining after our mandatory activities are funded. Discretionary resources are used to support a program of financial and performance audits in accordance with our mission under the OIG's authorizing legislation, the *Inspector General Act of 1978*, as amended. Within our discretionary program, we reserve a portion of resources to perform audits that result from special requests. Such special requests may come from the Secretary of Labor, Members of Congress, or other sources. We also reserve resources to respond to allegations of fraud, waste and abuse the OIG receives from sources such as state and Federal program managers and private citizens. Requests from Congress and the Department are given special consideration as we prioritize where we will apply our resources.

This Workplan does not identify all grant and contract work or complaint response work that the OA will initiate during the Fiscal Year. Instead, we have included a generic write-up for these ongoing efforts, which are found in the Discretionary Project section of this Workplan under the OIG strategic goal related to assisting DOL in maintaining an effective management process.

### PLANNING DISCRETIONARY ACTIVITIES

Discretionary audits are identified through a planning process designed to identify and prioritize projects in areas of highest risk and/or with the highest potential for supporting the Department's mission and strategic goals. Risk analysis is a continuous activity involving all OA staff who, throughout the year, identify, document, assess and report to OA's planning unit the likelihood and impact of risks related to DOL programs and operations. Also, this past Spring the Assistant Inspector General for Audit (AIGA) met with several Agency heads to review the OA's risk analysis and ask for their ideas and priorities for projects.

## WORKPLAN ORGANIZATION AND OIG STRATEGIC GOALS

The Audit Workplan is organized by mandatory (Chapter 1) versus discretionary (Chapter 2) projects, which are further broken out by the OIG strategic goals to which they relate.

The OIG Strategic Goals covered by this Workplan are:

***OPTIMIZE THE USE OF FUNDS APPROPRIATED FOR TRAINING AND EMPLOYMENT PROGRAMS*** encompasses the Workforce Investment Act, the Employment Service, labor statistics, and Community Service Employment for Older Americans.

***SAFEGUARD WORKERS' AND RETIREES' BENEFIT PROGRAMS*** involves Unemployment Insurance, Federal Workers' Compensation, Trade Readjustment Allowances, and pension and welfare benefits programs.

***OPTIMIZE THE USE OF FUNDS APPROPRIATED FOR WORKER PROTECTION AND WORKPLACE SAFETY PROGRAMS*** includes the enforcement of laws, regulations and Executive Orders related to occupational and mine safety and health, wages and hours, foreign labor certification, labor union reporting and disclosure, and affirmative action by Federal contractors and subcontractors.

***ASSIST DOL IN MAINTAINING AN EFFECTIVE MANAGEMENT PROCESS*** includes management and support functions such as financial management, procurement, information technology, performance measures, administration, legal affairs, and policy.

The fifth goal, ***Combat the Influence of Organized Crime and Labor Racketeering in the Workplace***, is primarily covered by the OIG's Office of Labor Racketeering and Fraud Investigations.

## AUDITS

An audit is a systematic series of procedures and tests designed to satisfy the specific objectives and scope of the assignment. Audits may include analyzing and verifying records and files, as well as obtaining information through interviews, questionnaires, and physical observations and inspections. OIG audits are performed in accordance with *Government Auditing Standards* issued by the Comptroller General.

## PROJECT SUMMARIES

The Workplan describes future planned work as well as ongoing projects. For mandatory audits, project summaries include a description of the audit and the responsible Office Director. Discretionary project summaries describe the program, audit objectives, and the responsible Office Director. The summary also indicates whether the audit is ongoing or a new audit scheduled to begin in FY 2009.

**CHAPTER 1**  
**MANDATORY AUDITS**

**GOAL: OPTIMIZE THE USE OF FUNDS APPROPRIATED FOR TRAINING AND EMPLOYMENT PROGRAMS**

***Job Corps Center Financial and Performance Operations***

Director: Armada

Background: Job Corps is an educational and vocational training program where young people ages 16 through 24, who meet income requirements and are U.S. citizens or legal residents, can learn a trade, earn a high school diploma or General Educational Development certification and get help finding a job. Job Corps is administered by the Department of Labor (DOL). There are approximately 94 contractor operated centers and 28 federally operated centers. The Workforce Investment Act of 1998 (P.L. 105-220) Section 159 (b)(2) requires reviews, evaluations or audits of Job Corps center operators and service providers every 3 years. Through financial, performance, and health and safety audits of Job Corps center operators, selected centers and service providers rotated over a 3-year period, we comply with this requirement.

**GOAL: SAFEGUARD WORKERS' AND RETIREES' BENEFIT PROGRAMS**

***Federal Employees' Compensation Act (FECA) Special Benefit Fund***

Director: Donovan

Background: The FECA Special Benefit Fund (the "Fund") was established by the *Federal Employees' Compensation Act* to provide Federal civilian employees with income and medical cost protection for job-related injuries, diseases, or deaths. The Employment Standards Administration (ESA), Office of Workers' Compensation Programs (OWCP), administers the Fund, which the OIG is responsible for auditing.

For FY 2009, an Independent Public Accountant (IPA), under contract to the OIG, will conduct the audit. The OIG will issue two reports to assist Federal agencies in the audit of their annual financial statements pursuant to the *Chief Financial Officers Act (CFO Act)*. The first is a service provider report on the policies and procedures placed in operation and tests of the operational effectiveness of OWCP. The second report includes: (1) an audit opinion on the total actuarial liability, and the net intra-governmental accounts receivable and the total benefit expense made by the Fund on behalf of the employing agencies for the year then ended; and (2) an agreed-upon procedures report on the schedule of actuarial liability, net intra-governmental accounts receivable, and benefit expense by agency to be issued no later than October 24, 2009.

### ***Longshore and DC Compensation Act Trust Fund Financial Statement Audits***

Director: Donovan

Background: The *Longshore and Harbor Workers' Compensation Act* (LHWCA) provides medical benefits, compensation for lost wages, and rehabilitation services to covered workers in maritime and other industries who are injured during the course of employment or contract an occupational disease related to employment. The Act requires the OIG to annually audit the financial statements of the U.S. Department of Labor Longshore and Harbor Workers' Compensation Act Special Fund and the District of Columbia (DC) Workmen's Compensation Act Special Fund. An IPA, under contract to the OIG, will audit the two funds' financial statements for FY 2008 in accordance with generally accepted auditing standards and *Government Auditing Standards*. OA will monitor the IPA conducting this audit.

### **GOAL: ASSIST DOL IN MAINTAINING AN EFFECTIVE MANAGEMENT PROCESS**

#### ***DOL Consolidated Financial Statement Audit***

Director: Donovan

Background: As required by the *Chief Financial Officers Act of 1990* (P.L. 101-576), the objective of this yearly audit is to render an opinion on the U.S. Department of Labor consolidated financial statements in accordance with generally accepted auditing standards, *Government Auditing Standards*, and OMB guidance. An IPA, under contract to the OIG, will perform all work necessary to audit and report on the 2008 DOL consolidated financial statements. OA staff will monitor this work.

#### ***Single Audit Compliance***

Background: As required by the *Single Audit Act Amendments of 1996* and *OMB Circular A-133*, we conduct Quality Control Reviews of selected single audit working papers and reports. The objectives of the Quality Control Reviews are to: (1) determine that the audit was conducted according to applicable standards and met the single audit requirements; (2) identify the need for any followup audit work; and (3) report issues that may require management's attention.

We also conduct desk reviews of all single audit reports issued to DOL grantees that are directed to us for review by the Federal Audit Clearinghouse. The objectives of the desk reviews are to: (1) determine if the independent auditor's report, Schedule of Findings and Questioned Costs, Schedule of Expenditures of Federal Awards, and corrective action plan are acceptable; (2) identify issues that require followup audit work; (3) determine if a QCR should be conducted; and (4) determine if the issues identified in the report should be brought to the attention of the appropriate DOL funding agency or agencies. Where desk reviews identify problems, we issue reports to the DOL funding agency or agencies. Single audit Quality Control Reviews and desk reviews are ongoing throughout the fiscal year.

***General Application and Security Controls Review of DOL Financial Systems***

Director: Donovan

Background: In support of our audit of the DOL consolidated financial statements, we will determine if the information produced by selected DOL financial systems is reliable by assessing their Information Technology (IT) general, application, and security controls. We will accomplish this principally through a risk-based audit of the IT general, application, and security controls of selected financial systems in compliance with the Government Accountability Office's (GAO) Federal Information System Controls Audit Manual (FISCAM). Based on this review, we will conclude on whether controls for selected financial systems are properly designed and operating effectively. An IPA will perform this review as part of the DOL Consolidated Financial Statement Audit. OIG will monitor the IPA's work performance.

***FISMA Audits of DOL Mission-Critical Information Systems***

Director: Galayda

Background: As required by the *Federal Information Security Management Act of 2002 (FISMA)*, we will perform an audit of the information security program and practices of the Department and determine the effectiveness of such program and practices. The OIG will develop a risk-based approach to prioritize the minimum required security controls for Federal information systems. The OIG will select a representative subset of the agency's 72 major information systems and perform a FISMA audit to test the effectiveness of the selected security controls and conclude on the overall effectiveness of the Department's information security program.



## **CHAPTER 2**

### **DISCRETIONARY PROJECTS**

#### **GOAL: OPTIMIZE THE USE OF FUNDS APPROPRIATED FOR TRAINING AND EMPLOYMENT PROGRAMS**

##### ***State Implementation of Workforce Investment Act (WIA) Data Validation***

Director: Hill                      Ongoing

Background: The Employment and Training Administration (ETA) awards WIA formula grants to states support activities to train and place adults and dislocated workers. Congressional appropriations for Program Year (PY) 2007 were nearly \$857 million for adult programs and \$1.5 billion for dislocated worker programs. GAO has reported that little is known on a national level about those being trained because of weaknesses in the Workforce Investment Act Standard Record Data (WIASRD) database. ETA requires that states and other grantees receiving DOL funding submit reports or participant records and attest to the data's accuracy. ETA's WIA data validation project is intended to improve the quality of WIA performance information that states collect and report. States failing to meet the accuracy standards may eventually lose eligibility for incentive awards or face sanctions.

Objectives/Key Questions: Does ETA exercise adequate oversight of the states' data validation activities? Have states fully implemented ETA data validation requirements? Are the major ETA-reported performance outcomes for the adult and dislocated worker programs supported? Is ETA's compilation and reporting of state performance data accurate? Are the raw performance data that states supply to the WIASRD supported by verifiable source records?

##### ***BLS Program Survey and Data Reliability***

Director: Schwartz                Ongoing

Background: The Bureau of Labor Statistics (BLS) is an independent, national statistical agency that collects, processes, analyzes, and disseminates essential statistical data to the American public, the U.S. Congress, other Federal agencies, State and local governments, business, and labor. Because BLS data must satisfy a number of criteria, including relevance to current social and economic issues, timeliness in reflecting today's rapidly changing economic conditions, and accuracy and consistently high statistical quality, the impartiality of the data in both subject matter and presentation is imperative. To accomplish its multi-faceted mission, BLS conducts numerous surveys within the following six programs: (1) Employment and Unemployment; (2) Prices and Living Conditions; (3) Compensation and Working Conditions; (4) Productivity and Technology; (5) Employment Projections; and (6) International Programs.

Objectives/Key Questions: Are survey collection processes and subsequent data analyses for one or more of the six BLS programs appropriate, and are the results accurate and released in a timely manner?

***West Virginia High Technology Consortium Foundation (WVHTCF)***

Director: Hill                      Ongoing

Background: The Office of Audit received a request from the Office of Labor Racketeering and Fraud Investigations to assist in reviewing three grants awarded to WVHTCF, to determine whether the grant funds were properly administered in accordance with WIA regulations and the grants' respective statements of work. These funds were administered by the Department of Labor (DOL) Employment and Training Administration (ETA) through three Workforce Investment Act (WIA) grants awarded to the non-profit organization, WVHTCF, based in Fairmont, West Virginia. The WVHTCF is a 501 (c)(3) non-profit organization specializing in the statewide and regional information technology business sector.

Objectives/Key Questions: Did WVHTCF charge costs to the grants that were reasonable, allowable, and allocable? Did WVHTCF report participant outcome data that were valid and reliable? Did WVHTCF conduct the grants in accordance with the statements of work, applicable laws, regulations, and other requirements?

***DOL Employment and Training Services to Veterans***

Director: Williams                      Ongoing

Background: Under the Jobs for Veterans State Grants, the Disabled Veterans' Outreach Program (DVOP) specialists and Local Veterans' Employment Representatives (LVER) staff provide intensive case management services to veterans and promote the hiring of veterans through direct marketing activities with employers. The State grants comprised approximately \$160 million of VETS' FY 2006 \$222 million budget. A December 2005 GAO report (GAO-06-176) stated that, while DOL has developed a system to monitor program performance, it lacks a strategy for using the information it gathers to make improvements and to help states. A May 2007 GAO report (GAO-07-594) concluded that DOL cannot provide assurance that veterans are appropriately given service priority by programs in the Workforce Investment Act One-Stop system, or that services to veterans are truly effective because of a lack of accountability.

Objective/Key Questions: Are services being provided that meet veterans' employment and training needs? Are performance outcomes reported by VETS accurate?

***Job Corps Performance Management System***

Director: Denman                      Ongoing

Background: Job Corps' performance-based contracting provides financial incentives for contractors to achieve good performance for Job Corps' students. Prior OIG audits have found that some contractors inaccurately reported or manipulated their performance or quality data in order to receive contract renewals or bonuses.

Objective/Key Questions: Did reported performance measures reflect achievement of legislative intent? Was the data or information underlying the performance measures valid and accurate?

***Oversight of ETA's Earmark Grants***

Director: Schwartz      New

Background: Earmarks are funds set aside by Congress to be used solely for specific purposes. Most earmarks designated to the Department of Labor (DOL) are subject to ETA's grant procedures. In its Conference Report for the 2005 appropriation (H. Report 108-792), Congress encouraged DOL to "ensure that project performance is adequately documented and evaluated." In FY 2008, Congress appropriated \$103 million of DOL funds for earmarks to 527 employment and training pilots and demonstration programs. Neither OIG nor the GAO has audited earmark grants as a group to determine if the funds were used for the purposes intended by Congress and if the grants were properly administered. Previous OIG audits of specific earmark grants found significant problems with the population served and outcomes achieved in 3 of the 4 grants audited (see: Consortium for Worker Education Earmark Grant, Report No. 02-08-203-03-390; Kingston-Newburgh Enterprise Corporation Earmark Grants, Report No. 02-07-201-03-390; Westchester-Putnam Counties Consortium for Worker Education and Training, Inc. Earmark Grant, Report No. 02-06-204-03-390, and Metropolitan College of New York Earmark Grant, Report No. 02-06-202-03-390).

Objectives/Key Questions: Did ETA administer earmark grants properly? Did grantees use grant funds for intended purposes?

***ETA Oversight of Discretionary (non-formula) Grants***

Director: Schwartz      New

Background: OIG performance audits of several discretionary grants administered by ETA found that grantees did not meet performance goals, and did not report accurate financial and performance data. In April 2003, ETA issued Employment and Training Order (ETO) No. 1-03 to improve the administration of grants. In an OIG FY 2007 audit of ten High Growth Job Training Initiative (HGJTI) grants, OIG found 17 percent of the objectives were not met, and 12 percent of the objectives were not clearly defined. OIG also found that four grants audited were awarded, in part, because of the grantees' commitment to provide additional resources of \$42.1 million as matching or leveraged funds. However, grantees could not demonstrate that they provided \$20.5 million of those committed additional resources.

Objectives/Key Questions: Did ETA comply with established grant management and oversight policies and procedures in the post-award management/monitoring phase? Did ETA follow established grant closeout processes? Were ETA's policies and procedures adequate to ensure proper closeout of the grants? Did ETA discretionary (non-formula) grants meet performance objectives?

***ETA's Evaluation of WIA Title I Programs***

Director: Hill      New

Background: Section 172 of the Workforce Investment Act of 1998 requires ETA to evaluate programs and activities authorized by Title I, and to coordinate with states' evaluations of WIA

required under WIA section 13b (c). Evaluation results inform the continuous improvement of policy and investment decisions, and contribute to the improvement of service delivery at the state and local levels. ETA has issued numerous Requests for Proposals (RFPs) for evaluation work. ETA's five-year pilot, 2007 – 2012, demonstration and evaluation strategic plan shows additional evaluations will be performed. It is unclear how many evaluation contracts ETA has awarded since the adoption of WIA in 1998, and whether or not contractors submitted final reports. ETA officials have acknowledged that some reports might not be issued because their findings are no longer timely.

Objectives/Key Questions: How does ETA select WIA Title I programs to evaluate? What contracts has ETA awarded? How does ETA use the results of external evaluations? Does ETA ensure States conduct evaluations of their workforce investment and activities and coordinate this work with DOL, as required in WIA Section 172? Does ETA issue its reports in a timely manner?

### ***Veterans' Transition Assistance Program***

Director: Williams          New

Background: Services to veterans are a high priority to Congress and the public. The Veterans' Transition Assistance Program (TAP), designed to help returning veterans obtain civilian work, planned to serve 160,000 men and women in FY 2007. The TAP Employment Workshops are being expanded to serve National Guard and Reserve units when they demobilize. In a 2005 audit of TAP, the GAO recommended steps DOL and other Federal agencies could take to improve TAP services for Guard and Reserve military personnel.

Objectives/Key Questions: Did three TAP pilot programs result in increased Reserve and National Guard members' participation? If yes, did Veterans Employment and Training Services (VETS) implement "lessons learned" and 'promising practices' throughout the TAP program, and did VETS increase the number of transitioning service members they serve? Has VETS implemented a process to increase the number of transitioning service members served?

### ***VETS' Monitoring of the Homeless Veterans Reintegration Program (HVRP)***

Director: Williams          New

Background: Nearly 10 percent of VETS' annual \$224 million budget goes to the Homeless Veterans Reintegration Program (HVRP). The program assists homeless veterans obtain occupational skills and on-the-job training, job search, placement, and follow up services. News reports, as well as Department of Veterans Affairs (VA) data, show that the homeless veterans' population is growing. The VA estimates that roughly 250,000 veterans are homeless on any given night. An OIG 2003 audit of a complaint about an HVRP grant found fiscal mismanagement of grant funds.

Objectives/Key Questions: Does VETS adequately monitor grantees administering the Homeless Veterans Reintegration Program to ensure fiscal accountability and program effectiveness?

***Foreign Labor Certification's Program Review***

Director: Williams      New

Background: ETA's Office of Foreign Labor Certification (FLC), in cooperation with State Workforce Agencies (SWAs), processes employer requests for certification to hire foreign workers when American workers are not available to fill occupations covered under Federal law. Once an application is certified (approved), the employer must petition the U.S. Citizenship and Immigration Services (CIS) for a visa. Some individuals may manipulate the FLC program resulting in the abuse of foreign workers and lost jobs for American workers.

Objectives/Key Questions: Based on the OIG's general research and assessment, are there additional areas in the FLC program that warrant further review in FY 2009?

**GOAL: SAFEGUARD WORKERS' AND RETIREES' BENEFIT PROGRAMS*****SWA Use of the Social Security Administration and National Directory of New Hire Databases for Unemployment Compensation Program Fraud and Abuse Detection***

Director: Williams      Ongoing

Background: In CY 2006, \$30.2 billion was paid in unemployment insurance (UI) benefits. ETA's Benefit Accuracy Measurement (BAM) program reported a UI fraud rate for that period of 2.7 percent, or about \$821 million in fraudulent overpayments. BAM also reported that 87 percent of fraud overpayments were not detectable through normal state and agency procedures at the time the payments were made. To combat fraud and abuse in the UI program, ETA encourages SWAs to match the National Directory of New Hires (NDNH) with State unemployment insurance claims databases to identify claimants who may have obtained new employment while simultaneously receiving benefits. In addition, a memorandum of understanding between ETA and the Social Security Administration (SSA) allows SWAs real-time access to SSA's database to confirm the validity of information used to file for benefits.

Objectives/Key Questions: Are State Workforce Agencies effectively utilizing the information from the National Directory of New Hires and the SSA database to detect improper or fraudulent unemployment insurance payments? What issues are keeping some states from using the NDNH and the SSA database to detect unemployment compensation overpayments?

***Determination of FECA Claimants' Ability to Return to Work***

Director: Denman      Ongoing

Background: OIG's FY 2006 analysis of FECA's database revealed an increasing number of claimants continue to receive full disability benefits for long periods without a determination of their ability to return to work. Over a 3-year period ending September 30, 2005, the number of such claimants rose from 15,000 to 21,000. Of the 21,000 claimants in this category at the end of FY 2005, 14,000 received full benefits for more than 6 years while awaiting Office of

Worker's Compensation Programs' (OWCP) determination of their ability to return to work. Benefits paid could be reduced if OWCP made timely determinations of claimants' ability to return to work.

Objectives/Key Questions: Does OWCP have effective systems in place to ensure required determinations of FECA claimants' ability to work are made?

### ***EBSA's Response to Employee Benefit Plans in Financially Distressed Firms***

Director: Allberry            Ongoing

Background: The purpose of EBSA's Rapid ERISA Action Team (REACT) project is to protect the rights and benefits of pension and health plan participants when the plan sponsor faces severe financial hardship or bankruptcy. Since the project's inception in FY 2001, EBSA has targeted participants and beneficiaries of plans whose sponsor has filed for bankruptcy. More than 2,000 REACT cases have been opened since the project started. In 2007 REACT cases hit an all-time low of 132 openings despite a 70 percent rise in business bankruptcies. Moreover, the REACT project at 51 percent has the lowest established goal of the agency's five national emphasis projects for detecting fiduciary violations.

Objectives/Key Questions: Does EBSA's REACT project proactively identify employers facing financial hardships in order to protect plan assets and participant benefits?

### ***Energy Workers' Compensation - EEOICPA***

Director: Denman            Ongoing

Background: The Energy Employees Occupational Illness Compensation Program (EEOICP) Act authorizes compensation for illnesses due to employment in nuclear weapons production-related activities. The program consists of Part B, which provides compensation (\$150,000) for specific illness and reimbursement of medical expenses as a result of radiation exposure; supplemental benefit payments to individuals qualifying for benefits under the Radiation Exposure Compensation Act (RECA); and Part E, implemented in October, 2004, which provides compensation (up to \$250,000) for wage loss, impairments, and medical expenses for illness as a result of exposure to toxic substances while working at covered Department of Energy facilities. In 2006 and 2007, there were several Congressional hearings addressing DOL's implementation of EEOICP and claimant charges that program benefits were being improperly limited, unnecessarily delayed or denied.

Objective/Key Questions: Did DOL issue claims decisions that complied with applicable law and regulations? Were claims processed timely?

### ***EBSA's Evaluation of Project Results***

Director: Allberry            Ongoing

Background: EBSA is responsible for enforcing laws and regulations that protect the security of over 100 million American workers and involve over \$6 trillion in employee benefit assets held

for the benefit of these workers. EBSA oversees a universe of 700,000 pension plans and 2.5 million health plans. With 385 frontline investigators (out of over 800 total full time equivalent staff), EBSA's ratio of staff to regulated plans is approximately one investigator for every 8,300 plans. With this ratio, it is critical EBSA direct its limited resources at areas with the most impact.

Objectives/Key Questions: Is EBSA effectively evaluating its enforcement project results and directing its resources to enforcement areas where they will have the most impact?

### ***Pension Consultant Conflict of Interest***

Director: Allberry            New

Background: EBSA is responsible for enforcing laws and regulations that protect the security of more than \$6 trillion in employee benefit assets held by more than 100 million workers. A 2005 Securities Exchange Commission study found that 13 of 24 pension consultants who provided services to sponsors of pension plans, had failed to disclose significant ongoing conflicts of interest to their pension fund clients. In October 2006, EBSA initiated the Consultant/Advisory Project (CAP) to focus on the receipt of improper, undisclosed compensation by pension consultants and other investment advisers. CAP also seeks to identify potential criminal violations, such as kickbacks or fraud.

Objectives/Key Questions: Does EBSA's CAP initiative have policies and procedures in place that detect conflicts of interest regarding the independence of the advice that pension consultants provide to pension plans under EBSA's jurisdiction?

### ***Defense Base Act Workers Compensation Insurance Participation***

Director: Hill                New

Background: The *War Hazards Compensation Act* (WHCA) supplements the *Defense Base Act* (DBA) which requires U.S. government contractors and subcontractors to buy workers' compensation insurance for employees working overseas; the cost of this insurance is then passed on to the Federal Government. The OWCP, Division of Federal Employees' Compensation (DFEC), administers the WHCA. The large number of contractor personnel working in Iraq raised concerns over the cost of workers' compensation insurance provided under DBA and WHCA. In 2005, GAO reported there was a lack of clarity in DBA insurance requirements, delays in processing claims, and difficulty in monitoring contractor compliance. The Department of Labor could not verify that every contractor and subcontractor working in Iraq had purchased DBA insurance. DOL officials told GAO that they have taken steps to address these issues.

Objectives/Key Questions: Does OWCP issue WHCA reimbursements accurately and according to Federal law and regulations? Does OWCP ensure the timely processing of claims for reimbursement?

### ***Viability of Unemployment Insurance Contingency Plans***

Director: Galayda            New

Background: The Department provides grants to the 50 states, Puerto Rico, the District of Columbia and the Virgin Islands for the administrative costs of running unemployment insurance operations. These 53 jurisdictions rely on viable contingency plans during disruption of normal operations to continue vital operations so that workers whose employment is disrupted receive unemployment insurance benefits for which they are eligible. A recent OIG audit in four states found the states had inconsistent and/or incomplete contingency plans for continuing state unemployment insurance operations after disruption of normal operations.

Objective/Key Questions: Do the contingency plans of the 53 jurisdictions operating unemployment insurance programs contain and clearly describe key contingency planning activities, roles and responsibilities?

### **GOAL: Optimize the Use of Funds Appropriated for Worker Protection and Workplace Safety Programs**

#### ***OSHA's Enhanced Enforcement Program (EEP) Inspections***

Director: Schwartz            Ongoing

Background: In 2003, OSHA established the Enhanced Enforcement program to focus OSHA's resources on employers that have a history of serious (or willful or repeated) violations and/or employers who have not corrected previously cited serious violations. Enhanced Enforcement program inspections assess whether the cited violations(s) were abated and whether the employer continues to have similar violations.

Objectives/Key Questions: Did OSHA properly identify EEP cases? Were EEP inspections conducted in accordance with OSHA Directives? Do OSHA's January 2008 revisions to the EEP Directives impact program performance?

#### ***Wage and Hour's Enforcement of Employers' Compliance with the 2004 Fair Labor Standards Act (FLSA) Overtime Rules***

Director: Denman            Ongoing

Background: In August 2004, for the first time in more than 60 years, the Department of Labor changed overtime rules related to the FLSA for certain classes of workers. The 2004 amendment (also referred to as Part 541, White-Collar and Overtime Security exemptions) contained changes to both salary and duty tests for exemption from overtime pay. The changes allow "compensatory time," instead of overtime pay, for a broader range of executive, administrative, professional, outside sales and computer employees. Determining who meets the new exemption frequently must be made on a case-by-case basis based on the employee's duties and responsibilities. Since classifying employees as "exempt" from FLSA overtime rules can reduce



employers' costs, there is a significant inherent risk that employers will inappropriately classify employees as "exempt" from the rules.

Objectives/Key Questions: Does WHD have systems in place to ensure compliance with Part 541 regulations?

### ***Effectiveness of Wage and Hour in Addressing Repeat and Willful Violators***

Director: Denman            New

Background: Wage and Hour Division's (WHD) mission is to promote and achieve compliance with labor standards to protect and enhance the welfare of the nations' workforce. Sanctions (such as back wages, civil monetary penalties (CMPs) and liquidated damages) act as an incentive for employers to comply with the Federal labor laws. If WHD does not collect sanctions, employers may continue to violate labor laws and become repeat and/or willful violators. CMP Case Summary Reports prepared by WHD for FY 2005 through the second quarter of FY 2008, show that the amount of CMPs WHD receives from employers is almost always less than the amount WHD assessed.

Objectives/Key Questions: Does WHD determine, document, assess, and collect sanctions (back wages, CMPs, and liquidated damages) in accordance with policies and procedures? What impact did the sanctions have?

### ***Wage and Hour Division-Initiated Investigations***

Director: Denman            New

Background: WHD conducts complaint-driven and WHD-initiated investigations to achieve its mission of enforcing compliance with Federal labor standards. WHD-initiated investigations target vulnerable employees and are necessary to protect the welfare of the nation's workforce. In July 2008, GAO reported that from 1997 to 2007, the number of WHD-initiated investigations declined by 45 percent. GAO also reported that WHD focused its investigations on employers in the same industries, and did not utilize information from its commissioned studies on low wage industries in which FLSA violations are likely to occur.

A preliminary review by OIG of WHD's Wage and Hour Investigator Support and Reporting Database (WHISARD) revealed that although 18 percent of investigations that occurred during FY 2005 through the second quarter of FY 2008 were WHD-initiated investigations – those investigations accounted for \$137 million in back-wages, or 30 percent of all back wages paid. This directly impacts the DOL Annual Report FY 2007 Strategic Goal 3C, which seeks to ensure workers receive wages due to them. Collecting these back wages is vital in protecting vulnerable workers who are less likely to file a complaint.

Objectives/Key Questions: Do WHD-initiated investigations cover vulnerable employees? What impact do the investigations have?

### ***Mine Inspector Training***

Director: Allberry            New

Background: The Mine Safety and Health Administration (MSHA) conducts regular on-site inspections of every coal mine in the nation as part of its responsibility to assure operators comply with Federal safety standards. Federal law and regulations require the Secretary of Labor develop and maintain “adequate programs for the training and continuing education of inspectors.”

In August 2007, the Crandall Canyon mine’s roof collapse and subsequent rescue efforts resulted in the deaths of nine people. OIG auditors reviewed the training and experience of MSHA District 9 specialists and inspectors assigned to approve the Crandall Canyon mine roof plan and to conduct inspections to ensure the operator’s compliance with it. Except for a newly hired mine engineer, no one had completed specific training on roof control or refresher training on underground coal mining. Supervisory managers’ most recent training on roof control dated back to 1989. In an external evaluation of MSHA’s inspection program (ICF Consulting, 2003), most MSHA inspectors, supervisors, and directors reported MSHA’s refresher training program for inspectors could be enhanced.

Objectives/Key Questions: How does MSHA determine what training is needed? How is MSHA equipped to provide the training? Do MSHA inspectors, specialists, and supervisors receive appropriate training (both initial and on-going) to adequately execute their enforcement responsibilities?

### ***OSHA Abatement***

Director: Schwartz            New

Background: Assuring corrective action is the final and most important step in OSHA’s enforcement responsibility. The GAO and the U.S. Chemical Safety and Hazard Investigation Board have questioned OSHA’s abatement process, citing improper follow-up inspections of serious, willful, repeat, or imminent danger situations. Abatement should normally take place within 30 days of the time of the original inspection and should be documented in the inspection file. OSHA’s Area Office Directors (86 different area offices) are responsible for determining if abatement has been accomplished. OSHA policy does not require that inspectors visually verify abatements. As a result, there is an inherent risk that employers could provide erroneous or misleading information about violation abatements.

Objectives/Key Questions: Does OSHA’s Abatement Program ensure that repeat, willful, and serious hazards are abated before another serious injury or death occurs?

### ***OSHA’s Gravity-Based Penalty System (GBP)***

Director: Schwartz            New

Background: OSHA’s gravity-based penalty (GBP) structure is designed to give employers an incentive to correct violations voluntarily. The structure not only targets the offending employer,

but also targets other employers who may be guilty of the same violations. OSHA requires its regional offices to conduct annual audits of area offices to ensure they follow proper procedures for penalty calculation, penalty collection, and abatement of safety and health hazards found at work sites. In 2008 the Majority Staff of the Committee on Health, Education, Labor and Pensions issued “*Discounting Death: OSHA’s Failure to Punish Safety Violations That Kill Workers.*” The report found OSHA penalties in fatality cases are far below maximums; OSHA supervisors consistently reduce penalties; OSHA supervisors routinely reduce the severity classification of safety violations in fatality cases; and OSHA fails to collect almost half of assessed penalties in fatality cases.

Objectives/Key Questions: Does OSHA determine, document, and collect monetary penalties in accordance with OSHA directives? Does OSHA’s GBP System effectively deter employers from violating Federal safety and health standards that put employees at risk for death, injury, or serious illness?

### ***OSHA Whistleblower Protections***

Director: Hill                      New

Background: Whistleblower investigations are integral to OSHA’s mission. The OSH Act prohibits reprisals against employees who exercise their rights under the Act. Workers who believe they were unfairly treated because they complained about unsafe or unhealthy working conditions can file a complaint with OSHA. Whistleblower investigations are regulated by a statutory 30-day time frame. However, a March 2001, OIG report “Evaluation of OSHA’s Energy Reorganization Act (ERA) and Environmental Protection Agency (EPA) Whistleblower Investigations,” found that it took an average of 81 days to complete an ERA investigation and 101 days for an EPA case. Investigators claimed delays were caused by attorneys, difficulty collecting evidence, and the complex/technical nature of the cases.

Objectives/Key Questions: Are whistleblower complaints investigated timely, and in compliance with OSHA investigative procedures?

## **GOAL: ASSIST DOL IN MAINTAINING AN EFFECTIVE MANAGEMENT PROCESS**

### ***Government Purchase Card Program***

Director: Williams                      Ongoing

Background: The DOL Purchase Card Program is a vital business tool for expediting simplified acquisition procedures. A 2002 OIG evaluation found the following issues: management oversight and control required strengthening; policies and procedures were not sufficient to address key program elements; and communications and training needed improvement. The evaluation concluded that internal controls and written operational procedures were not sufficient to detect and/or prevent potential misuse of the government purchase card. These significant program effectiveness issues require follow-up. GAO and Congressional interest remains high.

Objectives/Key Questions: Were management oversight and related controls (number of cards, training, etc.) adequate and effective? Were program policies and procedures adequate and did they provide effective guidelines for key program elements? Did program purchases comply with applicable regulations?

***ILAB Attestation Agreements***

Director: Allberry            Ongoing

Background: Since 2004, approximately 30 examination reports, and attestation engagements of ILAB's Education Initiative (EI) projects have been completed, and 5 additional EI projects were scheduled for FY 2008. ILAB seeks to improve these audits and their oversight in preparation for issuing a new contract for these services in FY 2009.

Objectives/Key Questions: Were ILAB's monitoring procedures sufficient to determine if the attestation engagements of ILAB's EI projects were conducted in compliance with the *Government Auditing Standards*?

***D.C. Metropolitan Area Transit Subsidy Program***

Director: Schwartz            Ongoing

Background: Executive Order 13150, April 21, 2000, established a transit subsidy program for Federal employees to reduce urban traffic congestion and air pollution by subsidizing the commutes of Federal employees who take mass transportation or participate in a van pool. OASAM administers DOL's program, except for BLS employees. Payments made from January 1, 2008 to July 31, 2008 totaled \$1.46 million. OASAM determines eligibility and the subsidy amount authorized, up to the maximum (currently \$110). In the Washington D.C. metropolitan region this program provides eligible employees with either Metrochek fare cards to the Washington Metropolitan Transit Authority subway system known as Metro or an automatic credit to the employee's Metro debit card. High profile cases of abuse prompted GAO studies in 2007.

Objectives/Key Questions: Do the controls over the DOL Headquarters Transit Subsidy Program ensure that funds are being expended in accordance with applicable laws and regulations?

***DOL Implementation of Homeland Security Presidential Directive (HSPD)-12***

Director: Denman            New

Background: HSPD-12 requires Federal agencies to establish a secure and reliable method of identification, which has the capability to coordinate access with other Federal agencies and sites. To comply with HSPD-12, Federal agencies were charged with implementing a standard system for identifying Federal employees and contractors. In February 2008, GAO reported that DOL had completed background checks on most of its employees and contractor personnel and established basic infrastructure, such as purchasing card readers. GAO also reported that DOL had not met OMB's goal of issuing Personal Identify Verification (PIV) cards by

October 27, 2007, to all employees and contractor personnel who had 15 years or less with DOL. In March 2008, DOL's Deputy Chief Information Officer reported that DOL had issued PIV cards to 10,591 of the 15,407 DOL employees (69 percent); and 1,210 of 2,400 contractor personnel (over 50 percent).

Objectives/Key Questions: Are DOL's plans for implementing HSPD-12 sufficient to successfully address all aspects of this government-wide initiative? Is the plan for implementation of the initiative timely?

### ***Working Capital Fund Allocations and Charges***

Director: Hill                      New

Background: Public Law 85-67, as amended by Public Laws 86-703 and 91-204, established the Working Capital Fund (WCF) to give a Federal agency the authority for spending funds to provide certain services and activities on a centralized basis. The WCF finances several administrative functions including building and payroll operations, procurement, and invoice payment services. Each DOL agency includes an amount OASAM identifies as its share of the WCF in their annual budget request.

Objectives/Key Questions: How does the Department allocate administrative costs covered by the WCF to DOL agencies? Are these allocations reasonable, appropriate, and equitable? Are amounts charged to each DOL agency for the WCF supported, accurate and recorded properly in the Department's general ledger?

### ***Grant and Contract Audits***

Director: All                      Ongoing

Background: The OA plans to conduct financial and performance audits of selected DOL grants and contracts to ensure funds are appropriately spent and that desired results are obtained. Prior OA audits have found unallowable charges and performance problems.

Objectives/Key Question: Was the grant or contract awarded properly? Are charges allowable? Were desired results obtained?

### ***Complaint Response***

Director: All                      Ongoing

Background: The OIG receives complaints and referrals alleging fraud, waste, abuse, and misconduct from a variety of sources, including Federal managers and employees, state and local grantee officials, DOL program participants, and private citizens. Complaints are prioritized for action based on the nature, magnitude, and specificity of the allegation or complaint.

Objectives/Key Questions: Does the allegation or complaint have merit? Are corrective actions necessary?

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