Semiannual Report to Congress

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

Volume 68

April 1– September 30, 2012

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

A Message from the Deputy Inspector General

I am pleased to submit this Semiannual Report to Congress, which highlights the most significant activities and accomplishments of the U.S. Department of Labor (DOL), Office of Inspector General (OIG) for the six-month period ending September 30, 2012. Our 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 issued 41 audit and other reports that, among other things, recommended that $297 million in funds be put to better use. Among our many significant findings, we reported that:

- The use of limited-scope audits by independent public accountants that are authorized under the Employee Retirement Income Security Act (ERISA) allowed $3.3 trillion in assets to be excluded from audit review.
- Management of the H-2B visa program needed to be strengthened to ensure adequate wage and job protections for U.S. workers.
- Oversight of Job Corps centers' performance needed to be improved to ensure that centers meet performance goals relating to academic and career technical training programs.
- OSHA site specific inspection targeting program covered only a small portion of high-risk worksites nationwide.
- Bureau of Labor Statistics' requirements designed to protect confidential economic data and statistics from being disclosed prematurely or used in an unauthorized manner were violated in North Carolina, Wisconsin, Washington, and Louisiana.
- Corrective actions taken as a result of the Mine Safety and Health Administration's accountability reviews did not always prevent the recurrence of deficiencies, such as the failure to conduct safety and health inspections for all working shifts at metal/nonmetal mines.

Our investigative work also yielded impressive results, with a total of 357 indictments, 230 convictions, and $141.5 million in monetary accomplishments. Some of our investigative results included:

- The sentencing of the former benefit fund administrator for the New York Laborers' International Union of North America (Sandhogs' Union) Local 147 to six years in prison and three years of supervised release for her role in embezzling more than $40 million from employee benefit plans.
- The sentencing of a former county commissioner in Ohio to 28 years in prison for his role in multiple crimes including racketeering, bribery, and conspiracy.
- The sentencing of the former president of the United Food and Commercial Workers (UFCW) Northeastern District Council in Pennsylvania to 18 months in prison and to pay more than $257,000 in restitution for embezzling from labor union assets and from a health care benefit program.
- The sentencing of an individual in Florida to more than two years in prison and ordered to pay nearly $2 million in restitution for her role in an illicit nationwide employee leasing scheme.
- The guilty plea of a New York construction company owner, who agreed to repay more than $1.3 million in prevailing wages owed to his workers.

These examples clearly demonstrate the exceptional work done by our professional and dedicated OIG staff. I would like to express my gratitude to them for their significant achievements during this reporting period. I look forward to continuing to work with the Department to ensure the integrity of programs and the protection of the rights and benefits of workers and retirees.

Daniel R. Petrole
Deputy Inspector General

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Selected Statistics

Investigative recoveries, cost-efficiencies, restitutions, fines and penalties, forfeitures, and civil monetary action	$141.5 million
Investigative cases opened	253
Investigative cases closed	223
Investigative cases referred for prosecution	261
Investigative cases referred for administrative/civil action	101
Indictments	357
Convictions	230
Debarments	48
Audit and other reports issued	41
Funds recommended for better use	$297 million
Outstanding questioned costs resolved during this period.	$6.9 million
Allowed[1]	$1.8 million
Disallowed[2]	$5.1 million

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

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

Significant Concerns

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

Protecting the Safety and Health of Workers

The OIG remains concerned with the effectiveness of Departmental programs in protecting the safety and health of our nation's workers. Specifically, audit findings continue to raise concerns with the ability of the Occupational Health and Safety Administration (OSHA) to best target its resources to the highest-risk worksites nationwide and to measure the impact of its policies and programs — and those of the 27 states authorized by OSHA to operate their own safety and health programs. OSHA carries out its enforcement responsibilities through a combination of self-initiated and complaint investigations, but can reach only a fraction of the entities it regulates. Consequently, OSHA must strive to target the most egregious and persistent violators and protect the most vulnerable worker populations.

Protecting the Safety and Health of Miners

Similarly, the OIG is concerned with the ability of the Mine Safety and Health Administration (MSHA) to effectively manage its resources to meet statutory mine inspection requirements while successfully accomplishing other essential functions to help ensure that every miner returns home safely at the end of each day. Our audits have shown that MSHA remains challenged to maintain a cadre of experienced and properly trained enforcement staff to meet its statutory enforcement obligations. MSHA also faces challenges in establishing a successful accountability program, and to some degree, deficiencies continue to recur. In addition, as scientific knowledge and mining practices change, MSHA must promote the development and use of new technologies and ensure that its standards and regulations keep pace.

Improving Performance Accountability of Workforce Investment Act Grants

Another area of concern for the OIG is the Department's ability to ensure that the Workforce Investment Act (WIA) grant programs are successful in training and placing workers in suitable employment to reduce chronic unemployment, underemployment, and reliance on social payments by the population it serves. Our audit work over several decades has documented the difficulties encountered by the Department in obtaining quality employment and training providers; ensuring that performance expectations are clear to grantees and sub-grantees; obtaining accurate and reliable data by which to measure and assess the success of grantees and states in meeting the program's goals; providing active oversight of the grant making and grant execution process; disseminating proven strategies and programs for replication; and, most critically, ensuring that training provided by grantees leads to placement in related jobs paying a living wage.

Ensuring the Effectiveness of the Job Corps Program

The Job Corps program's administrative policies and its ability to manage contracts and subcontracts is also a concern for the OIG. The Department is challenged to provide a safe, residential and nonresidential education and training program which results in outcomes that truly assist at-risk, disadvantaged youth (ages 16-24) in turning their lives around, including: placement in training-related employment, entrance into advanced vocational/apprenticeship training, entrance into higher education, or enlistment in the military. Our audits have consistently documented the Department's difficulty in ensuring the quality of residential life, a critical component of the Job Corps' intensive intervention experience. Our audits have also demonstrated the challenge faced by the Department in obtaining and documenting desired program outcomes.

Reducing Improper Payments

The Department's ability to identify and reduce the rate of improper payments in the Unemployment Insurance (UI), FECA and WIA programs is a continuing concern for the OIG. In the UI program, our audits have found that the Department lacked effective controls over the detection of improper payments, and that the Department's estimate of recoverable payments may be understated. In addition, OIG investigations continue to uncover fraud committed by individual UI recipients who do not report or underreport earnings, as well as fraud related to fictitious employer schemes. Similarly, we remain concerned with the Department's ability to identify the full extent of improper payments in the WIA and FECA programs. As highlighted in past OIG audits, the estimation method used for the FECA program does not appear to provide a reasonable estimate of improper payments. In addition, OIG investigations continue to identify high amounts of FECA compensation and medical fraud, which has often greatly surpassed the Department's improper payments estimates. For the WIA program, we have noted that data were not readily available to allow the Department to directly sample grant payments to develop a statistically valid estimate of improper payments.

Maintaining the Integrity of Foreign Labor Certification Programs

Another area of concern is the Department's ability to provide U.S. businesses access to foreign workers to meet their workforce needs while protecting the jobs and wages of U.S. workers. Our audits have found that statutory limits on the Department's authority, and uncertainty regarding the process for including individuals or entities debarred on the government-wide excluded parties lists are some of the issues that have negatively impacted the H-1B program. For the H-2B program, we have found that DOL regulations have hampered the Department's ability to provide adequate protections for U.S. workers because the system is based on a model where employers merely assert, but do not demonstrate, that they have performed an adequate test of the U.S. labor market before hiring foreign workers. The Department published a new rule that addresses the concern by requiring review of employers' documentation before it issues certification determinations; however, due to pending legal actions, the Department continues to operate under the old regulations. OIG investigations also continue to uncover complex schemes involving fraudulent DOL FLC documents filed in conjunction with or in support of similarly falsified identification documents required by other Federal and state organizations.

Ensuring the Security of Employee Benefit Plan Assets

The Employee Benefits Security Administration's (EBSA) limited authority and resources present challenges to achieving its mission of administering and enforcing ERISA requirements for an estimated 5.3 million employee benefit plans covering approximately 141 million participants and beneficiaries. Chief among our concerns over the past couple of decades has been the fact that millions in pension assets held in otherwise regulated entities, such as banks, escape audit scrutiny because of limited scope audits authorized under ERISA, which result in no opinion on the financial status of the plan by the independent public accountants that conduct the limited review. These concerns were renewed and heightened by recent audit findings that as much as $3.3 trillion in pension assets received these types of no opinion audits, providing no assurances to participants as to the financial health of their plans.

EBSA is further challenged by the many changes that have taken place in the employee benefit plan community since ERISA was enacted in 1974, such as the shift from defined benefit retirement plans to defined contribution retirement plans; the large increase in the types and complexity of investment products available to pension plans; and the new health care law. In addition, uncertainty about the effectiveness of EBSA enforcement programs on ERISA compliance makes it difficult for EBSA to direct its limited resources effectively among its regional offices to the enforcement areas where they would do the most good.

Securing Information Technology Systems and Protecting Related Information Assets

Safeguarding information assets is a continuing concern for Federal agencies, including DOL. The Administration's goal of expanding the use of technology to create and maintain an open and transparent government, while safeguarding systems and protecting sensitive information, has added to the challenge. Recent OIG audits have identified access controls, background investigations, and oversight of third parties involved in the operation and support of IT systems as significant deficiencies. In addition, we have identified major weaknesses in the process of sanitizing electronic media prior to it being removed from DOL's control and destroyed.

Ensuring the Effectiveness of Veterans' Employment and Training Programs

Providing meaningful employment and training services to military veterans and members transitioning to civilian employment remains a challenge for the Department. Our audits have found that the Department needs to do a better job of accurately assessing the veterans' needs and documenting intensive service activities — particularly for homeless veterans with disabilities. We have also found that Veterans' Employment and Training Service (VETS) did not use measurable performance goals and outcomes to evaluate program effectiveness and lacked adequate contracting oversight for Transition Assistance Program (TAP) workshop services. These deficiencies undermined VETS's ability to ensure that it was providing a high-quality program that helps veterans successfully transition from military to civilian employment.

Improving Procurement Integrity

Ensuring the integrity of the Department's procurement activities is also of concern for the OIG. Until procurement and programmatic responsibilities are properly separated and effective controls are put into place, DOL will continue to be at risk for wasteful and abusive procurement practices. Our most recent audits and investigations of DOL's procurement activities identified the need for better control and monitoring of procurement activities delegated to program agencies.

Employment and Training Programs

Foreign Labor Certification Programs

The Employment and Training Administration (ETA) administers a number of foreign labor certification (FLC) programs that allow U.S. employers to employ foreign workers 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 to meet temporary worker shortages. The Permanent Foreign Labor Certification program allows an employer to hire a foreign worker to work permanently in the United States.

H-2B Program Needs to be Strengthened to Ensure Adequate Protections for U.S. Workers

To obtain H-2B certification and comply with employment protections, employers must self-attest that U.S. workers capable of performing the job are not available and that the employment of foreign workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. The OIG conducted a performance audit of the H-2B program to determine if ETA's management of the H-2B program ensured adequate protections for U.S. workers. This expanded on a 2011 audit of the H-2B program focusing on forestry employers in Oregon. We reviewed H-2B applications for 33 employers in six states in order to determine if the attestations made on their respective applications could be supported and if ETA adhered to current program regulations.

Our audit found that ETA's management of the H-2B program needed to be strengthened to ensure adequate protections for U.S. workers. Of the 33 employers that were reviewed, 27 could not support the attestations made on their applications, such as those related to pre-filing recruitment. While ETA began conducting post-adjudication audits in 2009 to verify the accuracy of the applications and ensure integrity within the H-2B program, the audits were typically initiated six months after the foreign workers' employment period ended and took up to 120 days to complete. Because of the timing and duration of the audits, an employer could potentially file and receive a new certification for a subsequent application before ETA rendered a decision of compliance/non-compliance for a previous application.

ETA issued a Final Rule in February 2012 that would replace the self-attestation model with a compliance-based format, which would require the review of documentation provided to ETA in advance of ETA making the certification determination. However, the rule has been challenged in court and has not been implemented.

We made four recommendations to ETA: (1) to review payroll source documentation when conducting post-adjudication audits; (2) to collaborate with the Department of Homeland Security to explore ways for ETA to review U.S. Citizenship and Immigration Services documents during post-adjudication audits; (3) to begin post-adjudication audits no later than 120 days into the approved employment period of the selected application and complete within 70 days; and (4) to continue pursuing regulatory action and explore other ways to ensure the integrity of the program – including, but not limited to, legislative changes designed to expand ETA's pre-approval validation authority. ETA generally agreed with three of the recommendations. The OIG modified the fourth

recommendation to incorporate an ETA concern: for ETA to seek regulatory changes to ensure the integrity of the H-2B program. (Report No. 06-12-001-03-321, September 28, 2012)

Fugitive Extradited from Italy Sentenced in Employee Leasing Scheme

Lucia Kanis was sentenced on April 18, 2012, to more than two years in prison and ordered to pay nearly $2 million in restitution in connection with her role in an illicit nationwide employee-leasing scheme. Kanis, who had fled to Slovakia before charges were brought against her in 2005, was arrested in Bologna, Italy, on May 16, 2011, and was extradited to the United States to face prosecution for conspiring to defraud the United States and evading taxes.

From 1995 through January 2005, Kanis and her co-defendants arranged for more than 550 undocumented foreign nationals to work in several industries in the midwest and southeastern United States. The defendants, who had set up entities to act as employee-leasing companies, contracted with legitimate American companies to provide them legally authorized workers. Instead, the defendants provided workers lacking legal work status, and failed to pay applicable Federal payroll and unemployment taxes on behalf of the employees. The last remaining defendant has been charged but remains a fugitive. All other defendants have pled guilty.

This was a joint investigation with Immigration and Customs Enforcement (ICE) and Internal Revenue Service – Criminal Investigative Division (IRS-CID), along with assistance from the Italian Ministry of Justice. *United States* v. *Lucia Kanis* (S.D. Florida)

Manpower Supply Company Owner Sentenced for Role in Visa Fraud Scheme

Yoo Taik Kim, owner of Hi-Cap Enterprises, a manpower supply company, was sentenced on April 19, 2012, to more than three years in prison, three years of supervised release, and was ordered to pay a fine of $125,000 for his role in a visa fraud scheme. Kim had previously been found guilty of visa fraud, making false statements, and unlawful procurement of citizenship. Kim, who is a naturalized U.S. citizen, was stripped of his citizenship as a result of his conviction and for lying on his citizenship application. He will also face possible deportation to his native country of Korea upon completion of his sentence.

Through his company, Kim contracted with a corporation to provide temporary workers for a large construction project in northern California. Although he had been notified by the corporation that its labor needs had dwindled, making further recruitment unnecessary, in 2001, unbeknownst to the corporation, Kim continued to recruit on its behalf, bringing a total of 49 welders from Thailand to San Francisco. The corporation ultimately hired 10 of the welders. Kim and his associates transported the remaining 39 workers to southern California, where they lived in substandard conditions in apartments provided by Kim's company. With no source of income and facing potential arrest and deportation for being in violation of their visas, the workers survived by working for little or no pay in two Thai restaurants owned by Kim. Many of the workers, who were recruited from some of the poorest areas of Thailand, had secured loans from family and friends to pay their travel expenses and substantial recruitment fees associated with their coming to work in the United States. These payments were made to a Thai recruitment agency working with Kim's company.

This was a joint investigation with ICE. *United States* v. *Yoo Taik Kim* (C.D. California)

Foreign National Sentenced for Visa Fraud

Srinivas Doppalapudi, owner of an employment leasing company, was sentenced on September 26, 2012, to more than one year in prison for his role in an H-1B visa fraud scheme. He had previously pled guilty to visa fraud and money laundering, and had agreed to forfeit $345,000 in proceeds from the fraud.

From April 2008 through December 2010, Doppalapudi submitted 31 fraudulent H-1B visa applications for non-existent information technology positions with his employment leasing company. As part of the scheme, he created fictitious service contracts with forged signatures. After the foreign nationals received their visas, Doppalapudi did not employ them. Some of the foreign nationals were able to find jobs in the IT industry; however, Doppalapudi further exploited them by requiring that they pay him 25 percent of their salaries since he was the holder of their H-1B visas. Doppalapudi transferred more than $1 million derived as a result of this scheme to his personal bank account in India.

This was a joint investigation with the IRS-CID, ICE, and the United States Citizenship and Immigration Service – Office of Fraud Detection and National Security. *United States* v. *Srinivas Doppalapudi* (D. Delaware)

Lawyer Pleads Guilty to Massive Immigration Fraud

Earl Seth David, an immigration lawyer, pled guilty on April 2, 2012, to conspiracy to commit immigration, mail, and wire fraud. As part of his plea, David agreed to forfeit at least $2.5 million in proceeds from the scheme.

From at least 1996 through 2011, David operated a Manhattan-based immigration law firm that made millions of dollars by filing thousands of false employment-based labor certification petitions with DOL. David conspired with other employees of his firm to solicit foreign nationals, some of whom paid up to $30,000 for false employment sponsorships. David also paid dozens of business owners to either use their businesses or personal identities to create shell companies in order to falsely represent to DOL that they were willing to or had legitimately hired these foreign nationals. David and his co-conspirators then manufactured letterhead used to produce fake experience letters, asserting that the foreign nationals possessed the specialized experience required for the jobs. He further enlisted the help of accountants to create counterfeit tax returns for the fictitious sponsoring employers and bribed a former DOL contractor to manipulate information on DOL petitions. The vast majority of the more than 25,000 immigration applications filed by David's firm contained fraudulent information. As a result of this scheme, DOL issued thousands of labor certifications for David's clients who did not otherwise meet the legal requirements for employment.

In addition, Maritza Diaz, a former named partner with David's law firm, was disbarred on August 7, 2012 for her role in the scheme and for pleading guilty to one count of conspiring to commit immigration fraud. Other conspirators who pled guilty include Mayor Weber, who pled guilty on September 28, 2012, and Alexandra Urbanek, who pled guilty on September 21, 2012. In addition, Andre Herbst and Chaim Walter each pled guilty on September 6, 2012, and Aryea Yehuda Flohr pled guilty on May 7, 2012. All pled to conspiracy to commit immigration fraud in connection with their roles as alleged sponsoring employers. Twenty-five defendants have been charged as part of the investigation – more than half have pled guilty.

This is a joint investigation with ICE. *United States* v. *Earl Seth David, et al.* (S.D. New York)

California Attorney Pleads Guilty to Visa Fraud Scheme

Kelly Giles, a former California immigration attorney, pled guilty on September 13, 2012, to one count of conspiracy to commit visa fraud and one count of witness tampering for his role in an employment-based visa fraud scheme.

Giles and his co-conspirators devised a scheme to file at least 47 false employment-based immigration petitions with DOL and the United States Citizenship and Immigration Services. As part of the scheme, two of Giles' co-conspirators established shell companies in order to file fraudulent immigration petitions. In each instance, Giles certified the fraudulent paperwork as the attorney of record. His co-conspirators then charged the foreign workers between $6,000 and $50,000, depending upon the length of legal status and the type of visa sought. Giles received nearly $300,000 in compensation for filing the fraudulent petitions.

During 2007, Giles became aware that Federal agents wanted to interview a foreign worker purportedly hired to work at one of the shell companies. Giles and a co-conspirator attempted to persuade the foreign worker to lie to the agents by falsely claiming that he was working at the sponsoring company. This was the basis for the witness tampering charge. Giles' co-conspirators previously pled guilty for their roles in the scheme.

This was a joint investigation with ICE. *United States* v. *Kelly Giles* (C.D. California)

Workforce Investment Act

In Fiscal Year (FY) 2012, the Department's Employment and Training Administration (ETA) was appropriated $3.2 billion for the Workforce Investment Act (WIA) Adult, Dislocated Worker, and Youth programs. WIA adult employment and training services are provided through formula grants to states and territories, or through competitive grants to service providers to design and operate programs for disadvantaged, often unemployed persons. ETA also awards grants to states to provide reemployment services and retraining assistance to individuals dislocated from their employment. Youth programs are funded through grant awards that support program activities and services to prepare low-income youth for academic and employment success, including summer jobs.

Changes Can Provide ETA Better Information on Participants Co-Enrolled in WIA and Wagner Peyser Programs

ETA awards more than $2 billion annually to State Workforce Agencies (SWA) to operate the WIA Adult and Dislocated Worker and Wagner-Peyser programs. WIA provides three tiers of workforce investment services to adults and dislocated workers: core, intensive, and training; and Wagner-Peyser provides a range of employment-related labor exchange services, some of which are similar to WIA's core and intensive services. Under WIA, SWAs and Local Workforce Agencies (LWA) are permitted to enroll participants in more than one program at a time, as long as they are eligible for the services received. ETA has in fact encouraged SWAs to co-enroll participants, reasoning that they should be able to receive the best combination of services from different available programs. We conducted a performance audit to determine the extent to which SWAs and LWAs have co enrolled participants in the WIA Adult and Dislocated Worker and Wagner-Peyser programs, what steps have been taken to ensure program

costs are properly allocated to the two programs, and what challenges, if any, remain as a result of implementing co-enrollment.

Our audit found that the practice of co-enrolling participants was widespread among SWAs, with all but one of the 53 SWAs reporting that they were co-enrolling participants in the WIA Adult and Dislocated Worker and Wagner-Peyser programs. ETA data showed that, as of March 31, 2011, approximately 88 percent of WIA Adult and Dislocated Workers nationwide were reported as co-enrolled with Wagner-Peyser. We also found that both SWAs and LWAs have processes in place to ensure WIA and Wagner-Peyser programs bear their fair share of costs.

Our audit showed that ETA faces three co-enrollment challenges:

1) A reporting mechanism was not developed that could separately account for and report outcomes on participants who were concurrently receiving services funded by multiple programs. With co-enrollment, the number of Wagner-Peyser participants was included in the counts for WIA Adult and Dislocated Worker programs. As a result, it was impossible under WIA's present reporting system to determine the level of effort that was provided by each program for a particular participant outcome.

2) Wagner-Peyser's requirement that program services be provided only by state employees complicated the SWAs' and LWAs' flexibility to co-enroll participants. The SWAs' Employment Service agencies responsible for administering the Wagner-Peyser program, and LWAs responsible for administering WIA programs, had to coordinate resources when co-located at one-stop centers.

3) The risk of duplicative services being provided to co-enrolled participants increased when one-stop center staff did not have access to information on specific services that had been provided to participants by the other programs.

We made three recommendations to ETA: work with stakeholders in developing a plan for a comprehensive unified reporting system; identify and share practices that SWAs used to address the challenges of efficiently providing services by staff funded under WIA and Wagner-Peyser; and notify SWAs that, when co-enrolling, it is important to ensure all one-stop center staff can access information on services provided to participants to avoid duplication of services. ETA generally agreed with our recommendations, but reiterated that co-enrollment is not statutorily or regulatory based, but rather is a voluntary tool for the states to use in the design of their service delivery. As such, ETA has not issued specific guidance on co-enrollment. (Report No. 03-12-004-03-390, September 28, 2012)

Job Corps

The Job Corps program provides residential education, training, and support services to approximately 60,000 disadvantaged, at-risk youths, ages 16-24, at 125 Job Corps centers nationwide both residential and nonresidential. The goal of this $1.7 billion program is to offer an intensive intervention to this targeted population as a means to help them turn their lives around and prevent a lifetime of unemployment, underemployment, dependence on social programs, or criminal behavior.

Best Value Not Ensured in Awarding of Subcontracts at the Oneonta Job Corps Center

Education and Training Resources, Inc. (ETR), is under a five-year, $48 million contract with the ETA Office of Job Corps to operate the Oneonta Job Corps Center (ETR Oneonta). The OIG conducted a performance audit of ETR Oneonta to determine whether it ensured best value when awarding subcontracts and claiming costs.

Our audit of ETR Oneonta subcontracts and expenditures from April 1, 2010, to March 31, 2011, found that ETR did not always ensure best value for the government when awarding subcontracts and purchase orders. We found that ETR Oneonta had not established a control environment to ensure consistent compliance with the procurement procedures approved by Job Corps. In addition, we found that neither ETA contracting personnel nor Job Corps regional staff adequately monitored ETR Oneonta's subcontracting procurement activities, as required.

Our review showed that ETR Oneonta improperly awarded all six of the center subcontracts and two of the corporate subcontracts that it managed during OIG's review period. We found that ETR Oneonta did not ensure adequate competition or document a sound basis for the awards. As a result, the OIG questioned $537,400.

The OIG recommended that ETA: recover the questioned costs; direct ETR Oneonta to strengthen procurement procedures and provide training and oversight to ensure compliance with its own procurement criteria; and direct ETA contract personnel and Job Corps regional staff to review all future ETR Oneonta subcontracts for competition and best value prior to award approval. ETA generally agreed with our findings, and fully or partially accepted our recommendations. (Report No. 26-12-001-03-370, June 22, 2012)

Job Corps Oversight of Center Performance Needs Improvement

Job Corps uses a complex performance management system to assess program effectiveness across 125 Job Corps centers nationwide. We conducted a performance audit to determine the extent to which Job Corps ensured that its centers managed their academic and career technical training (CTT) programs in order to meet performance goals and maximize student achievements. The scope of the audit included Job Corps performance data for PYs 2008 through 2010 (July 1, 2008 – June 30, 2011).

Our audit found that Job Corps initiated several major programmatic shifts and policy changes that resulted in improved performance across all three of its Government Performance and Results Act performance indicators during program years 2008 through 2010. However,

we found that individual centers did not consistently meet established Career Technical Training program completion and High School Diploma/General Educational Development Certificate (HSD/GED) attainment goals. We also found that Job Corps did not provide sufficient oversight at the center level to improve performance.

Specifically, we found that Job Corps did not effectively use Performance Improvement Plans (PIP), Regional Office Center Assessments (ROCA), or on-site monitoring and desk reviews to ensure that center programs met performance goals and maximized student achievements. Furthermore, the CTT evaluation process Job Corps used to initiate PIPs did not effectively identify underperforming CTT programs. Also, changes made to the evaluation process for PY 2010 further reduced Job Corps' ability to identify poor performers.

We found that Job Corps did not use ROCAs effectively to improve CTT program performance. Job Corps policy required ROCAs at least once every 24 months – which was supposed to cover all aspects of center operations. However, Job Corps did not place sufficient emphasis on CTT programs during ROCAs and did not conduct them as frequently as required. The OIG estimated that $37 million in funds could be put to better use if improvements to Job Corps' oversight resulted in the underperforming programs meeting performance goals and up to $118 million if all the students who were enrolled in the underperforming programs graduated.

We made five recommendations for ETA requiring Job Corps to provide oversight that ensured PIPs, ROCAs, and other monitoring methods are used effectively to identify underperforming CTT and HSD/GED programs, and improve performance. ETA did not completely agree with the conclusions. However, Job Corps either planned or took corrective actions to address the recommendations. (Report No. 26-12-006-03-370, September 28, 2012)

Conflict of Interest Complaint on a Job Corps Center Operator Subcontract Award Had Merit

ETA referred to the OIG an anonymous complaint concerning a subcontract to provide academic and career technical training services at the Homestead Job Corps Center, which is operated by ResCare, Inc. According to the complaint, an executive at ResCare violated government procurement requirements when awarding a subcontract to Human Learning Systems (HLS). The subcontract was valued at an estimated $8.4 million. The OIG conducted a performance audit to determine the merits of the complaint.

The OIG audit found that ResCare violated the Contractor Code of Business Ethics and Conduct competition requirements under the Federal Acquisition Regulation (FAR), as well as ResCare's own procurement policies and procedures in awarding the subcontract to HLS. Our audit found that ResCare did not advertise or open the subcontracting opportunity for competition to other subcontractors, and did not justify the sole source procurement as required. Moreover, we found that ResCare allowed an executive vice president to award the subcontract to a company owned and operated by a subordinate, which represents a significant conflict of interest.

The education and training programs were critical to the center's success in meeting Job Corps' mission to provide quality training to at-risk youth. However, by awarding the subcontract to HLS without competition, ResCare did not ensure that the Homestead Job Corps Center obtained training services that provided the greatest overall benefit for these at-risk youth at a fair price. We questioned the approximately $385,000 paid to HLS as part of its cost plus fees subcontract.

We made four recommendations to ETA: recover the fees DOL reimbursed ResCare for HLS's services at Homestead;

take further remedial action as allowed by the FAR and the ResCare contract; review all future ResCare subcontracts for procurement compliance and ETA approval prior to award and ensure ResCare complies with its center operator contract provisions and its own procurement policies and procedures; and implement procedures to ensure each subcontract issued by a Job Corps center operator is free of potential conflicts of interest. ETA accepted the recommendations. (Report No. 26-12-004-03-370, September 28, 2012)

Bureau of Labor Statistics

The Bureau of Labor Statistics (BLS) is responsible for measuring labor market activity, working conditions, and price changes in the economy. BLS collects, analyzes, and disseminates economic information to support public and private decision making.

Security of Pre-Release Economic Data in the BLS/State Labor Market Information Cooperative Programs Needs to be Strengthened

After receiving a Congressional request, the OIG conducted a performance audit to determine whether states violated any Federal statutes or BLS requirements related to protecting confidential pre-release information in the BLS/State Labor Market Information (LMI) cooperative programs, and to what extent BLS ensured that states were protecting the information from unauthorized use or disclosure. Our audit covered North Carolina, Wisconsin, Washington, and Louisiana.

BLS uses cooperative agreements with states in order to provide funding for the collection and analysis of LMI data. Economic data and statistics that have not yet been released to the public are called "pre-release information," and considered confidential by BLS. The confidentiality provisions of the cooperative agreements require that pre-release information not be disclosed or used in an unauthorized manner, and be accessed by authorized persons only, before it is released to the public.

Our audit found that no Federal statutes related to pre-release information existed. As a result, no statutes were violated in the LMI cooperative programs. However, our review of the circumstances surrounding the possible mishandling of BLS data in North Carolina and Wisconsin revealed differences in the types of data that were released. We found the early release of BLS estimates by North Carolina violated the cooperative agreement. Conversely, we found the early release of employment data by Wisconsin did not violate the cooperative agreement because BLS considered the data to be state-owned until it was provided to BLS.

In addition, we found that all four states reviewed violated some aspect of the BLS requirements established by the LMI cooperative agreement to protect pre-release information from unauthorized use or disclosure. We identified instances of individuals who, without proper authorization, had access to pre-release information, and some individuals who were using state email accounts to transmit pre-release information rather than the required BLS email accounts. Additionally, two states allowed individuals to have remote access to pre-release information but had not received the required approval to do so from BLS. The violations occurred because BLS relied on the states to follow the cooperative agreement but did not actively monitor their compliance with agency confidentiality requirements.

We found that BLS could do more to ensure that the states protect pre-release information. The cooperative agreement BLS used lacked clear definitions and appropriate controls to protect pre-release information, allowing for inconsistent interpretations by states and BLS regional offices about what information was subject to the BLS confidentiality requirements. The cooperative agreement also lacked appropriate controls to fully protect pre-release information. Although BLS had extended some provisions of the Office of Management and Budget (OMB) Statistical Policy Directive (SPD) No. 4 to the cooperative agreement, it did not extend all of the provisions intended to protect the release and dissemination of statistical products.

BLS has proposed to extend more provisions from OMB SPD No.4 by incorporating the provisions into the FY 2013 cooperative agreement to strengthen controls over pre-release information. However, such an effort may introduce additional control weaknesses. The FY 2013 cooperative agreement will require that individuals be made aware of and acknowledge their responsibilities to protect pre-release information and that releases issued by state LMI units be policy neutral. However, individuals who are not designated BLS agents will not be required to acknowledge in writing their responsibilities to protect pre-release information, and the FY 2013 cooperative agreement does not clearly state whether individuals will be informed of their responsibilities annually. These weaknesses may result in state employees not fully understanding and being held accountable for their responsibilities to protect pre-release information.

We made five recommendations to BLS to strengthen its controls over cooperative agreements to the extent possible. BLS agreed with three of the five recommendations, but disagreed with two recommendations and some elements of the individual findings. BLS's comments did not result in any substantive changes to the final report. (Report No. 17-12-005-11-001, September 28, 2012)

Worker Safety, Health, and Workplace Rights

Mine Safety and Health Administration

The Federal Mine Safety and Health Act of 1977(Mine Act), 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.

MSHA's Accountability Program Faces Challenges but Makes Improvements

MSHA established an accountability program in 1989 to evaluate the quality of its enforcement activities and provide reasonable assurance that its enforcement personnel consistently comply with policies and procedures. An Office of Accountability was established in 2007 to provide better oversight of the accountability program. In response to a Congressional request, the OIG conducted a performance audit of MSHA's accountability program to determine if the agency had implemented the recommendations and corrected the deficiencies that were identified in a 2007 OIG audit report, as well as deficiencies identified in MSHA's own accountability reviews. The audit covered the 14 recommendations from our 2007 audit report, and a statistical sample of 153 findings and related corrective actions from MSHA's accountability reviews conducted during calendar years (CY) 2009-2011.

Although there were significant improvements in this program since our review in 2007, we found that MSHA continues to face challenges in administering a successful accountability program. Our audit found that one of the 14 recommendations contained in our 2007 audit report — to develop and implement a tracking system for corrective actions — was not fully implemented in one district. Without consistently using a tracking system, MSHA runs an increased risk of failing to identify systemic and recurring deficiencies, as well as instances in which corrective actions have not been implemented.

We also found that a number of high-risk deficiencies identified by MSHA's own accountability reviews during CY 2009 recurred during CYs 2010 and 2011 at one or more of the four districts we sampled. Those deficiencies included inadequate documentation, failing to conduct safety and health inspections on all working shifts, and lack of supervisory reviews of the work performed by inspectors and specialists. Overall, MSHA did not implement – or could not demonstrate it had implemented – 10 percent of corrective actions required by the accountability reviews in our sample.

MSHA has made recent changes to its organizational and reporting structure, as well as revisions to its policies and procedures to improve the accountability program.

We made four recommendations to MSHA to further improve the accountability program. MSHA agreed with our recommendations and committed to developing and implementing corrective actions. (Report No. 05-12-002-06-001, September 28, 2012)

Interim Report: MSHA Needs to Strengthen Planning and Procurement for Metal and Nonmetal Mine Rescue Contests

Every two years, MSHA organizes and hosts Metal and Nonmetal National Mine Rescue Contests which are designed to sharpen the rescue skills and test the knowledge of mine rescue professionals who are called on to respond to a mine emergency. The contests require

rescue team members to solve a hypothetical problem while being timed and observed by judges.

MSHA has held the last five contests in Reno, Nevada, and planned to hold the 2012 contest there as well. We initiated a performance audit after receiving several complaints alleging MSHA wasted hundreds of thousands of dollars for the contests.

Although the audit of MSHA contests is still underway, our interim audit report issued to MSHA for immediate action found that MSHA did not follow proper approval and contracting procedures in awarding the contracts for the 2012 contests. MSHA also did not document its fee structure methodology, or fully account for contest fees and costs. Further, MSHA did not comply with an October 12, 2011, memorandum from the Deputy Secretary requiring written approval of all conference-related activities and expenses prior to commitment of any funds. Although MSHA chose the venues and contracted for space, it could not detail how it calculated the entry fees it charged participants and passed these fees directly to the hotel instead of depositing them into a custodial account and using them to cover contest costs. Moreover, MSHA did not have a structure in place to account for the fees after they were received by the hotel or for the costs related to those fees. These issues occurred because MSHA did not solicit the assistance of its procurement staff early enough in the planning process for the 2012 contest.

We made five recommendations to MSHA to improve controls over contracting in general, and conference planning in particular. MSHA stated that it postponed its next contest until 2013 and has already imposed greater internal fund controls and procedural improvements to address identified shortcomings. (Report No. 05-12-004-06-001, September 28, 2012)

MSHA's Oversight of Mine Operators' Training Plans was Adequate

MSHA is responsible for reviewing, approving, and monitoring mine operators' health and safety training plans. The OIG conducted a performance audit to determine whether MSHA carried out these responsibilities as required by the Mine Act.

During Fiscal Year (FY) 2010, MSHA reviewed a total of 3,244 training plans submitted by mine operators. The OIG's review of a sample of 163 training plans found that MSHA generally reviewed, approved, and monitored mine operators' required training plans in a timely manner. Although MSHA did not document its review of four plans, and two of the reviewed plans had minor deficiencies not identified by MSHA, the OIG did not consider those six exceptions to indicate a systemic problem. Our audit also found that MSHA's policies and procedures for reviewing and approving training plans complied with Federal laws and regulations, but we noted that procedures varied among its district offices nationwide. Accordingly, there were no recommendations as a result of this audit. MSHA agreed with the audit results contained in this report. (Report No. 05-12-003-06-001, September 28, 2012)

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 that every working man and woman in the American workplace has safe and healthy working conditions. OSHA does this by setting and enforcing workplace safety and health standards; providing training, outreach, and education; and encouraging continuous improvement in workplace safety and health.

OSHA Needs to Improve Oversight Over the Management Accountability Program

OSHA implemented the Management Accountability Program (MAP) in FY 2006 to improve its oversight of OSHA programs. The MAP program was implemented in response to a Government Accountability Office report that found OSHA was not using reports from its regional offices to monitor the extent to which penalties were calculated correctly and violations were properly abated. The OIG conducted a performance audit of the program to determine if OSHA's Directorate for Evaluation and Analysis's (the Directorate) oversight of MAP helped ensure that programs were effective and in compliance with national policies and procedures. The Directorate is responsible for overseeing MAP, and serves as the focal point for the collection and dissemination of regionally reported results.

The OIG audit found that the Directorate did not effectively ensure that OSHA regional and area offices performed adequately and in compliance with national policies and procedures. The main component of MAP requires that OSHA's regional offices identify both deficiencies in performance and best practices to improve program results. Although regional offices provided reports containing findings to the Directorate, it did not identify and disseminate information of either systemic program weaknesses or best practices to other regions. As a result, OSHA was not aware of systemic weaknesses in areas such as civil penalty determination and violation abatement.

In addition, the Directorate did not develop training guidelines for staff or provide comprehensive procedures for carrying out duties related to the MAP program. Guidance for conducting reviews lacked the detail and clarity needed to ensure that reviews achieved the intended results on a consistent basis across regions. The OIG found little consistency among the regional offices that were sampled with respect to how those offices selected topics for review. As a result, audit reviews were inconsistent from region to region and the Directorate could not demonstrate that serious weaknesses detected through MAP were addressed systematically. The systemic weaknesses in oversight occurred because OSHA did not emphasize the critical importance of MAP in providing OSHA with information on the performance of its programs. At the time of the audit, the Directorate had assigned only one non-dedicated position the responsibility of performing day-to-day MAP operational activities.

The OIG recommended that OSHA strengthen oversight of MAP by prioritizing procedure development and enforcement, holding management responsible for MAP, and determining how best to reallocate resources so that the Directorate can perform its monitoring and oversight. In its response to the draft report OSHA had no comments. (Report No. 02-12-204-10-105, September 27, 2012)

OSHA's Site Specific Targeting Program Is Not Effectively Targeting and Inspecting High-Risk Worksites

In 1999, OSHA initiated the Site Specific Targeting (SST) program – an enforcement strategy intended to target general industry worksites (non-construction) reporting the highest injury and illness rates. In addition to SST, OSHA has national and local emphasis inspection programs to target high-risk hazards and industries. The SST program selects worksites based on injury and illness rates calculated from employer responses to annual surveys. The OIG conducted a performance audit to evaluate the program's effectiveness, and to determine the extent to which the SST program focused enforcement resources and inspections on the highest risk industries and worksites. We reviewed the SST program for the period of August 2010 through September 2011, during which time 13,827 worksites met the program's targeting criteria, and 2,146 were inspected.

The OIG audit found that the SST program targeted only a small portion of high-risk worksites nationwide, and did not target some of the highest risk industries and worksites where the most serious injuries and illnesses occurred. This occurred because 26 percent of worksites with reported severe injuries and illnesses were outside the program's scope based on their number of employees, location, and/or industry. Additionally, 84 percent of worksites that were targeted were not actually inspected due to limited resources and competing local priorities and other targeting strategies. While the SST program is a national program, neither OSHA area offices nor state plan states were required to conduct SST inspections.

With regard to the effectiveness of the program, our audit found that information on program results was limited primarily to output measures, such as inspections completed and citations issued. While those output measures may be appropriate for monitoring program activities, they do not measure the effect of these actions on improving safety and health at high-risk worksites.

OSHA has contracted for a study of the SST program that will determine the impact of SST program inspections, detect employer characteristics that are strong indicators of future compliance, and identify best practices and measures for reducing future occupational injuries and illnesses among employers.

The OIG made three recommendations to OSHA: include the highest risk worksites in the OSHA Data Initiative survey and the SST program targeting; prioritize and complete inspections of the highest risk worksites to ensure effective and efficient use of resources; and complete the evaluation of the SST program and implement a monitoring system to evaluate efficiency and effectiveness of the program on an ongoing basis. OSHA partially agreed with our recommendations, but indicated it would like to study these issues further before making any major policy changes. (Report No. 02-12-202-10-105, September 28, 2012)

Wage and Hour Programs

The Wage and Hour Division (WHD) is responsible for enforcing labor laws, such as those that cover: minimum wage and 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 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.

Wage and Hour Division Lacked Effective Financial Management of Back Wage and Civil Monetary Penalty Receivables

WHD is required to submit to the U.S. Department of Treasury on a quarterly basis the Treasury Report on Receivables and Debt Collection Activities (TROR). TROR provides the status of WHD administrative receivables, which includes back wage and civil monetary penalty (CMP) receivables. We conducted an audit to determine whether WHD had sufficient internal controls to ensure the completeness and accuracy of the data reported to Treasury for back wage and CMP.

Our audit found that WHD lacked an effective internal control process to account and report on the status of back wage and CMP receivables to Treasury. The number and amount of back wage and CMP receivables were not consistently reported to Treasury, did not agree with supporting documentation, or were incorrectly entered into Treasury's information system by WHD staff. Furthermore, WHD relied entirely on a contractor to prepare the TROR, but did not verify the accuracy and completeness of the data in the spreadsheets that the contractor used. As a result, errors were allowed to be reported and go undetected. Indeed, WHD reported approximately $13.3 million in net receivables to Treasury; however, supporting documentation showed net receivables to be $22.8 million.

We made four recommendations to WHD to improve controls in the accounting and reporting of back wages and CMP receivables. WHD agreed with our recommendations, but disagreed with certain errors we noted in its accounting over back wages and CMPs. We continue to believe that WHD's lack of effective financial management of back wages and CMPs increased the risk that staff could erroneously write off collectible receivables. (Report No. 22-12-013-04-420, September 28, 2012)

Complex Embezzlement Investigation Leads to Restitution and Plea

Eli Samuel Gonzalez, owner of B&G Environmental, a minority-owned company, was sentenced on June 28, 2012 to three years' probation, restitution in the amount of $424,764, and 100 hours of community service for filing a false tax return. Also as part of this investigation, Robert Santillo, the former project manager for Cherry Hill Construction, pled guilty on May 25, 2012, to two counts of tax evasion.

Gonzalez entered into a subcontractor agreement with Cherry Hill for demolition and asbestos abatement at a Department of Housing and Urban Development (HUD) property in the city of New Haven, Connecticut. Gonzalez received the $1.2 million dollar contract by claiming that B&G could provide the project with a workforce composed of at least 25 percent minority workers, a requirement

for city of New Haven projects. Instead, the investigation revealed that Gonzalez largely used workers from Eastern Europe who were in the United States illegally and therefore not considered minority workers. Rather than paying his workers the prevailing wage pursuant to the Davis-Bacon Act, Gonzalez withdrew hundreds of thousands of dollars intended to fund B&G's payroll for his personal use and failed to report the money he embezzled as income. In furtherance of the scheme, he also submitted certified payrolls that falsely reported the wages paid to workers. Gonzalez's sentence was due to his October 4, 2010, plea to filing a false tax return that failed to disclose the income he received as part of the scheme.

The investigation disclosed that Santillo formed a fictitious company, SSC Consultants, for the purpose of funneling money out of B&G's payroll account. Through his relationship with Gonzalez, Santillo had access to B&G's payroll account, whereby he diverted more than $1 million to SSC Consultants for his personal use. As a result, many paychecks issued from B&G to its employees were returned for insufficient funds. Santillo failed to report $795,000 he received fraudulently through SSC Consultants and evaded $324,000 in Federal tax payments.

This was a joint investigation with Internal Revenue Service – Criminal Investigative Division (IRS-CID) and HUD – OIG. *United States* v. *Eli Gonzales* (D. Connecticut)

New York Construction Owner Agrees to Pay $1.3 Million to Workers

Biagio Vigliotti, owner of Luvin Construction and FML Contracting, pled guilty on July 27, 2012, to criminal conspiracy to commit mail and wire fraud, and willful failure to collect taxes. As part of the plea agreement, he agreed to repay more than $1.3 million in back wages. He also agreed to pay $283,000 to New York State for state prevailing wages owed to his workers.

Vigliotti's company specialized in public work projects and post office construction work. The company successfully entered bids for construction work on over 22 post offices, schools, firehouses, water districts, and public playgrounds, all of which were subject to Davis-Bacon prevailing wage regulations. Vigliotti not only illegally paid his employees in cash but also paid them significantly less than the stipulated prevailing wage rate for the various occupations. He also falsely reported the employees' wages in certified payrolls submitted to the U.S. Postal Service.

This was a joint investigation with IRS-CID, WHD, and the U.S. Postal Service – OIG. *United States* v. *Biagio Vigliotti* (E.D. New York)

Worker and Retiree Benefit Programs

Office of Workers' Compensation Programs

The Office of Workers' Compensation Programs (OWCP) administers four workers' compensation programs: the Energy Employees Occupational Illness Compensation program, the Federal Employees' Compensation Act (FECA) program, the Longshore and Harbor Workers' Compensation Act program, and the Coal Mine Workers' Compensation program.

Global Health Care Company to pay $1.5 Billion Settlement

On May 7, 2012, Abbott Laboratories Inc., pled guilty and agreed to pay $1.5 billion to resolve its criminal and civil liability arising from the company's unlawful promotion of the prescription drug Depakote for uses not approved as safe and effective by the Food and Drug Administration (FDA).

As a result of the scheme, the Department of Justice alleged that Abbott knowingly caused false and/or fraudulent claims for Depakote to be submitted to, or caused purchases by, Medicare, Medicaid, and other Federal healthcare programs, including several programs administered by OWCP.

The agreement includes a criminal fine and forfeiture totaling $700 million and civil settlements with the Federal government and the states totaling $800 million, of which OWCP will receive $278,788. Abbott also will be subject to court-supervised probation and reporting obligations for Abbott's CEO and Board of Directors.

This was a joint investigation with FDA, Department of Health and Human Services – OIG, Department of Veterans Affairs – OIG, Office of Personnel Management – OIG, Internal Revenue Service, Virginia's Medicaid Fraud Control Unit, Defense Criminal Investigative Service, and TRICARE. *United States* v. *Abbott Laboratories* (S.D. Virginia)

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, and survivors' benefits for covered employees' employment-related deaths. In Fiscal Year (FY) 2012, the FECA program made more than $2.1 billion in wage loss compensation payments to claimants and processed approximately 20,000 initial wage loss claims. At the end of FY 2012, nearly 50,000 claimants were receiving regular monthly wage loss compensation payments.

Controls Over Transportation Cost Reimbursements to FECA Claimants Need Strengthening

FECA medical benefits include reimbursements to claimants for transportation costs they incur obtaining reasonable and necessary medical services, appliances, or supplies. For fiscal years (FY) 2010 and 2011, medical transportation costs totaled about $13 million annually. Over the past several years, OIG investigations have uncovered FECA transportation claim fraud in which claimants submitted travel vouchers for medical visits that never occurred, or overstated travel mileage for trips to pharmacies and medically related appointments. We conducted a performance audit of FECA transportation costs to determine whether OWCP has adequate internal controls to prevent unreasonable and/or unallowable transportation cost reimbursements to FECA claimants.

Our audit found that OWCP did not have adequate internal controls to prevent unreasonable and unallowable transportation cost reimbursements to FECA claimants. Our testing of 91 randomly selected claims totaling $12,053 found 21 instances (23 percent) in which OWCP paid claims totaling $2,562 (21 percent) without performing required reviews or obtaining claimant receipts. We also reviewed 22 transportation claims of more than $500 and found problems in nine claims (27 percent), such as inflated mileage or bill-processing errors where, for example, a claimant entered 18.50 miles on the claims form but was paid for 1,850 miles. Moreover, we reviewed the files for nine claimants, each of whom received more than $35,000 in transportation reimbursements over a two-year period. We found patterns of abuse including overstated mileage and multiple trips on the same day. We referred these claimants for criminal investigations.

Finally, we found that OWCP's policies requiring authorization for claims of more than 200 miles per day did not comply with FECA regulations, which required authorization for round trips of more than 100 miles per day. In addition, OWCP did not require claims examiners to document how they determined the reasonableness and accuracy of mileage amounts charged by claimants, and did not have controls in place to identify and investigate patterns of potential travel fraud or abuse by claimants receiving large amounts of transportation payments. Unless controls are improved, transportation cost reimbursements will remain at risk for improper payments.

We recommended that OWCP strengthen controls to reduce the risk of improper overpayments for FECA transportation costs and recover improper reimbursements. OWCP generally agreed with the findings and recommendations. (Report No. 03-12-004-03-431, September 28, 2012)

Former Virginia Air Traffic Control Specialist Sentenced for Defrauding OWCP

Raymond Deskins, III, a former air traffic control specialist, was sentenced on May 4, 2012, to two years in prison and three years of supervised release for defrauding OWCP. As part of his sentencing, Deskins was also ordered to pay $623,438 in restitution to OWCP.

In June 2004, Deskins submitted a disability claim to OWCP for an anxiety disorder. OWCP approved his claim and paid him $623,438 in compensation between May 2005 and April 2009. However, from about May 2005 through August 2008, Deskins worked in the construction industry, receiving both monetary and in-kind compensation for his work on various residential and commercial construction projects. Deskins failed to report these activities and his income to OWCP, and repeatedly certified that he was not engaged in work activity of any kind.

This was a joint investigation with FBI. *United States* v. *Raymond E. Deskins, III* (E.D. Virginia)

Former Oklahoma Billing Manager Pleads Guilty to Health Care Fraud

Farideh Heidarpour, a former Oklahoma billing manager for the Advanced Occupational Rehabilitation Company, pled guilty on August 14, 2012, to one count of health care fraud. As part of her plea agreement, she was ordered to pay over $120,000 in restitution, and refund no less than $1 million to OWCP.

In her role as AOR's billing manager, Heidarpour participated in a variety of schemes to defraud OWCP. She regularly unbundled services that should have been billed as part of a single, primary service and instead billed them to OWCP separately, resulting in more lucrative reimbursements for AOR. She also regularly billed OWCP for prolonged evaluation and management services, fraudulently claiming that physicians had spent more time with patients than they actually did. She pressured company employees, such as occupational therapists and assistants, to complete comprehensive work-related ability assessments known as Functional Capacity Evaluations (FCE), for every patient, even when unnecessary, and billed OWCP for multiple FCEs in instances when only one evaluation had been performed. In addition, for patients with multiple work injuries, Heidarpour often submitted FCE bills for each individual injury and masked the scheme by falsely reporting FCEs on different dates. Heidarpour admitted that she defrauded OWCP by billing and taking payments for other services not provided.

This was a joint case with United States Postal Service – OIG and FBI. *United States* v. *Farideh Heidarpour* (W.D. Oklahoma)

Two Plead Guilty after Defrauding OWCP of Almost $1.2 Million

Raymond Alexander and Lamar Pringle each pled guilty on August 23, 2012 and September 26, 2012, respectively, to one count of conspiracy to defraud a health care benefit program. Pringle also pled guilty to one count of health care fraud.

Both Alexander and Pringle admitted conspiring in a medical payment billing scheme that defrauded OWCP of almost $1.2 million. Alexander, Pringle, and a third conspirator used the stolen identities of legitimate and non-existent medical providers to bill OWCP for services that were never provided. As a result of this scheme, the defendants fraudulently received more than $1.1 million from OWCP between July 3, 2008 and May 21, 2009.

United States v. *Lamar Pringle and Raymond Alexander* (N.D. Florida)

Unemployment Insurance Programs

Enacted more than 80 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).

ETA Can Improve Oversight of States' UI Administrative Costs

To ensure appropriate funding for administration of the UI program, ETA provides annual formula workload-based grants to the states. In fiscal year 2010, ETA awarded grants totaling $3.3 billion; in addition, about $300 million in UI administrative grant funds were awarded under the American Recovery and Reinvestment Act. The OIG conducted a performance audit of the ETA controls over the UI administrative costs of the States of Florida ($151 million) and Maine ($20 million) in order to determine whether they complied with applicable Federal requirements, including the Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State and Local and Indian Tribal Governments*.

The audit found that both Maine and Florida were inconsistent in their compliance with Federal requirements, and that ETA could improve its controls to ensure that states' UI administrative costs comply with Federal requirements. In Maine, we questioned $342,745 in administrative costs that could not be supported. In addition, our audit showed that Maine improperly charged $207,434 in administrative costs to the incorrect UI administrative grant: expenses incurred during FY 2009 were charged to FY 2010 grant funds. As a result, the OIG questioned a total of $550,179 related to these and other issues.

We also found that ETA performed quarterly desk reviews of the states' UI administrative activities, but the reviews were limited and generally only verified the accuracy and reasonableness of reported data. ETA also relied on statewide single audits, which were not always sufficient for testing UI administrative transactions and providing adequate oversight. ETA conducted comprehensive monitoring reviews of both Maine's and Florida's administrative systems in FY 2009 and FY 2010, respectively, it reported no issues regarding either state's use of UI administrative funds. We found that the Core Monitoring Guide used in these reviews was generic to all ETA grants and not program specific. The guide was intended to examine basic core activities in order to determine a grantee's readiness and capacity to operate the grant.

The OIG recommended that ETA develop and implement a program-specific monitoring guide (that includes detailed transaction testing of state UI administrative costs) and recover the questioned costs of more than $550,000 from Maine and approximately $41,000 from Florida. ETA agreed to develop a UI program-specific monitoring guide and will determine if the questioned costs cited should be recovered. (Report No. 04-12-002-03-315, September 19, 2012)

ETA's Overpayment Detection Measure Flawed

Between April 1, 2007, and September 30, 2010, the UI program paid $174 billion in benefits to unemployed workers. ETA estimated that $9.4 billion of that amount represented overpayments that could have been detected by the states. The OIG conducted a performance audit to determine whether ETA appropriately measured the effectiveness of states' overpayment detections for both state-funded and extended Federal UI benefits.

The OIG audit found that the measure used by ETA to determine how effectively states detect overpayments was not calculated correctly, which resulted in states overstating their success rate. Each year, ETA and the states use a sample of UI paid claims to estimate the total amount of improper UI benefit payments for the year. Since some improper payments may not be as cost effective for states to detect as others, ETA separately estimates the portion of total improper payments it believes the states should be able to detect most efficiently (detectable overpayments) and sets a goal for the states to detect 50 percent of such overpayments. ETA reported that states overall identified 52.6 percent of the estimated detectable overpayments.

However, these estimations of improper payments have historically not considered Federal extended benefits, which have increased significantly in recent years. In times of low unemployment, extended benefits are generally negligible in relation to total benefits paid and have little effect on the calculation of overpayments. Unfortunately, with the significant upward spike in unemployment since 2007, Federal extended benefits have increased considerably to more than $7.4 billion for the year ended September 30, 2010. Since Federal extended benefits are no longer negligible, the measure used by ETA to calculate states' effectiveness in detecting overpayments is no longer appropriate. As a result, states have overstated their success rate in detecting overpayment. Indeed, our audit showed that if the measure is adjusted to include extended benefits, states success rate would be 48.5 percent, not 52.6 percent. Moreover, we also found that ETA was unable to ensure the reliability of these calculations because the data used in the measure were not always validated by ETA.

Finally, our audit found that ETA was not fully successful in getting states to comply with the requirement to perform cross-matches with the National Directory of New Hires, an important tool available to states to help them combat overpayments by detecting when a UI claimant has returned to work. As a result, the estimate of detectable overpayments may have been also understated.

The OIG made six recommendations to ETA, including: implementing an overpayment detection management information measure to include extended benefits; updating the reporting system to isolate readily detectable overpayments; and improving data validation. ETA generally agreed with the recommendations and noted that actions to address these recommendations have either been completed or are well underway. (Report No. 04-12-001-03-315, September 28, 2012)

Two Sentenced in Disaster Fraud Case

Joseph Harvey and Anja Karin Kannell were each sentenced on September 26, 2012, to more than 13 years in prison, five years and two years of supervised release, respectively, and ordered to pay more than $440,000 and $390,000 in restitution, respectively, for their involvement in a series of disaster-related fraud schemes. Both were previously convicted of mail fraud, wire fraud, access device fraud, and aggravated identity theft.

Using fake or stolen identities, Harvey and Kannell fraudulently filed at least 47 Disaster Unemployment Assistance (DUA) claims with the Louisiana Workforce Commission, falsely claiming they were victims of the 2008 Gulf Coast hurricanes, Gustav and Ike. In addition, the defendants used fake identities to file a total of 76

fraudulent Disaster Unemployment Assistance claims with Job Service North Dakota and the New York State Department of Labor, portraying themselves as victims of storms in both states.

The U.S. Attorney's Office for the Southern District of Florida incorporated these DUA schemes into a larger investigation that centered on the defendants' fraudulent claims against the trust fund established by BP Exploration following the Deepwater Horizon oil rig explosion and spill in the Gulf of Mexico.

This was a joint investigation with United States Postal Inspection Service (USPIS). *United States* v. *Joseph Harvey and Anja Karin Kannell* (S.D. Florida)

New Jersey Man Sentenced for Accepting More Than $1.8 Million in Bribes

Joseph Rivera, a former investigator for the New Jersey Department of Labor and Workforce Development (NJDOL), was sentenced on March 28, 2012, to five years in prison and three years of supervised release for his role in a bribery scheme.

Between 2002 and 2008, Rivera used his position as a NJDOL field investigator to solicit and accept cash payments of over $1.8 million from owners or operators of temporary labor firms. In exchange for the bribes, Rivera allowed these firms to evade tax laws and workers' compensation insurance requirements. He also refrained from inspecting firms that paid bribes and recommended those firms to other businesses.

Rivera was ordered to pay $250,000 in restitution to the NJDOL. He was also ordered to forfeit more than $1.8 million in proceeds from bribes, proceeds from the sale of three properties and a luxury automobile worth more than $120,000, and eight gold bars, as well as numerous gold and silver coins. In addition to Rivera, seven other conspirators were indicted in this case. Five have pled guilty and been sentenced, and two are fugitives.

This was a joint investigation with FBI and IRS – Criminal Investigative Division (CID). *United States* v. *Joseph Rivera* (D. New Jersey)

Texas Workforce Commission Employee Sentenced for Internal Unemployment Insurance Scheme

DeShon Haynes, a former Texas Workforce Commission employee, was sentenced on May 4, 2012, to six years in prison, three years of supervised release, and ordered to pay $37,344 in restitution for her role in a UI fraud scheme. Haynes had previously pled guilty to aggravated identity theft and mail fraud.

Haynes used her former position as a Texas Workforce Commission (TWC) customer service representative to manipulate the UI system and collect fraudulent UI benefits. She used claimants' personal information without their knowledge or consent to reactivate dormant UI accounts, alter personal identification numbers, and change claimant mailing information to addresses that she controlled and where she received new and fraudulent debit cards. Haynes then used the debit cards at various ATMs and retail establishments to collect funds credited to the accounts as a result of the fictitious information she provided. Through this scheme, Haynes received over $37,000 in fraudulent UI benefits.

This was a joint investigation with TWC. *United States* v. *DeShon Haynes* (N.D. Texas)

Former California EDD Employee and Recruiters Sentenced for Unemployment Insurance Fraud

David Paul Holden, a former State of California Employment Development Department (EDD) employee, who in May 2012 pled to one count of conspiracy and one count of bribery, was sentenced on September 4, 2012, to six years and three months in prison, followed by three years of supervised release, and ordered to pay more than $510,000 in restitution to EDD.

In his former position, Holden processed UI claims for EDD and, thereby, had access to its electronic database. Both personally and through his accomplices, Holden recruited more than 50 individuals who were not qualified to receive UI benefits and persuaded them to provide him their identifying information so that he could arrange for them to receive UI checks. Holden then manipulated EDD's electronic database to make it appear as though the individuals were entitled to the resulting UI benefits issued by EDD. After receiving the fraudulently issued UI checks, the recipients gave Holden's accomplices cash payments of up to $5,000, much of which was funneled to Holden. From March 2010 to January 2011, Holden was responsible for causing EDD to pay more than $510,000 in fraudulent UI benefits, out of which he received more than $40,000 in cash kickbacks. No further charges are planned.

In August 2012, Narcisco Rodriguez and Ulysses Hernandez, two recruiters who conspired with Holden, also pled guilty to the scheme. Four other recruiters had previously pled guilty.

This was a joint investigation with California EDD. *United States* v. *David Holden, et al.* (C.D. California)

Chicago Man Sentenced in Unemployment Insurance Fraud Scheme

Roberto Cisneros was sentenced on May 16, 2012 to three years in Federal prison and ordered to pay full restitution to the Illinois Department of Employment Security (IDES) for his role in defrauding IDES of nearly $480,000 in UI benefits. Cisneros, an undocumented foreign national, also faces deportation upon completion of his sentence.

From 2006 to January 2009, Cisneros knowingly assisted undocumented foreign nationals lacking legal work status or valid Social Security numbers to apply for UI benefits to which they were not entitled. He customarily charged the individuals a $200 to $1,000 fee for the fraudulent UI applications. Once the applications had been approved and the resulting benefit checks sent to addresses that he controlled, Cisneros would collect and cash the checks for himself, often telling claimants that their applications had been rejected. As part of this scheme, Cisneros caused IDES to issue 441 checks to approximately 57 ineligible UI claimants totaling nearly $480,000, of which nearly $261,000 was deposited directly into accounts under his control.

This was a joint investigation with USPIS and Immigration and Customs Enforcement (ICE). *United States* v. *Roberto Cisneros* (N.D. Illinois)

Illinois Woman Pleads Guilty to Unemployment Insurance Fraud Scheme

Sylvia Delgado pled guilty on July 31, 2012, to one count of mail fraud for her role in defrauding the Illinois Department of Employment Security of nearly $400,000 in UI benefits.

From December 2009 until November 2011, Delgado fraudulently applied for UI benefits on behalf of more than 125 undocumented foreign workers knowing that they were not authorized to work in the United States, and, therefore, not eligible for benefits under Illinois law.

Delgado charged her clients between $150 and $200 for each UI application and an additional $20 to $25 for each biweekly certification submitted in furtherance of the scheme. No further charges are planned.

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

Guilty Plea in Maryland Fictitious Employer Scheme

Kevin Bernard Smith pled guilty on September 20, 2012, to conspiracy to commit access device fraud and aggravated identity theft.

From January 2010 through May 2012, Smith and his co-conspirators conducted a fictitious employer scheme to fraudulently obtain more than $400,000 in UI benefits from the State of Maryland. The defendants created fictitious companies and non-existent employees using stolen social security numbers, names, and birth dates. They then filed fraudulent UI claims with the Maryland Department of Labor under the names of the non-existent employees. Once the claims were approved, the defendants requested and received pre-paid debit cards at addresses to which they had access and used the cards to withdrawal UI funds. Charges are pending against the other two co-conspirators.

United States v. *Kevin Smith, et al.* (D. Maryland)

California Accomplices Plead Guilty to Fictitious Employer Scheme

Joseph Hollins, Claude Blaylock, Jr., and William Samuels pled guilty in July 2012, to mail fraud for their participation in a fictitious employer scheme that resulted in the loss of over $300,000 in UI and state disability insurance benefits by the State of California Employment Development Department (CA-EDD). Another accomplice, Dameon Crandle, also pled guilty on September 7, 2012, to two counts of mail fraud for his involvement in the scheme.

As part of the scheme, Hollins, Blaylock, and Samuels provided their personal information to a co-conspirator to report to CA-EDD that the defendants were employed by Tranquil Communications and Couture Recovery Services, two fictitious companies. The co-conspirator then filed fraudulent UI claims on behalf of Blaylock, Crandle, and Samuels and fraudulent state disability insurance claims for Crandle and Hollins. As a result, CA-EDD paid out more than $300,000 in fraudulent unemployment and disability insurance benefits. Charges against the co-conspirator are pending. No further charges are planned.

This is a joint investigation with FBI, Social Security Administration–OIG, CA-EDD, and the California Department of Insurance. *United States* v. *Joseph Hollins, et al.* (C.D. California)

Employee Benefit Plans

The Department's Employee Benefits Security Administration (EBSA) is responsible for protecting the security of retirement, health, and other private sector employer-sponsored benefit plans for America's workers, retirees, and their families. EBSA has jurisdiction over an estimated 707,000 retirement plans, 2.3 million health plans, and a similar number of other welfare plans. These plans hold about $6.7 trillion in assets and cover approximately 141 million participants and beneficiaries.

$3.3 Trillion in Assets Excluded From ERISA Audit Process

ERISA requires most large employee benefit plans to obtain annual audits of their financial statements by independent qualified public accountants (IQPAs). In 2010, EBSA received audited financial statements for about 84,000 plans, covering about 93 million participants and 5.7 trillion in assets. EBSA is responsible for ensuring those audits meet professional standards and the financial statements meet reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 (ERISA). These requirements were enacted to protect plan participants and beneficiaries from abusive practices in the nation's private pension and welfare benefit system.

To improve the quality of employee benefit plan audits and thus better ensure that participants are receiving the protections that these audits are intended to provide, EBSA has established and maintained liaisons with private sector professional organizations and regulatory bodies on accounting and auditing issues for employee benefit plans. We conducted a performance audit to determine if EBSA's oversight of ERISA audits had improved audit quality and increased participant protections.

EBSA has taken significant actions to help improve audit quality, including working with the American Institute of Certified Public Accountants to establish an audit quality center that provides guidance and education to IQPAs who perform pension audits, redesigning its targeting methods to identify and correct substandard plan audits, and providing training and outreach activities for plan auditors. However, we found that the increased use of limited-scope audits and the continuing lack of legal authority that limits EBSA's authority over IQPAs have offset these efforts to improve participant protections. We also concluded that EBSA's audit quality review procedures were incomplete.

Under ERISA, if plan assets are held and certified by certain financial institutions, auditors are not required to test this asset information. When this occurs, it is termed a limited-scope audit and the auditor disclaims an opinion on the plan's financial statements. This disclaimer provides no assurances to participants on the reliability of the plan's financial statements. Between 1987 and 2010, the percentage of plans undergoing limited-scope audits grew from about 46 percent to approximately 70 percent. The reported value of assets excluded from plan audits had similarly grown from about $520 billion (43 percent) in 1989 to $3.3 trillion (58 percent) in 2010.

The use of limited-scope audits is a major obstacle to providing audit protections for plan participants, and the OIG has had a long standing legislative recommendation to repeal ERISA's limited-scope audit exemption (See Page 52 for legislative recommendation). However, we also found that EBSA had not ensured that plan administrators presented the current value for plan investments in

limited-scope audits, as ERISA required. In addition, while the ERISA Advisory Council studied limited-scope audit issues and made recommendations to clarify and amend limited-scope regulations, EBSA had not formally evaluated those recommendations, citing other priorities for its regulatory process.

Our audit also found that EBSA continues to lack the legal authority to oversee IQPAs adequately. Under ERISA, when EBSA identifies substandard audit work, it can only reject the annual filing by the plan administrator and refer the IQPA to the state accountancy board and/or professional bodies for disciplinary action. EBSA cannot suspend, debar, or levy civil penalties against auditors who perform substandard audits.

Further, our audit found that EBSA's reviews did not always sufficiently document that IQPA audits met professional standards. As a result, EBSA accepted audit work that may have contained deficiencies that could have adversely affected participants' and beneficiaries' retirement benefits. We also found that EBSA had not assessed overall employee benefit plan audit quality since 2004. As a result, EBSA did not know whether its oversight had been effective in improving audit quality.

We recommended that EBSA continue pursuing the legislative changes needed to repeal the limited-scope audit exemption and obtain direct authority over plan auditors. In addition, we recommended that in the interim, EBSA: use its existing authority to clarify and strengthen limited-scope audit regulations and evaluate the ERISA Council recommendations; make better use of available enforcement tools over IQPAs; improve procedures used in its audit quality reviews; and perform a reassessment of audit quality. EBSA generally agreed with our recommendations, stating that it would further examine its authority and guidance under limited-scope audits, additional enforcement tools over IQPAs, and the merits of conducting another reassessment of audit quality. (Report No. 09-12-002-12-121, September 28, 2012)

Office of Labor-Management Standards

The Office of Labor-Management Standards (OLMS) administers and enforces provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), as amended. OLMS also administers provisions of the Civil Service Reform Act of 1978 (CSRA) relating to standards of conduct for Federal employee organizations, which are comparable to LMRDA requirements. These laws promote union democracy and financial responsibility in private and public sector labor unions.

OLMS Could Do More to Improve the Effectiveness of its Compliance Audit Program

As part of its oversight of union financial responsibility, OLMS conducts a Compliance Audit Program (CAP), which is designed to detect embezzlement and other criminal and civil violations of the LMRDA, as well as to provide compliance assistance to help unions meet statutory requirements. In FY 2011, OLMS received $41.3 million to oversee about 25,000 national and local unions reporting receipts of approximately $19 billion. The OIG conducted a performance audit to determine if OLMS had: evaluated the effectiveness of CAP and its impact on safeguarding union assets; had selected unions for audit using the most effective strategies; and had ensured that unions corrected violations of LMRDA.

The audit determined that OLMS could do more to improve CAP's effectiveness in verifying LMRDA compliance. We found that OLMS did not fully: evaluate CAP's effectiveness and its impact on safeguarding union fund assets; could not demonstrate that it was selecting unions for audit which had the greatest risk for LMRDA violations that would affect the safeguarding of union assets; and that it did not ensure that unions corrected financial control weaknesses that allowed record-keeping violations.

The OIG made three recommendations to OLMS to: (1) develop performance measures that evaluate the effectiveness of CAP in safeguarding union assets by verifying LMRDA compliance, (2) implement a risk-based process that will define the most significant LMRDA violations and use strategies to direct OLMS CAP resources to unions with the most significant LMRDA violations, and (3) develop a process that documents unions correct financial controls over record-keeping. OLMS generally agreed with the issues that the OIG identified during the audit but disagreed with two of our recommendations. OLMS stated that it purposefully did not include civil violations in its performance measure because the primary objective of CAP is detecting embezzlement. The OIG agrees that detecting embezzlement is important; however, OLMS's current measure only measures the percentage of compliance audits that results in a criminal case being opened while ignoring any other benefits of the CAP. OLMS also stated its belief that developing a process that verifies unions' correct financial controls over record-keeping, and subsequently conducting onsite reviews to verify corrected controls were in place, would be an imprudent use of its resources. The OIG is not recommending OLMS revisit all unions with record-keeping violations. Rather, we believe that OLMS should put a risk-based process in place that will provide OLMS more assurances that unions took actions to address the problems. (Report No. 09-12-001-04-421, September 13, 2012)

Disadvantaged Business Enterprises

The Disadvantaged Business Enterprises (DBE) program is an effort to increase the participation of minority-owned small businesses in all Federal aid and state transportation facility contracts and procurement.

Settlement of False Claims Act Case Against Two Companies for Defrauding $22 Million in DBE Contracts

On April 4, 2012, the U.S. Attorney's Office for the Southern District of New York settled a civil complaint under the False Claims Act against Judlau Contracting, Inc., Dragados USA, Inc., and Dragados/Judlau, a Joint Venture. As part of the settlement, the defendants will pay $6.5 million in restitution to the U.S. Government and $1 million to the Metropolitan Transportation Authority (MTA).

In an effort to circumvent U.S. Department of Transportation Federal regulations relating to DBE, the defendants submitted monthly reports to the MTA that fraudulently represented the progress in meeting their participation goal with regard to DBE contracts. Specifically, they submitted false payroll certifications in violation of the Davis-Bacon Act, stating that they had paid almost $17 million to their respective DBEs, when in reality only $5 million had been paid for work performed by the DBEs. An internal audit also revealed that the defendants paid three of the DBEs to act as fronts or "pass through companies" while the work was actually being performed by a general (non-DBE) contractor.

United States v. *Dragados/Judlau, a Joint Venture, Judlau Contracting, Inc., and Dragados USA, Inc.* (S.D. New York)

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 then, OIG special agents, working in association with the Department of Justice's Organized Crime and Gang Section, as well as various U.S. Attorneys' Offices, have conducted criminal investigations to combat labor racketeering in all its forms.

Labor racketeering relates to the infiltration, exploitation, and/or control of a union, employee benefit plan, employer entity, or workforce. It is carried out through illegal, violent, or fraudulent means for profit or personal benefit.

Labor racketeering impacts American workers, employers, and the public through reduced wages and benefits, diminished competitive business opportunities, and increased costs for goods and services.

The OIG is committed to safeguarding American workers from being victimized through labor racketeering and/or organized crime schemes. The following investigations 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.

Labor racketeering and 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 involving service providers are particularly egregious due to their potential for large dollar losses and because the schemes often affect several plans simultaneously. Thus, benefit plan service providers, such as accountants, attorneys, contract administrators, and medical providers, as well as corrupt union officials, plan representatives, and trustees, continue to be a strong focus of OIG investigations.

Benefit Plan Investigations

The OIG is responsible for combating corruption involving funds in union-sponsored employee benefit plans. Pension and health and welfare benefit plans comprise hundreds of billions of dollars in assets. Our investigations have shown that assets in such plans 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 union officials, plan representatives, and trustees, continue to be a strong focus of OIG investigations.

Former Sandhogs' Benefit Funds Administrator Sentenced for Embezzling $40 Million from Construction Workers' Union Funds

Melissa King, a former administrator for the Laborers' International Union of North America Local 147 (Sandhogs Union) Benefit Funds, was sentenced on June 21, 2012, to six years in prison and three years' supervised release. King previously pled guilty to embezzlement from the Employee Retirement Income Security Act employee benefit plans and tax evasion.

Between 2002 and 2008, King embezzled more than $40 million by transferring large sums of money out of the Local 147 Benefit Funds' bank accounts into a King Care, LLC, account under her control. She then used the embezzled funds to finance her lifestyle, spending more than $7 million on personal purchases, $5.5 million to buy and maintain horses, $1 million for fine and antique jewelry, $300,000 for luxury automobiles, and $99,000 for private jet travel, among other charges.

This was a joint investigation with Employee Benefits Security Administration (EBSA) and Internal Revenue Service (IRS). *United States* v. *Melissa King* (S.D. New York)

New York Union Leaders Sentenced for Racketeering, Extortion, Money Laundering, and Witness Tampering

Anthony Fazio, Sr., Anthony Fazio, Jr., and John Fazio, Jr., former officials of Local 348 of the United Food and Commercial Workers Union (UFCW), were sentenced on September 13, 2012 to more than 12 years, 5 years, and 11 years in prison, respectively, in connection with racketeering, extortion, money laundering, and witness tampering charges. In addition to the prison terms, the defendants were sentenced to three years of supervised release each, and ordered to pay a combined $3.1 million fine. All three defendants will also be held joint and severally liable for $2.5 million in restitution and forfeiture. Fazio, Sr., was also previously found guilty of Racketeer Influenced and Corrupt Organizations Act Conspiracy (RICO) charges.

Anthony Fazio, Sr., was the former president of the UFCW Local 348. For the last 35 years, the defendants have held various leadership positions in Local 348. Since 1989, the defendants used their leadership positions to collect unlawful payments from various employers whose employees had been unionized by the UFCW. The defendants utilized the threat of possible labor disruptions to extort annual or biannual cash payments from approximately 12 employers and from an administrator who handles and processes medical reimbursement claims on behalf of Local 348's Health and Welfare Benefit Funds.

At least one employer was extorted for approximately $25,000 per year, and the fund administrator was extorted for as much as $5,000 every month.

In addition to demanding extortionate and unlawful labor payments from employers unionized by the UFCW, Fazio, Sr., and John Fazio, Jr., engaged in a money-laundering scheme to steal funds directly from Local 348 and its affiliated Benefit Funds. Fazio, Sr., and John Fazio, Jr., also devised a scheme whereby Local 348 was billed using fraudulent invoices for non-existent goods and services. The Local 348 funds used to pay those fake invoices were subsequently laundered into cash and siphoned back to Fazio, Sr., and his nephew John Fazio, Jr.

This was a joint investigation with FBI and New York City Police Department. *United States* v. *Anthony Fazio, Sr., United States* v. *Anthony Fazio, Jr.,* and *United States* v. *John Fazio, Jr.* (S.D. New York)

Chicago Physician Sentenced for Falsely Billing Health Care Companies and Medicare

Dr. Jaswinder Chhibber, a Chicago physician, was sentenced on July 11, 2012, to two and a half years in prison and one year of supervised release, and assessed a $15,000 fine for falsely billing health care companies, union sponsored benefit plans, and Medicare.

From approximately 2005 to 2010, Chhibber ordered unnecessary medical tests, falsified patients' medical records, and used false diagnosis codes on insurance claims for at least five patients, including two undercover Federal agents who posed as patients. He administered echocardiograms, electrocardiograms, carotid doppler examinations, abdominal ultrasounds, and pulmonary function tests for an unusually high percentage of his patients, including members of various union-sponsored health care funds.

This was a joint investigation with FBI, U.S. Department of Health and Human Services – OIG, and U.S. Railroad Retirement Board – OIG. *United States* v. *Jaswinder Chhibber* (N.D. Illinois)

Two Men Plead Guilty for Role in Defrauding Recovery Act-funded Disadvantaged Business Enterprises Contracts

Michael Paletta, owner of Crossboro Contracting Company, and Richard Schultz, a former project manager for Nationwide Construction, pled guilty on September 11, 2012, and July 31, 2012, respectively, to conspiracy to commit mail and wire fraud. Paletta was also ordered to pay more than $355,000 in civil penalties.

Paletta and Schultz conspired with the owner of MS Construction, a disadvantaged business enterprise and holder of collective bargaining agreements with several construction trade local unions, to use MS Construction to obtain American Recovery and Reinvestment Act-funded contracts, while other companies actually performed the work. The fraud scheme resulted in false certified payrolls and false documents remitted to the local unions. A review of remittance reports also revealed that out of six projects, only one was reported to the union benefit funds.

This was a joint investigation with Department of Transportation – OIG, Port Authority of NYC, and New York City – Department of Investigations. *United States* v. *Richard Schultz* (S.D. New York)

Internal Union Corruption Investigations

Our internal union corruption investigations include officers who abuse their positions of authority in labor organizations to embezzle money from union and member benefit plan accounts, and who 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. The following are examples of our work in this area:

Pennsylvania Union President Sentenced for Embezzling Over $250,000 from Benefit Plans and Union Funds

Ernest Milewski, a former union president, was sentenced on May 1, 2012, to 18 months in prison, 3 years of supervised release, and ordered to pay more than $257,000 in restitution for embezzling from labor union assets and from a health care benefit program.

From 1996 to May 2008, Milewski served as president of the United Food and Commercial Workers (UFCW) Northeastern District Council (NEDC) located in Wilkes-Barre, Pennsylvania. During this same time period, by virtue of his position, he was also president of the union's NEDC's Health and Welfare Fund. From 2005 to 2008, Milewski stole more than $221,000 from the UFCW general fund and $45,000 from the Health and Welfare Fund. Milewski executed this scheme by writing union and benefit fund checks directly to himself, and then attempted to conceal the thefts by making it appear as if the disbursements were made to legitimate union/fund payees. Milewski also executed this scheme by receiving unauthorized expense reimbursements and double-billing the UFCW and the NEDC.

This was a joint investigation with Office of Labor-Management Standards (OLMS) and EBSA. *United States* v. *Ernest Milewski* (M.D. Pennsylvania)

Ohio County Commissioner Sentenced for Using Public Position for Personal Gain

Jimmy Dimora, a former Cuyahoga county commissioner in Ohio, was sentenced on July 31, 2012, to 28 years in prison and ordered to pay restitution in the amount of $98,266 for his role in multiple crimes, including racketeering, bribery, and conspiracy. The investigation stemmed from various illegal schemes, including one involving Robert Rybak, a former business manager of the Journeymen Plumbers Union Local 55 who was sentenced to more than two years in prison for his role in the scheme.

Dimora used his public position to facilitate illegal acts on behalf of Rybak, Rybak's wife, and another Rybak family member. Dimora received free plumbing at his residence in exchange for securing two county commissioner votes to approve a $5,000 salary increase for Rybak's wife, Linda, who was employed with Cuyahoga County's Human Resources Department. She has since been fired from her position. In addition, Rybak provided Dimora with other reduced-cost home improvements, meals, and entertainment, as well as political donations.

This was a joint investigation with FBI, OLMS, and IRS. *United States* v. *Jimmy Dimora, et al.* (N.D. Ohio)

Former Company President Pleads Guilty to 13-count Indictment

Michael Forlani, a former president of Doan Pyramid and other companies in Ohio, pled guilty on August 30, 2012, to conspiracy to commit bribery relating to programs receiving Federal funds; Hobbs Act conspiracy; and RICO conspiracy, among other charges. The charges stemmed from several government-funded projects, including a $125 million U.S. Department of Veterans Affairs (VA) project for the construction of a 2,080-space parking garage, an office building, and a 122-bed dwelling for homeless veterans near the Louis Stokes Cleveland VA Medical Center in Ohio.

Forlani sought and obtained assistance from Jimmy Dimora, a former Ohio county commissioner — who was sentenced to 28 years in prison for his role in the scheme — to support Robert Peto's appointment as executive secretary/treasurer of the Ohio and Vicinity Regional Council of Carpenters to the Cuyahoga County Port Authority board. Peto's appointment to the board ensured that Forlani would obtain financing for the project. To gain Dimora's support, Forlani's companies installed, at no cost, an outdoor television and indoor audio/visual system at Dimora's house. As a result, Dimora voted to appoint Peto to the board in December of 2004 and again in January 2008.

This was a joint investigation with FBI and EBSA. *United States* v. *Michael Forlani* (N.D. Ohio)

Labor Union Officer Pleads Guilty to Taking Bribes

James Kearney, a former business manager of Ironworkers Local 45, pled guilty on July 11, 2012, to violating the Taft-Hartley Act.

Kearney admitted that he demanded and received $10,000 from a contractor for the sale of two union books. A union book is proof of a worker's admission into, and membership in, a union, and is the property of the issuing union. On August 1, 2011, Kearney, while employed as the business manager for Local 45, met an individual who was a representative of a New Jersey construction company. During a recorded meeting, Kearney was asked about using non-union ironworkers at an upcoming construction project in Hudson County and said that he would be willing to buy union books for his employees. During this meeting, Kearney received a $3,000 "good will" payment for the upcoming Hudson County project as the New Jersey Construction Company representative sought to use non-union ironworkers. Subsequently, Kearney received $10,000 in cash and two $728 money orders to cover initiation fees and dues for the two union books.

This was a joint investigation with the FBI and EBSA. *United States* v. *James Kearney* (D. New Jersey)

Labor-Management Investigations

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

Two Construction Company Employees Plead Guilty in $56 Million Over-Billing Scheme

James Abadie, a former principal-in-charge, and John Hyers, a former director of operations for the New York office of a construction company, pled guilty on April 24, 2012, and May 3, 2012, respectively, to conspiracy to commit mail and wire fraud.

From 1999 to 2009, Abadie and Hyers played major roles in a scheme to fraudulently bill public and private construction projects for hours that were not worked by labor foremen from the Local 79 Mason Tenders' District Council of Greater New York. The defendants systematically added one to two hours of unworked overtime per day, sick day absences, major holidays, and weeks of vacation to time sheets for labor foremen. The scheme resulted in more than $56 million in fraudulent wage charges billed to public and private construction projects.

As a result of this investigation, the defendants entered into a deferred prosecution agreement, admitting to overbilling its public and private construction projects and misrepresenting work performed by minority businesses. The agreement requires the defendants to pay up to $56 million in penalties to the Federal government and restitution to victims, and to institute comprehensive corporate reforms designed to eliminate future problems and enforce best industry practices.

This was a joint investigation with FBI, General Services Administration – OIG, Port Authority – OIG, and New York City – Department of Investigations. *United States* v. J*ohn Hyers* and *United States* v. *James Abadie* (E.D. New York)

Departmental Management

Deficiencies Persist in the Department's IT Security Program

DOL systems contain vital, sensitive information that is central to both its mission and to the effective administration of its programs. These systems are used to determine and house the nation's leading economic indicators, such as the unemployment rate and the Consumer Price Index, and they maintain critical data related to: enforcement actions; worker safety; health, pension, and welfare benefits; job training services; and other worker benefits.

As part of its FY 2012 Federal Information Security Management Act work completed by the end of this reporting period, the OIG identified three deficiencies in the Department-wide Information Security Program. In the areas of: identification and authorization, we found that Personal Identity Verification (PIV) card log-on to agency information systems had not been fully implemented across the Department; computer security, we found incidents were not always timely reported; and agency contingency plans, we found the plans had not been aggregated to prioritize recovery. We also found that system recovery was not performed during the Department's testing exercise for disaster recovery. Those identified deficiencies increased the risks to the confidentiality, integrity, and availability of DOL's information.

We recommended that the Department's Chief Information Officer: continue to plan and implement PIV card log-on capability in order to comply with Department of Homeland Security Presidential Directive-12 requirements; provide periodic reminders and/or additional training on DOL policies and procedures for incident response; and improve disaster recovery planning efforts. The Department concurred or partially concurred with our findings, but stated that compensating controls, such as firewalls and password management, mitigated some of the potential risk related to the identified deficiencies.

Correcting deficiencies in a timely manner is an integral part of management accountability. In FY 2012, the OIG also performed testing to verify the remediation of prior-year IT security recommendations. We found that the Department had continued making progress in closing those recommendations, as 90 percent of the prior-year IT security recommendations tested had been implemented successfully. (Report No. 23-12-024-07-001, September 28, 2012; Report No. 23-12-012-03-370, September 28, 2012;Report No. 23-12-013-06-001, September 28, 2012;Report No. 23-12-017-10-001, September 28, 2012;Report No. 23-12-015-13-001, September 28, 2012)

Single Audits

Office of Management and Budget (OMB) Circular A-133 provides audit requirements for state and local governments, colleges and universities, and nonprofit organizations receiving Federal awards. Under A-133, 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 A-133.

Single Audits Identify Material Weaknesses and Significant Deficiencies in 69 of 129 Reports

We reviewed 129 single audit reports this period, covering DOL expenditures of approximately $115 billion. These expenditures included approximately $18 billion related to Recovery Act funding. The non-Federal auditors issued 20 qualified or adverse opinions on awardees' compliance with Federal grant requirements, their financial statements, or both. In particular, the auditors identified 203 findings as material weaknesses or significant deficiencies and approximately $22 million in questioned costs in 69 of the 129 reports reviewed. Those findings indicated serious concerns about the auditees' abilities to manage DOL funds and comply with the requirements of major grant programs. We reported the 203 findings and 217 related recommendations to DOL management for corrective action.

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 2012, DOL was the cognizant agency for 16 recipients. During this reporting period, we conducted three quality control reviews (QCR) of auditors' reports and supporting audit documentation. The purpose of the reviews was to determine whether: (1) the audit was 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 two QCRs, we determined that the audit work performed was acceptable and met single audit and A-133 requirements. No follow-up work was required and there were no issues that required management's attention. For the remaining QCR, the single audit had to be re-issued due to technical reporting deficiencies we identified.

Employee Integrity Investigations

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

Former Mine Safety and Health Administration Inspector Pleads Guilty to Falsifying Mine Inspection Reports

Matthew Blake, a former metal/non-metal Federal (MSHA) inspector, pled guilty on August 24, 2012, to six counts of making false statements on official mine inspection documents and reports relative to surface mining operations in Eastern District of Tennessee.

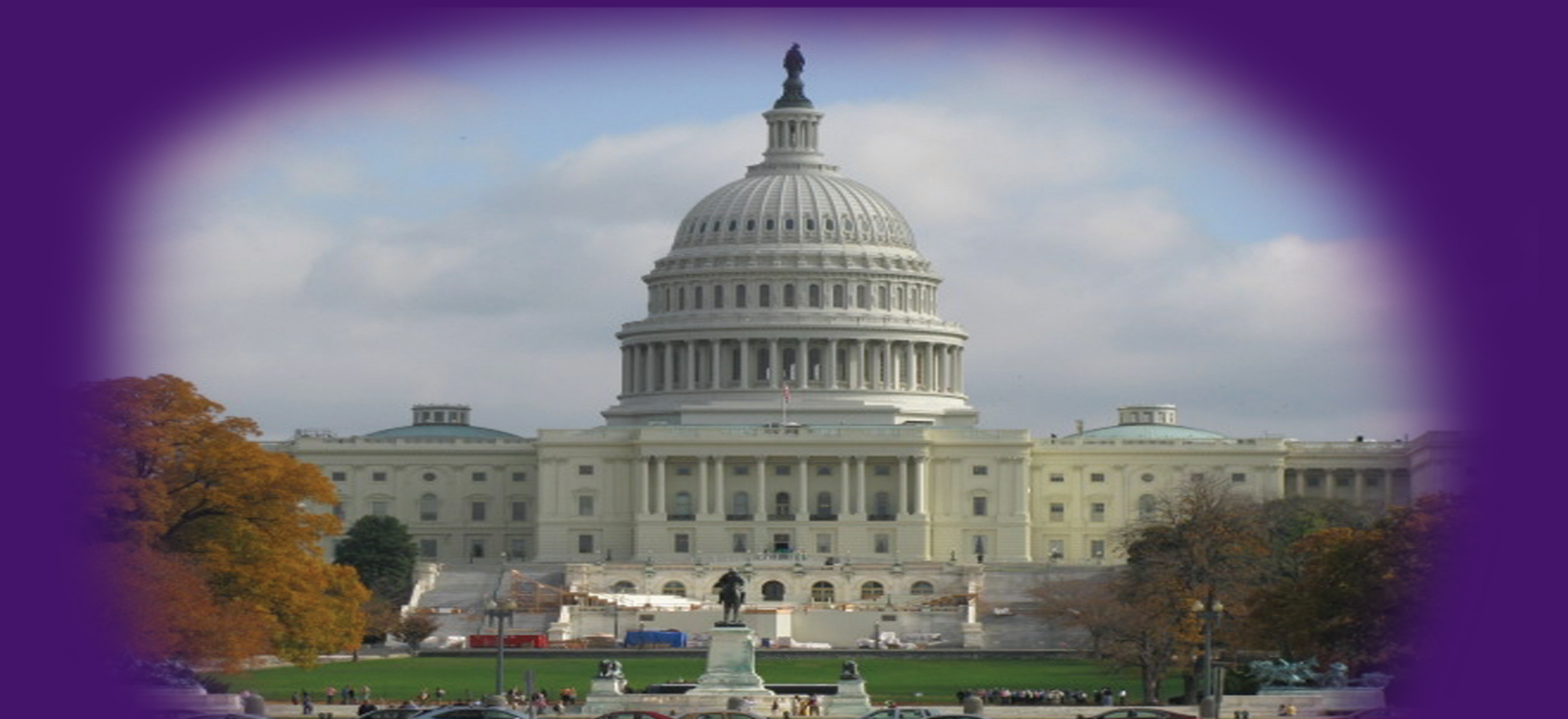
Between August and October 2011, Blake falsified inspection reports and failed to properly inspect six different mines in the Eastern District of Tennessee. Our investigation revealed that although Blake had never visited these mines, inspection records that he submitted to MSHA showed that he had reviewed mine operations, inspected equipment, and collected dust and noise samples. He faces up to five years in prison, a fine up to $250,000, and supervised release for each count. *United States* v. *Mathew Blake* (E.D. Tennessee)

Former Occupational Safety and Health Administration Inspector Sentenced for Unauthorized Use of Government Property

Joseph Schwarz, a former Occupational Safety and Health Administration (OSHA) safety specialist and desk officer, was sentenced on April 5, 2012, to one year of probation and ordered to pay a fine of $2,000 after pleading guilty to unauthorized use of government property. He was resigned from Federal service effective March 31, 2012.

In July 2011, Schwarz attempted to extort money from an Ohio strip club by threatening to expose the club's safety violations if he was not paid a sum of $10,000. Schwartz used his DOL-issued laptop and cell phone to send emails under an alias in conjunction with the failed extortion attempt. This was a joint investigation with FBI. *State of Ohio* v. *Joseph Schwarz* (Cuyahoga County Court of Common Pleas)

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 increase efficiency and protect the Department's programs.

Allow DOL Access to Wage Records

To reduce overpayments in employee benefit programs, including Unemployment Insurance (UI), Federal Employees' Compensation Act (FECA), and Disaster Unemployment Assistance, the Department and the OIG need legislative authority to easily and expeditiously access state UI wage records, Social Security Administration (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 the Employee Retirement Income Security Act (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 the Employee Benefits Security Administration (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-scope audit 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 to 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 Workforce Investment Act Program Through Reauthorization

The reauthorization of the Workforce Investment Act (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 NDNH.** 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 NDNH. 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 three-day waiting period 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

Reporting requirements under the following acts:

Inspector General 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	76
Section 5(a)(4)	Matters Referred to Prosecutive Authorities	77
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	70
Section 5(a)(7)	Summary of Significant Reports	ALL
Section 5(a)(8)	Statistical Tables on Management Decisions on Questioned Costs	69
Section 5(a)(9)	Statistical Tables on Management Decisions on Recommendations That Funds Be Put to Better Use	69
Section 5(a)(10)	Summary of Each Audit Report over Six Months Old for Which No Management Decision Has Been Made	76
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

The Reports Consolidation Act of 2000

Section 3(d)	Top Management Challenges Facing the U.S. Department of Labor	57

Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010

Section 3(d)	Peer Review	78

American Recovery and Reinvestment Act of 2010

Section 1553(b)(2)(B)(iii)	Whistleblower Reporting	79

Top Management Challenges

The Top Management Challenges identified by the Office of the Inspector General (OIG) for the Department of Labor (DOL) are discussed below.

2012 Top Management Challenges Facing the Department of Labor

For 2012, the OIG considers the following as the most serious management and performance challenges facing the Department:

- Protecting the Safety and Health of Workers
- Protecting the Safety and Health of Miners
- Improving Performance Accountability of Workforce Investment Act Grants
- Ensuring the Effectiveness of the Job Corps Program
- Reducing Improper Payments
- Maintaining the Integrity of Foreign Labor Certification Programs
- Ensuring the Security of Employee Benefit Plan Assets
- Securing Information Technology Systems and Protecting Related Information Assets
- Ensuring the Effectiveness of Veterans' Employment and Training Service Programs
- Improving Procurement Integrity

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

CHALLENGE: Protecting the Safety and Health of Workers

OVERVIEW

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 has safe and healthy working conditions. OSHA ensures the safety and health of more than 130 million workers at over seven million establishments by setting and enforcing workplace safety and health standards; providing training, outreach, and education; and encouraging continuous improvement in workplace safety and health.

CHALLENGE FOR THE DEPARTMENT

With more than seven million entities under its oversight and Bureau of Labor Statistics' preliminary data indicating that 4,609 workers suffered fatal workplace injuries in 2011, OSHA continues to be challenged on how to best target its resources to the highest-risk worksites nationwide and to measure the impact of its policies and programs and those of the 27 states authorized by OSHA to operate their own safety and health programs. OSHA carries out its enforcement responsibilities through a combination of self-initiated and complaint investigations, but can reach only a fraction of the

entities it regulates. Consequently, OSHA must strive to target the most egregious and persistent violators and protect the most vulnerable worker populations.

Recent OIG audits have found that the highest risk industries and worksites were not always targeted and inspected, and OSHA lacked outcomes-based performance metrics to measure and demonstrate the causal effect of its own Federal programs on the safety and health of workers nationwide. Without such metrics, OSHA cannot determine the effectiveness of either Federally-operated or state-run worker safety and health programs, and, as such, cannot ensure that its limited resources are being used efficiently and with the greatest possible impact on worker safety and health.

DEPARTMENT'S PROGRESS AND WHAT REMAINS TO BE DONE

OSHA has established a workgroup with state representatives in order to develop and adopt effectiveness measures for state-operated safety and health programs. Moreover, OSHA is working on establishing regular processes for evaluating the success of its enforcement strategies in helping to achieve its desired outcomes. In this regard, the Department initiated a multi-year study of OSHA's Site Specific Targeting (SST) program to assess the impact of the program interventions on future employer compliance.

OSHA should continue its efforts to work with state representatives on implementing effectiveness measures for state-operated safety and health programs. OSHA should also include the highest risk worksites in SST program targeting, prioritize and complete inspections of the highest risk worksites, and continue with the study on the SST program which is expected to conclude during FY 2013. Finally, OSHA needs to strengthen its oversight and increase the effectiveness of its Management Accountability Program.

CHALLENGE: Protecting the Safety and Health of Miners

OVERVIEW

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 380,000 miners who work at over 14,100 mines nationwide.

CHALLENGE FOR THE DEPARTMENT

MSHA continues to be challenged to effectively manage its resources to meet statutory mine inspection requirements while successfully accomplishing other essential functions to help ensure that every miner returns home safely at the end of each day. Our audits have shown that MSHA remains challenged to maintain a cadre of experienced and properly trained enforcement staff to meet its statutory enforcement obligations. This challenge will soon be exacerbated by retirements, with more than 50 percent of MSHA's enforcement personnel eligible to retire by 2014. MSHA also faces challenges in establishing a successful accountability program, and to some degree, deficiencies continue to recur. In addition, as scientific knowledge and mining practices change, MSHA must promote the development and use of new technologies and ensure that its standards and regulations keep pace.

DEPARTMENT'S PROGRESS AND WHAT REMAINS TO BE DONE

MSHA has made some progress in addressing these challenges. MSHA continues to identify and hire mine inspector candidates, within authorized personnel levels, through job announcements and employment screening events held in various locations throughout the country. In addition, MSHA maintains a single-source web-based page in order to provide potential mine inspector trainees with hiring information.

MSHA has initiated a "Rules to Live By" campaign which targets common mining deaths, recognized OSHA standards on fall protections, and implemented pre-assessment conferences to allow resolution of citations and orders before litigation. Additionally, MSHA's rulemaking agenda includes new regulations for proximity detection systems for mobile machines in underground mines and lowering miners' exposure to coal mine dust.

MSHA has made multiple changes to its organizational and reporting structures and several revisions to policies and procedures to improve its accountability program, but this remains a work in progress. MSHA must continue to develop a succession plan in order to ensure that properly trained mine inspectors are ready to step in as retirements occur, fully implement its accountability program, timely complete its rulemaking agenda, and encourage technological advances.

CHALLENGE: Improving Performance Accountability of Workforce Investment Act Grants

OVERVIEW

In Fiscal Year (FY) 2012, the Department's Employment and Training Administration (ETA) was appropriated $3.2 billion for the Workforce Investment Act (WIA) Adult, Dislocated Worker, and Youth programs. WIA adult employment and training services are provided through formula grants to states and territories or through competitive grants to service providers to design and operate programs for disadvantaged, often unemployed persons. ETA also awards grants to states to provide reemployment services and retraining assistance to individuals dislocated from their employment. Youth programs are funded through grant awards that support program activities and services to prepare low-income youth for academic and employment success, including summer jobs.

CHALLENGE FOR THE DEPARTMENT

The Department is challenged in ensuring that the WIA grant programs are successful in training and placing workers in suitable employment to reduce chronic unemployment, underemployment, and reliance on social payments by the population it serves. Our audit work over several decades has documented the difficulties encountered by the Department in obtaining quality employment and training providers; ensuring that performance expectations are clear to grantees and sub-grantees; obtaining accurate and reliable data by which to measure and assess the success of grantees and states in meeting the program's goals; providing active oversight of the grant making and grant execution process; disseminating proven strategies and programs for replication; and, most critically, ensuring that training provided by grantees leads to placement in training-related jobs paying a living wage.

For example, our audit in 2008 of the $271 million High Growth Job Training Initiative to help workers acquire necessary skills for jobs in high growth industries such as health care and biotechnology disclosed that ETA awarded most of the grants non-competitively, that grantee performance expectations were so unclear in many cases we could not determine

whether or not they met their goals and, where the agreements had more clarity, we determined that grantees did not meet objectives with respect to: training and placement goals; product completion; product delivery and required tracking of outcomes. The lack of clarity in grant proposals that were approved called into question the rigor of ETA's review of the proposals and the merit of ETA's decision to award the grants, especially because ETA decided to award them non-competitively. A 2011 OIG audit of the WIA Adult and Dislocated Worker program found that 37 percent of program participants either did not obtain employment or their employment was unrelated to the training that they received. OIG projected that the amount of funds paid for this training outcome totaled approximately $124 million. Our October 2012 audit of the $500 million Recovery Act Green Jobs program designed to train those most affected by the recession for jobs in "green" industries found that the program had limited success because 47 percent of those served already had a job; that only 38 percent of those trained were placed in jobs; and that, as of December 2011, only 16 percent of the collective job retention goal had been met. We also found that almost half of the training provided consisted of 1-5 days of training, that 92 percent of "credentials" received for participating in the program were merely certificates of completion, and that there were significant disparities of participant job retention goals proposed by grantees and approved by ETA. A finding common in all three audits, was the significant problem in obtaining accurate, reliable, and detailed performance data from grantees, sometimes requiring us to reconstruct records in order to be able to make assessments as to what was actually accomplished.

DEPARTMENT'S PROGRESS AND WHAT REMAINS TO BE DONE

ETA recently awarded 26 Workforce Innovation Fund grants with the goal of evaluating strategies for delivering services more efficiently, achieving better outcomes, and facilitating cooperation across programs and funding streams. ETA has indicated that it will capture promising practices and lessons learned and share them with the broader workforce system. In addition to this type of program evaluation, ETA should continue to closely monitor the WIA grants and address the disconnections between the training provided and the realities of the job market. To that end, ETA should consider using Labor Market Information tools and provide technical assistance to grantees.

ETA has made design changes to the WIA Gold Standard Evaluation of the Adult and Dislocated Worker programs. ETA expects to receive the first evaluation report (on implementation) during the Fall of 2013, the first impact report in 2015 and the final report in 2016. Through this evaluation, ETA intends to measure the net impact of specific interventions, such as the incremental effects of the intensive and training services provided to adults and dislocated workers. The multi-year WIA Gold Standard is funded on an annual basis and is contingent on the availability of appropriated funding.
ETA and the Department have identified the reauthorization of WIA as a legislative priority and have specified several goals that the Department believes should be a focus of the reauthorization process. Among those goals is improving accountability by updating the performance measures used by WIA programs.

To meet the increased demand for services and improve coordination with other service providers, ETA continues to work with the Department of Health and Human Services to develop a strategy for addressing client needs in the One-Stop Center setting. The regions are working with various Federal agencies to coordinate activities at the state level. Activities include the coordination of training strategies to maximize employer skill needs and the facilitation of successful outcomes from the TANF program.

The OIG considers these initiatives to be of importance. In particular, we recommend that ETA give maximum priority to the goal of evaluating strategies for delivering services more effectively and efficiently to address the many grant making and program performance issues we have identified over the past several decades.

CHALLENGE: Ensuring the Effectiveness of the Job Corps Program

OVERVIEW

The Job Corps program provides residential and nonresidential education, training, and support services to approximately 60,000 disadvantaged, at-risk youths, ages 16-24, at 125 Job Corps centers nationwide. The goal of this $1.7 billion program is to offer an intensive intervention to this targeted population as a means to help them turn their lives around and prevent a life-time of unemployment, underemployment, dependence on social programs, or criminal behavior.

CHALLENGE FOR THE DEPARTMENT

The Department is challenged in providing a safe, residential and nonresidential education and training program which results in outcomes that truly assist at-risk, disadvantaged youth in turning their lives around including: placement in training-related employment, entrance into advanced vocational/apprenticeship training, entrance into higher education, or enlistment in the military. Our audits have consistently documented the Department's difficulty in ensuring the quality of residential life, a critical component of the Job Corps intensive intervention experience. Specifically, our audits have disclosed safety and health hazards and physical maintenance needs at various centers as well as, in some instances, a lack of enforcement of disciplinary policies.

Our audits have also demonstrated the challenge faced by the Department in obtaining and documenting desired program outcomes. Most centers are operated by contractors through performance-based contracts with incentive fees and bonuses which are tied directly to contractor performance. Absent strict oversight, there is a risk that contractors will overstate performance results and maintain disruptive students on site. We have also documented problems with ETA's reporting of job training matches. A 2011 audit found that 3,226 of the 17,787 placements reported for the periods reviewed either did not relate, or poorly related, to the vocational training received (e.g., students trained in office administration placed in fast food restaurants) and another 1,569 students were placed in jobs that required little or no previous skills or experience, such as parking lot attendants, janitors, and dishwashers.

We have also documented significant problems with centers being unable to ensure that funds are only being expended on serving participants who qualify for the program, and centers being unable to ensure that major procurements include proper competition and ensure best value to the program.

DEPARTMENT'S PROGRESS AND WHAT REMAINS TO BE DONE

The Department conducted on-site safety and health evaluations at 123 centers; trained center safety officers and staff; and published several information notices and policy changes. To improve its reported performance data, Job Corps is updating its Job Training Match Crosswalk to align with the revised DOL O*NET-Standard Occupational Classification database, which characterizes all jobs in the U.S. labor market. OIG continues to recommend that Job Corps provide rigorous oversight of contractors at all centers to: ensure they provide a safe environment that is conducive to learning; ensure that only those who qualify for the program are served; improve the transparency and reliability of performance metrics and outcomes; and ensure that center operators and other service providers comply with applicable procurement requirements.

CHALLENGE: Reducing Improper Payments

OVERVIEW

The Office of Management and Budget (OMB) has designated the Unemployment Insurance (UI) and Workforce Investment Act (WIA) programs as being at risk of making significant improper payments. The Federal Employees Compensation Act (FECA) program is also susceptible to improper payments. In total, for Fiscal Year (FY) 2011, the Department reported improper payments totaling approximately $13.7 billion.

According to the U. S. Government Accountability Office, the UI program reported the fourth highest dollar amount of improper payments of any Federal program in FY 2011. Over the past three fiscal years, payments to UI recipients have grown to unprecedented levels, totaling about $389 billion. This rapid, large growth, especially in Federally-funded emergency and additional benefits, has increased the risk of improper payments. Indeed, the UI improper payment rate has increased from 11.2 percent in FY 2010 to 12.0 percent in FY 2011, and remains well above the target rate of 9.8 percent.

CHALLENGE FOR THE DEPARTMENT

Identifying and reducing the rate of improper payments in the UI program continues to be a challenge for the Department, as evidenced by the increasing rate of improper payments in recent years. Our audits have found that the Department lacked effective controls over the detection of improper payments for both the UI state and Federal programs, and that the Department's estimate of recoverable payments may be understated. In addition, OIG investigations continue to uncover fraud committed by individual UI recipients who do not report or underreport earnings, as well as fraud related to fictitious employer schemes.

The Department also remains challenged in identifying the full extent of improper payments in the WIA and FECA programs. As highlighted in past OIG audits, the estimation method used for the FECA program does not appear to provide a reasonable estimate of improper payments. Without this information, the Department cannot implement the appropriate corrective actions that will reasonably assure taxpayers' funds are adequately safeguarded. In addition, OIG investigations continue to identify high amounts of FECA compensation and medical fraud, which has often greatly surpassed the Department's improper payments estimates. For the WIA program, we have noted that data are not readily available to allow the Department to directly sample grant payments to develop a statistically valid estimate of improper payments.

DEPARTMENT'S PROGRESS AND WHAT REMAINS TO BE DONE

The Department continues to work with states to implement a number of strategies to improve prevention, detection and recovery of UI improper payments. Among numerous other initiatives, the Department has launched a website that clearly identifies each state's estimated UI improper payment rate and payments over a 3-year period, and has undertaken the "Improper Payment High Priority States" initiative to reduce the UI improper payment rate in those states with unacceptably high levels over a prolonged period. However, the Department needs to employ cost benefit and return on investment analyses to evaluate the impact of those improper payment reduction strategies. The Department can further improve oversight of the states' detection and prevention of UI overpayments by increasing the frequency of on-site reviews at State Workforce Agencies. The Department must also ensure that California – the state with the largest amount of estimated UI improper payments – has implemented the National Directory of New Hires (NDNH) by December 31, 2012. In addition, the Department needs to continue pursuing legislation to allow States to use a percentage of recovered UI overpayments to detect and deter benefit overpayments.

With respect to improper payments in the FECA program, the Department stated that it is in the process of designing a methodology for estimating the FECA improper payment rate. In the WIA program, the Department has attempted to identify the full extent of improper payments by including estimates from other sources, but it should continue to consider other sampling methods in order to provide a more complete estimate of improper payments. Further, the Department needs to provide full disclosure in the Agency Financial Report regarding the limitations of the data used to estimate WIA overpayments.

CHALLENGE: Maintaining the Integrity of Foreign Labor Certification Programs

OVERVIEW

The Department's Foreign Labor Certification (FLC) programs are intended to provide U.S. employers access to foreign labor in order to meet worker shortages – as long as U.S. workers are not adversely affected. The H-1B visa specialty workers' program requires that employers, who intend to employ foreign specialty occupation workers on a temporary basis, file labor condition applications with the Department. The H-2A program allows agricultural employers, who anticipate a shortage of domestic workers, the ability to bring nonimmigrant foreign workers to the U.S. to perform agricultural labor or services of a temporary or seasonal nature. The H-2B program establishes a means for U.S. nonagricultural employers to bring foreign workers into the U.S. to meet temporary worker shortages.

CHALLENGE FOR THE DEPARTMENT

DOL is challenged to provide U.S. businesses access to foreign workers to meet their workforce needs while protecting the jobs and wages of U.S. workers. Our audits have found that statutory limits on the Department's authority, and uncertainty regarding the process for including individuals or entities debarred on the government-wide excluded parties lists are some of the issues that have negatively impacted the H-1B program. For the H-2B program, the Department published a new rule establishing a compliance-based format that emphasizes the review of documentation provided to ETA in advance of its certification determination; this action addresses challenges related to the old attestation model established in 2008. However, due to pending legal actions, the Department is temporarily enjoined from implementing or enforcing the revised rule and continues to operate under the attestation model in which employers merely assert, but do not demonstrate, that they have performed an adequate test of the U.S. labor market before hiring foreign workers in lieu of U.S. workers.

OIG investigations continue to uncover schemes carried out by immigration attorneys, labor brokers, and transnational organized crime groups. Our investigations have repeatedly revealed that fraudulent applications filed with DOL on behalf of fictitious companies, as well as schemes wherein fraudulent applications were filed using the names of legitimate companies without the companies' knowledge. Additionally, we continue to uncover complex schemes involving fraudulent DOL FLC documents filed in conjunction with or in support of similarly falsified identification documents required by other Federal and state organizations.

DEPARTMENT'S PROGRESS AND WHAT REMAINS TO BE DONE

To address the H-1B challenge, the Department has entered into a contract with a third-party vendor in order to have access to a more comprehensive employer identification database and verification system. To improve the H-2B program, ETA has issued two new final rules, one for determining prevailing wage rates and another which replaced the self-attestation model with a compliance-based format. The effective date of the wage rule has been extended to March 27, 2013, because

of legislation which prevents the use of funds to implement, administer or enforce the rule. The new rule establishing a compliance-based format emphasizes the review of documentation provided to ETA in advance of the certification determination. However, due to pending legal actions, the Department is temporarily enjoined from implementing or enforcing the revised rule. This matter is on appeal to the U.S. Court of Appeals for the Eleventh Circuit and the Department expects a decision in the second quarter of FY 2013. The Department is also working on ways to include FLC suspensions and debarments on the government-wide excluded parties list, and made its first referral in July 2012.

The Department still needs to evaluate the results of its certification processes in order to assess their effectiveness. In addition, the Department needs to enhance its monitoring of the H-2B application process in order to ensure that employers are fully complying with program requirements and intentions. DOL also needs to make adjustments in order to enhance the integrity of its employer verification services by fully implementing its electronic employer verification controls over the H-1B program and the remaining FLC programs. Furthermore, DOL needs to continue assessing and applying its debarment action and ensure debarments are reported to appropriate DOL personnel for inclusion in the government-wide exclusion system. Finally, ETA needs to ensure State Workforce Agencies (SWAs) have implemented the methods for reviewing and clearing job orders and making interstate referrals of U.S. workers as reported in their FY 2012 state grant plans.

CHALLENGE: Ensuring the Security of Employee Benefit Plan Assets

OVERVIEW

The mission of the Department's Employee Benefits Security Administration (EBSA) is to protect the security of retirement, health, and other private-sector employer-sponsored benefit plans for America's workers, retirees, and their families. EBSA is responsible for administering and enforcing the fiduciary, reporting, and disclosure provisions of Title I of the Employee Retirement Income Security Act (ERISA). It has jurisdiction over an estimated 707,000 retirement plans, 2.3 million health plans and a similar number of other welfare plans. These plans hold about $6.7 trillion in assets and cover approximately 141 million participants and beneficiaries.

CHALLENGE FOR THE DEPARTMENT

EBSA's limited authority and resources present challenges to achieving its mission of administering and enforcing ERISA requirements for an estimated 5.3 million employee benefit plans covering approximately 141 million participants and beneficiaries. Chief among EBSA's challenges over the past couple of decades has been the fact that millions in pension assets held in otherwise regulated entities, such as banks, escape audit scrutiny because of limited scope audits authorized under ERISA, which result in no opinion on the financial status of the plan by the independent public accountants that conduct the limited review. These concerns were renewed and heightened by recent audit findings that as much as $3.3 trillion in pension assets received these types of no opinion audits, providing no assurances to participants as to the financial health of their plans.

EBSA is further challenged by the many changes that have taken place in the employee benefit plan community since ERISA was enacted in 1974, such as the shift from defined benefit retirement plans to defined contribution retirement plans, the large increase in the types and complexity of investment products available to pension plans, and the new health care law. In addition, uncertainty about the effectiveness of EBSA enforcement programs on ERISA compliance makes it difficult for EBSA to direct its limited resources effectively among its regional offices to the enforcement areas where they would do the most good.

DEPARTMENT'S PROGRESS AND WHAT REMAINS TO BE DONE

As an initial step in developing performance metrics to measure the effectiveness of its enforcement program, EBSA implemented a broad Sample Investigation Program (SIP) in FY 2011, which reviewed 259 randomly selected employee benefit plans for compliance with ERISA. EBSA continued to review plans under the SIP in 2012 and will analyze results at the end of the year and develop the first baseline compliance measure in FY 2013.

EBSA should complete its evaluation of the results of the Sample Investigation Program to determine what changes are needed to improve enforcement program effectiveness. EBSA should also continue to work to obtain legislative changes to address deficient benefit plan audits and to ensure that auditors with poor records do not perform any additional plan audits. In addition, EBSA should renew its efforts to obtain additional authority over plan auditors, and to repeal the limited scope audit exception.

CHALLENGE: Securing Information Technology Systems and Protecting Related Information Assets

OVERVIEW

The Department's Information Technology (IT) systems contain sensitive information that is central to its mission and to the effective administration of its programs. DOL systems are used to analyze and house the nation's leading economic indicators, such as the unemployment rate and the Consumer Price Index. They also maintain critical data related to enforcement actions, worker safety, health, pension, and welfare benefits, job training services, and other worker benefits.

CHALLENGE FOR THE DEPARTMENT

Safeguarding information assets is a continuing challenge for Federal agencies, including DOL. The Administration's goal of expanding the use of technology to create and maintain an open and transparent government, while safeguarding systems and protecting sensitive information, has added to the challenge. Recent OIG audits have identified access controls, background investigations, and oversight of third-parties involved in operation and support of IT systems, as significant deficiencies. In addition, we have identified major weaknesses in the process of sanitizing electronic media prior to it being removed from DOL's control and destroyed.

We have also identified issues with the timeliness of mitigating identified vulnerabilities. The Department implemented a risk management program to prioritize corrective action plans. However, after years of planned implementation the Department has not made measurable progress to move the program forward.

DEPARTMENT'S PROGRESS AND WHAT REMAINS TO BE DONE

The Department has made progress in establishing risk mitigation as a priority via its Risk Management program. The Office of the Chief Information Officer (OCIO) established Priority Security Performance Metrics and began measuring agency progress on achieving these metrics.

The Department has also begun an IT modernization program with the goal to create a 21st-century IT infrastructure. As part of DOL's IT modernization, program users will access their network accounts by logging on to their desktops and/or laptop computers using their permanent DOL badge, also known as a Personal Identity Verification (PIV) card. The DOL-issued PIV card is designed to enhance security, reduce identity fraud, and protect personal privacy.

The IT Modernization program includes consolidating the Department's nine infrastructures in an effort to create a more unified, robust, and scalable IT service organization. In addition, DOL has acquired an enterprise IT system monitoring tool to assist in configuration management, vulnerability assessment, and accounting for the inventory of electronic devices connecting to each IT system.

To improve upon identity management and security issues, DOL needs to continue to reduce its IT footprint by completing its data center consolidation efforts and reducing the number of external connections. Furthermore, while the movement of email to the cloud was delayed and is not scheduled until the Summer of 2013, the Department must take steps to ensure the cloud is secure prior to implementation. A greater presence in IT system security is needed by the Executive level; fully implementing DOL's planned Risk Management Program will assist in that effort as Executives become integral to the discussion and understanding of their IT security issues and setting mitigation priorities. To enhance security, reduce identity fraud, and protect personal privacy, DOL also needs to ensure its PIV card workstation logon process is fully implemented throughout the Department.

CHALLENGE: Ensuring the Effectiveness of Veterans' Employment and Training Service Programs

OVERVIEW

The Department's Veterans' Employment and Training Service (VETS) programs are intended to provide both veterans and transitioning service members the resources and services necessary for them to succeed in the workforce by maximizing their employment opportunities and protecting their employment rights. Under the Jobs for Veterans State Grant (JVSG) program, VETS issues grants to State Workforce Agencies to assist veterans in obtaining and maintaining gainful employment. These grants are issued with a special emphasis on providing intensive services to meet the employment needs of disabled veterans. Another VETS program, the Transition Assistance Program (TAP), provides a three day training session in which participants learn techniques for job searches, processes for career decision-making, conditions of the current occupational and labor market, how to write a resume, and interview techniques.

CHALLENGE FOR THE DEPARTMENT

According to data published by the Bureau of Labor Statistics, the monthly unemployment rate for veterans has gone down over the past year, declining from 8.1 percent in September 2011 to 6.7 percent in September 2012. However, many veterans still cannot find meaningful work, and the Department remains challenged to provide the services these veterans need to prepare themselves for the civilian job market. This is especially true for post-9/11 veterans, as the portion of these veterans seeking work was 9.7 percent in September 2012, substantially above the 7.4 percent unemployment rate for nonveterans. Moreover, the September 2012 unemployment rate for post-9/11 female veterans remained high at 19.9 percent.

Our audits have found that JVSG staff needed to do a better job of accurately assessing the veterans' needs and documenting intensive service activities - particularly for homeless veterans with disabilities. We have also found that VETS did not use measurable performance goals and outcomes to evaluate program effectiveness and lacked adequate contracting oversight for TAP workshop services. These deficiencies undermined VETS's ability to ensure that it was providing a high-quality program which helps veterans successfully transition from military to civilian employment.

DEPARTMENT'S PROGRESS AND WHAT REMAINS TO BE DONE

In collaboration with the Department of Defense and the VA, VETS has instituted a new TAP Employment Workshop which is scheduled to be completed in November 2012. VETS is a also collaborating with other cognizant agencies to explore new data sharing possibilities that would allow standards and policy for monitoring TAP Employment Workshops, student load, and outcome goals. VETS is also ensuring that the Disabled Veteran Outreach Program focuses on those veterans who have the most significant barriers to employment by providing more intensive services.

VETS still needs to ensure that JVSG program funds are used effectively to provide services to veterans and disabled veterans who have the most significant barriers to employment. Further, VETS needs to provide rigorous oversight over contractors, grantees, and state agencies for all programs. VETS also needs to implement standard forms and policy for monitoring TAP Employment Workshops, establish clear performance measures and outcome goals, and sign a new Memorandum of Understanding with partner agencies to define each agency's roles and responsibilities. In addition, VETS needs to ensure that its staff complies with management controls for contract administration.

CHALLENGE: Improving Procurement Integrity

OVERVIEW

The Department contracts for many goods and services to assist in carrying out its mission. In Fiscal Year 2012, DOL awarded an estimated 3,325 new contracts totaling about $360 million, and issued almost 6,000 modifications to existing contracts totaling approximately $1.6 billion.

CHALLENGE FOR THE DEPARTMENT

Ensuring integrity in procurement activities is a continuing challenge for the Department. Until procurement and programmatic responsibilities are properly separated and effective controls are put into place, DOL will continue to be at risk for wasteful and abusive procurement practices. Our most recent audits and investigations of DOL's procurement activities identified the need for better control and monitoring of procurement activities delegated to program agencies.

The current control environment surrounding the Department's procurement activities has introduced both financial and operational risk to DOL. The lack of standard and updated operating procedures leaves the consistency and quality of DOL's procurement functions heavily dependent on the various program agencies with delegated procurement authority. OIG audits have found that DOL could not produce documentation that it awarded some contracts based on the best value to the government. Moreover, for some contract modifications reviewed, DOL could not produce documentation that it issued contract modifications within the scope of work and terms of the initial contracts.

The issues described above, along with those in the *Securing Information Technology Systems and Protecting Related Information Assets* challenge, highlight the need for DOL to appoint a Chief Acquisition Officer (CAO) whose primary duty is acquisition management. DOL continues to be out of compliance with the Service Acquisition Reform Act of 2003 requirement that executive agencies appoint a CAO whose primary duty is acquisition management. The Assistant Secretary for Administration and Management presently serves as DOL's CAO, while retaining other significant non-acquisition responsibilities.

DEPARTMENT'S PROGRESS AND WHAT REMAINS TO BE DONE

To ensure integrity in procurement activities, the Department has stepped up its efforts to ensure procurement staff receives appropriate training. In addition, the Department has issued guidance to improve DOL's overall procurement program that included provisions which require contractors to inform the contracting officer of suspected procurement violations, and require agencies and Contracting Officer's Technical Representatives to certify that task orders are properly within the scope of the contract and that there is no conflict of interest. The Department has also issued guidance addressing procurement conflicts of interest and has provided training to DOL senior executive staff focusing on ethics and procurement integrity, and lessons learned.

The Department needs to continue its development of standard and consistent internal controls, and compliance frameworks for component agencies with procurement authority in order to ensure the consistency and quality of DOL's procurement functions. Furthermore, DOL needs to complete procurement reviews of all of its acquisition offices, update internal policies and procedures in order to clarify the processes related to acquisition planning and administration of procurements, and ensure all contracting officers and contracting officer representatives obtain necessary certifications. While DOL is taking positive actions to improve procurement integrity, it has yet to appoint a Chief Acquisition Officer whose primary duty is acquisition management.

Changes from Last Year

Changes to the Top Management Challenges from FY 2011 include the combining of "Safeguarding Unemployment Insurance" and "Improving the Management of Workers' Compensation Programs" into a single challenge entitled "Reducing Improper Payments." Also, "Protecting the Safety and Health of Miners" is presented as a separate challenge; in prior years it was included within the "Protecting the Safety and Health of Workers" challenge.

Ensuring the successful development and implementation of major information management systems was previously discussed in our FY 2011 Top Management Challenges. Traditional system developments are losing their importance as the Department moves to cloud computing services for almost all its applications. As a result, we have removed the information system development as a separate issue in the FY 2012 Top Management Challenges.

Funds Recommended for 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	3	2,274.7
Issued during the reporting period	2	297.0
Subtotal	5	2,571.7
For which management decision was made during the reporting period:		
• Dollar value of recommendations that were agreed to by management	3	2,274.7
• 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	2	297.0

Funds Put to a Better Use Implemented by DOL	Number of Reports	Dollar Value ($ millions)
For which final action had not been taken as of the commencement of the reporting period	4	70.7
For which management or appeal decisions were made during the reporting period	3	2,274.7
Subtotal	7	2,345.4
For which final action was taken during the reporting period:		
• Dollar value of recommendations that were actually completed	2	2,155.9
• Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed		0
For which no final action had been taken by the end of the reporting period		189.5

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)	25	14.2
Issued during the reporting period	26	24.3
Subtotal	51	38.5
For which a management decision was made during the reporting period:		
• Dollar value of disallowed costs		5.1
• Dollar value of costs not disallowed		1.8
For which no management decision had been made as of the end of the reporting period	34	31.6
For which no management decision had been made within six months of issuance	11	7.7

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)	63	34.9
For which management or appeal decisions were made during the reporting period	9	5.1
Subtotal	72	40.0
For which final action was taken during the reporting period:		
• Dollar value of disallowed costs that were recovered		2.4
• Dollar value of disallowed costs that were written off by management		3.1
• Dollar value of disallowed costs that entered appeal status		
For which no final action had been taken by the end of the reporting period	70	3.4

Final Audit Reports Issued

Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)	Funds Put To Better Use ($)	Other Monetary Impact ($)
Employment and Training Programs				
Employment and Training - Multiple Programs				
Changes Can Provide ETA Better Information On Participants Co-Enrolled In Workforce Investment Act And Wagner-Peyser Programs; Report No. 03-12-004-03-390; 09/28/12	3	0	0	0
Job Corps Program				
Education and Training Resources Did Not Ensure Best Value in Awarding Subcontracts at the Oneonta Job Corps Center; Report No. 26-12-001-03-370; 06/22/12	4	537,407	0	0
Conflict of Interest Complaint On a Job Corps Center Operator Subcontract Award Had Merit; Report No. 26-12-004-03-370; 09/28/12	3	385,000	0	0
Job Corps Oversight of Center Performance Needs Improvement; Report No. 26-12-006-03-370; 09/28/12	3	0	155,000,000	0
Bureau of Labor Statistics				
BLS Needs to Strengthen Security of Pre-Release Economic Data in the BLS/State Labor Market Information Cooperative Programs; Report No. 17-12-005-11-001; 09/28/12	5	0	0	0
Goal Totals (5 Reports)	**18**	**922,407**	**155,000,000**	**0**
Worker Benefit Programs				
Unemployment Insurance Service				
ETA Did Not Use Compatible Data Which Overstated the Effectiveness of Its Overpayments Detections; Report No. 04-12-001-03-315; 09/28/12	5	0	142,000,000	0
ETA Can Improve Oversight of States' UI Administrative Costs; Report No. 04-12-002-03-315; 09/19/12	1	591,161	0	0
Federal Employees' Compensation Act				
Controls Over Transportation Cost Reimbursements to FECA Claimants Need Strengthening; Report No. 03-12-003-04-431; 09/28/12	4	3,771	0	0
Service Auditors' Report on the Integrated Federal Employees' Compensation System and Service Auditors' Report on the Medical Billing Process; Report No. 22-12-008-04-431; 09/17/12	0	0	0	0
Employee Benefits Security Administration				
Changes Are Still Needed in the ERISA Audit Process to Increase Protections for Employee Benefit Plan Participants ; Report No. 09-12-002-12-121; 09/28/12	8	0	0	0
Goal Totals (5 Reports)	**18**	**594,932**	**142,000,000**	**0**
Worker Safety, Health, and Workplace Rights				
Wage and Hour Division				
Wage and Hour Division Lacked Effective Financial Management of Back Wage and Civil Monetary Penalty Receivables; 22-12-013-04-420; 09/28/12	4	0	0	0
Mine Safety and Health				
MSHA's Accountability Program Faces Challenges, But Makes Improvements; Report No. 05-12-002-06-001; 09/28/12	4	0	0	0
MSHA's Oversight Of Mine Operators' Training Plans Was Adequate; Report No. 05-12-003-06-001; 09/28/12	0	0	0	0
Occupational Safety and Health				
OSHA Needs To Improve Oversight Over The Management Accountability Program; Report No. 02-12-204-10-105; 09/27/12	3	0	0	0

Final Audit Reports Issued, continued

OSHA's Site Specific Targeting Program Has Limitations On Targeting And Inspecting High-Risk Worksites; Report No. 02-12-202-10-105; 09/28/12	3	0	0	0
Foreign Labor Certification				
Management of H-2B Program Needs to be Strengthened to Ensure Adequate Protections for U.S. Workers; 06-12-001-03-321; 09/28/12	4	0	0	0
Office of Labor-Management Standards				
OLMS Could Do More to Improve the Effectiveness of the Compliance Audit Program; Report No. 09-12-001-04-421; 09/13/12	3	0	0	0
Goal Totals (7 Reports)	**21**	**0**	**0**	**0**
Departmental Management				
Office of the Assistant Secretary for Administration and Management				
Department's Information Technology Security Program Is Weakened by Deficiencies; Report No. 23-12-007-07-001; 09/27/12	1	0	0	0
Goal Totals (1 Report)	**1**	**0**	**0**	**0**
Final Audit Report Totals (18 Reports)	**58**	**1,517,339**	**297,000,000**	**0**

Other Reports

Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)
Employment and Training Programs		
Employment and Training - Multiple Programs		
Recovery Act: Quality Control Review Single Audit of the New England Farm Workers' Council, Inc. for the Year Ended June 30, 2011; Report No. 18-12-006-03-001; 09/27/12	2	0
Recovery Act: Quality Control Review Single Audit of the National Council on Aging, Inc. for the Year Ended June 30, 2011; Report No. 18-12-005-03-360; 06/19/12	0	0
Recovery Act: Quality Control Review Single Audit of Cumberland County; Report No. 18-12-007-03-390; 08/29/12	0	0
Employment Training Administrations' Vulnerability Assessment; Report No. 22-12-021-03-001; 09/27/12	0	0
Job Corps Program		
Verification of Job Corps Remediation Effort of Prior-Year Information Technology Security Recommendations; Report No. 23-12-012-03-370; 09/28/12	0	0
Job Corps SPAMIS System Testing; Report No. 23-12-023-03-370; 09/28/12	3	0
Bureau of Labor Statistics		
Alert Memorandum: DOL Needs to Immediately Take Corrective Action to Safeguard BLS Information; Report No. 23-12-006-07-001; 06/19/12	1	0
LABSTAT System Testing; Report No. 23-12-021-11-001; 09/28/12	3	0
Goal Totals (8 Reports)	**9**	**0**
Worker Benefit Programs		
Office of Workers' Compensation		
Office of Workers' Compensation Program's Vulnerability Assessment; Report No. 22-12-020-04-001; 09/28/12	0	0
Goal Totals (1 Report)	**0**	**0**
Worker Safety, Health, and Workplace Rights		
Mine Safety and Health		
Interim Report: MSHA Needs to Strengthen Planning and Procurement for Metal and Nonmetal Rescue Contests; Report No. 05-12-004-06-001; 09/28/12	5	0
Verification of Mine Safety and Health Administration's Remediation Efforts of Prior-Year Information Technology Security Recommendations; Report No. 23-12-013-06-001; 09/28/12	0	0
Occupational Safety and Health		
Verification of Occupational Safety and Health Administration Remediation Efforts of Prior-Year Information Technology Security Recommendations; Report No. 23-12-017-10-001; 09/28/12	0	0
Occupational Safety and Health Information System Testing; Report No. 23-12-022-10-001; 09/28/12	4	0
Goal Totals (4 Reports)	**9**	**0**
Departmental Management		
Office of the Secretary		
Federal Information Security Management Act OALJ General Support System Testing; Report No. 23-12-011-01-060; 09/27/12	4	0
Office of the Assistant Secretary for Administration and Management		
OIG Review of Complaint Filed by Waterfront Technologies, Inc.; Report No. 17-12-003-07-711; 04/24/12	0	0
Vulnerability Assessment for Division of Information Technology Management System; Report No. 22-12-022-07-001; 09/28/12	0	0
Alert Memorandum: DOL Needs to Take Immediate Action to Correct Security Weaknesses in the PIV-II System; Report No. 23-12-009-07-001; 09/07/12	2	0
Alert Memorandum: OALJ Is Using Unauthorized Apple iPads that are not FIPS 140-2 Compliant; Report No. 23-12-010-07-001; 09/26/12	2	0

Other Reports, continued

Personal Identity Verification II (PIV-11) System Testing; Report No. 23-12-020-07-01; 09/28/12	4	0
Department-wide Security Issues; Report No. 23-12-024-07-001; 09/28/12	3	0
Office of the Chief Financial Officer		
Summary of Findings Related to Selected Systems Tested During the FY 2011 Consolidated Financial Statement Audit and SAS 70 Examination; Report No. 22-12-007-07-001; 08/23/12	0	0
Vulnerability Assessment for Office of Chief Financial Officers' PeoplePower; Report No. 22-12-019-13-001; 9/27/12	0	0
Verification of Office of Chief Financial Officer Remediation Efforts of Prior-Year Information Technology Security Recommendations; Report No. 23-12-015-13-001; 09/28/12	0	0
Goal Totals (10 Reports)	**15**	**0**
Other Report Totals (23 Reports)	**33**	**0**

Single Audit Reports Processed

Program/Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)	Funds Put To Better Use ($)
Employment and Training Programs			
Veterans Employment and Training Services			
Black Veterans for Social Justice, Inc.; Report No. 24-12-514-02-201; 04/06/12	1	0	0
Indian and Native American Programs			
Denver Indian Center, Inc.; Report No. 24-12-605-03-355; 07/09/12	1	0	0
Mescalero Apache Tribe; Report No 24-12-614-03-03-355; 08/20/12	1	0	0
Older Workers Program			
National Asian Pacific Center on Aging; Report No. 24-12-559-03-360; 04/27/12	1	276,601	0
AARP Foundation; Report No. 24-12-603-03-360; 07/09/12	0	73,258	0
Ser-Jobs for Progress National; Report No. 24-12-604-03-360; 07/02/12	2	163,143	0
State of Hawaii Department of Accounting and General Services; Report No. 24-12-617-03-360; 08/24/12	10	1,242	0
Office of Job Corps			
St. James Parish; Report No. 24-12-612-03-370; 07/31/12	1	7,225	0
Workforce Investment Act			
State of Nebraska; Report No. 24-12-546-03-390; 04/06/12	7	0	0
CNY, Inc.; Report No. 24-12-551-03-390; 04/06/12	1	0	0
Commonwealth of Massachusetts; Report No. 24-12-552-03-390; 04/18/12	2	0	0
Community College of Philadelphia; Report No. 24-12-553-03-390; 04/23/12	4	0	0
State of Tennessee, Report No. 24-12-554-03-390; 04/24/12	1	283,623	0
State of Missouri; Report No. 24-12-556-03-390; 06/25/12	1	189,423	0
Job Growers, Inc., FKA Enterprise for Employment and Education; Report No. 24-12-557-03-390; 04/30/12	4	0	0
Commonwealth of Kentucky; Report No. 24-12-558-03-390; 04/27/12	1	0	0
State of North Carolina; Report No. 24-12-560-03-390; 05/01/12	15	736,304	0
State of Indiana; Report No. 24-12-561-03-390; 05/02/12	3	0	0
State of Illinois, Governors University; Report No. 24-12-563-03-390; 05/14/12	1	0	0
State of Ohio; Report No. 24-12-564-03-390; 05/10/12	7	6,281,047	0
Commonwealth of Pennsylvania; Report No. 24-12-567-03-390; 05/10/12	1	155,590	0
The City of New York; 24-12-572-03-390; 05/23/12	1	0	0
State of Oklahoma Department of Commerce; Report No. 24-12-576-03-390; 05/24/12	2	0	0
State of Vermont; Report No. 24-12-578-03-390; 05/24/12	2	0	0
State of Alaska; Report No. 24-12-581-03-390; 06/25/12	3	0	0
City of Richmond; Report No. 24-12-583-03-390; 06/01/12	3	1,309	0
School District of Philadelphia; Report No. 24-12-584-03-390; 06/01/12	1	0	0
Covenant House New Jersey; Report No. 24-12-586-03-390; 06/18/12	1	0	0
Providence Health Foundation; Report No. 24-12-588-03-390; 07/09/12	5	0	0
National Council of La Raza; Report No. 24-12-589-03-390; 06/18/12	1	0	0
Graham County Community College District; Report No. 24-12-595-03-390; 06/25/12	1	0	0

Single Audit Reports Processed, continued

Young Adult Development In Action, Inc., DBA Youthbuild Louisville; Report No. 24-12-596-03-390; 07/03/12	1	0	0
City of Lathrop; Report No. 24-12-597-03-390; 06/25/12	1	0	0
State of Hawaii; Report No. 24-12-599-03-390; 07/03/12	6	33,000	0
South Carolina Department of Employment Workforce; Report No. 24-12-601-03-390; 07/18/12	1	0	0
Co-Opportunity, Inc.; Report No. 24-12-607-03-390; 07/09/12	1	0	0
State of Kansas; Report No. 24-12-608-03-390; 07/02/12	2	0	0
Wyandotte Nation; Report No. 24-12-609-03-390; 06/24/12	1	0	0
State of Michigan, Department of Licensing and Regulatory Affairs, Unemployment Insurance Agency, Unemployment Compensation Funds; Report No. 24-12-611-03-390; 07/30/12	3	1,969	0
National Association of Regional Councils; Report No. 24-12-616-03-390; 08/20/12	1	0	0
Inter-Tribal Council, Inc.; Report No. 24-12-618-03-390; 09/11/12	1	0	0
National Academy of Sciences; Report No. 24-12-619-03-390; 08/24/12	1	0	0
City of Minneapolis; Report No. 24-12-622-03-390; 09/12/12	1	0	0
Bureau of Labor Statistics			
Metro United Methodist Urban Ministry; Report No. 24-12-598-11-001	1	0	0
Goal Totals (44 Reports)	**106**	**8,203,734**	**0**
Worker Benefit Programs			
Unemployment Insurance Service			
State of Colorado; Report No. 24-12-550-03-315; 04/06/12	5	0	0
State Employment Security Agency			
State of Arizona, Report No. 24-12-555-03-325; 04/25/12	4	7,956,927	0
State of Florida; Report No. 24-12-562-03-325; 05/10/12	6	0	0
State of Georgia; Report No. 24-12-565-03-325; 05/10/12	15	2,279	0
State of Oregon; Report No. 24-12-566-03-325; 05/10/12	3	6,306,594	0
State of Wisconsin; Report No. 24-12-568-03-325; 05/10/12	3	6,461	0
State of New Hampshire; Report No. 24-12-569-03-325; 05/10/12	10	0	0
State of Rhode Island and Providence; Report No. 24-12-570-03-325; 08/21/12	8	0	0
State of Oklahoma, Report No. 24-12-571-03-325; 05/14/12	3	0	0
State of New Jersey; Report No. 24-12-573-03-325; 05/14/12	7	20,425	0
State of Washington; Report No. 24-12-574-03-325; 05/23/12	1	0	0
Workforce Connection; Report No. 24-12-575-03-325; 06/18/12	8	0	0
State of West Virginia; Report No. 24-12-577-03-325; 05/24/12	1	0	0
State of Maine; Report No. 24-12-579-03-325; 06/01/12	8	6,352	0
State of Iowa; Report No. 24-12-580-03-325; 06/01/12	2	0	0
State of Connecticut; Report No. 24-12-585-03-325; 06/25/12	9	0	0
State of Louisiana; Report No. 24-12-587-03-325; 06/20/12	3	249,142	0
State of California; Report No. 24-12-590-03-325; 06/25/12	2	0	0
State of Delaware; Report No. 24-12-593-03-325; 06/20/12	6	0	0
State of Minnesota; Report No. 24-12-594-03-325; 06/20/12	2	13,056	0
State of South Dakota; Report No. 24-12-610-03-325; 07/31/12	3	0	0
Government of the District of Columbia; Report No. 24-12-613-03-325; 08/20/12	3	13,664	0
Goal Totals (22 Reports)	**112**	**14,574,900**	**0**
Single Audit Report Totals (66 Reports)	**218**	**22,778,634**	**0**

Unresolved Audit Reports over Six Months Old

Agency	Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)
Nonmonetary Recommendations and Questioned Costs			
OIG Conducting Follow Up Work During FY 2012 Financial Statement Audit			
ETA	Consolidated Financial Statement Audit of ETA's E-Grants System, Unemployment Insurance Data; Report No. 22-12-011-03-001; 02/22/12	3	0
OWCP	Consolidated Financial Statement Audit of OWCP's Division of Information Technology Management Services General Support System Automated Support Package, Energy Case Management System, Longshore Disbursement System and Integrated Federal Employees' Compensation System; Report No. 22-12-010-04-001; 02/22/12	2	0
OASAM	Consolidated Financial Statement Audit of OASAM's E-Procurement System and Employee Computer Network/Departmental Computer Network; Report No. 22-12-012-07-001; 02/22/12	3	0
OCFO	Consolidated Financial Statement Audit of OCFO's New Core Financial Management System and PeoplePower; Report No. 22-12-009-13-001; 02/22/12	2	0
OCFO	The Department of Labor's Compliance with the Improper Payment Elimination and Recovery Act of 2010 in the Fiscal Year 2010 Agency Financial Report; Report No. 22-12-016-13-001; 03/15/12	1	0
Final Management Decision/Final Determination Issued Did Not Resolve; OIG Negotiating with Agency			
ETA	Job Corps Needs to Improve Reliability of Performance Metrics and Results; Report No. 26-11-004-03-370; 09/30/11	1	0
ETA	Additional Information Needed to Measure the Effectiveness and Return on Investment of Training Services Funded Under the WIA Adult and Dislocated Worker Programs; Report No. 03-11-003-03-390; 09/30/11	1	0
ETA	Program Design Issues Hampered ETA's Ability to Ensure the H-2B Visa Program Provided Adequate Protections for U.S. Forestry Workers in Oregon; Report No. 17-12-001-03-321; 10/17/11	3	0
OSHA	OSHA Needs to Evaluate and Use of Hundreds of Millions of Dollars in Penalty Reductions as Incentives for Employers to Improve Workplace Safety and Health; Report No. 02-10-201-10-105; 09/30/10	1	0
OWCP	Audit of Federal Employees' Compensation Act, Durable Medical Equipment Payments; Report No. 03-12-002-04-431; 03/26/12	2	68,546
Final Determination Not Issued by Grant/Contracting Officer by Close of Period			
ETA	Performance Audit of Applied Technology System, Inc., Job Corps Center; Report No. 26-08-005-01-370; 09/30/08	2	678,643
ETA	Performance Audit of Management and Training Corporation; Report No. 26-09-001-01-370; 03/31/09	1	63,943
ETA	Performance Audit of Education and Training Resources; Report No. 26-10-003-01-370; 03/18/10	1	11,228
ETA	Applied Technology Systems, Inc. Overcharged Job Corps for Indirect Costs; Report No. 26-10-006-01-370; 09/24/10	1	1,800,000
ETA	Adams and Associate Did Not Ensure Best Value In Awarding Subcontracts at the Red Rock Job Corps Center; Report No. 26-11-002-03-370; 09/30/11	1	334,675
VETS	Kansas Controls Over Jobs for Veteran State Grant Need to Be Strengthened; Report No. 04-11-002-02-201; 03/31/11	1	167,065
VETS	State of Louisiana; Report No. 24-11-543-02-201; 05/06/11	1	147,057
ETA	Michigan Veterans Foundation; Report No. 24-11-602-03-390; 09/15/11	1	0
VETS	Career and Recovery Resources, Inc.; Report No. 24-12-534-02-201; 01/30/12	2	0
VETS	Vietnam Veterans of San Diego d/b/a Veterans Village of San Diego; Report No. 24-12-545-02-201; 03/19/12	1	0
VETS	Goodwill Industries of Greater Rapids, Inc.; Report No. 24-12-548-02-201; 03/19/12	2	40,000

Investigative Statistics

	Division Totals	Total
Cases Opened:		253
Program Fraud	215	
Labor Racketeering	38	
Cases Closed:		223
Program Fraud	166	
Labor Racketeering	57	
Cases Referred for Prosecution:		261
Program Fraud	220	
Labor Racketeering	41	
Cases Referred for Administrative/Civil Action:		101
Program Fraud	89	
Labor Racketeering	12	
Indictments:		357
Program Fraud	280	
Labor Racketeering	77	
Convictions:		230
Program Fraud	172	
Labor Racketeering	58	
Debarments:		48
Program Fraud	35	
Labor Racketeering	13	
Recoveries, Cost-Efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions:		$141,586,735
Program Fraud	$42,491,263	
Labor Racketeering	$98,969,772	

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	$7,060,939
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	$7,689,694
Resolutions/Forfeitures: The dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations	$67,678,429
Fines/Penalties: The dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations	$42,629,339
Civil Monetary Actions: The dollar amount/value of forfeitures, settlements, damages, judgments, court costs, or other penalties resulting from OIG criminal investigations	$16,528,334
Total:	$141,586,735

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

In FY 2010, the Treasury Inspector General for Tax Administration initiated 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. This peer review found DOL-OIG to be compliant and made no recommendations.

Whistleblower Reporting

Under the American Recovery and Reinvestment Act of 2009 (ARRA) (P.L. 111-5), an employee of any non-Federal employer receiving covered ARRA 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 OIG decided not to conduct one Recovery Act whistleblower investigation during this semiannual reporting period:

An individual submitted a complaint to the OIG, through his counsel, claiming that he was terminated by a contractor receiving Federal stimulus funds through ARRA to help expand networking grids into rural areas, after the individual raised concerns about the contractor's compliance with the Davis-Bacon Act. The OIG determined that the Recovery Act funds in question were appropriated to the Department of Commerce, and the OIG advised the individual's counsel to contact the Department of Commerce – OIG with respect to his retaliation complaint.

OIG Hotline

The OIG Hotline provides a communication link between the OIG and persons who want to report alleged violations of laws, rules, and regulations; mismanagement; waste of funds; abuse of authority; or danger to public health and safety. During the reporting period April 1, 2012, through September 30, 2012, the OIG Hotline received a total of 988 contacts. Of these, 505 were referred for further review and/or action.

Complaints Received (by Method Reported):	**Totals**
Telephone	443
E-Mail/Internet	411
Mail	112
Fax	21
Walk-In	1
Total	**988**
Complaints Received (by Source):	**Totals**
Complaints from Individuals or Nongovernment Organizations	928
Complaints/Inquiries from Congress	1
Referrals from GAO	19
Complaints from Other DOL Agencies	19
Complaints from Other (Non-DOL) Government Agencies	21
Total	**988**
Disposition of Complaints:	**Totals**
Referred to OIG Components for Further Review and/or Action	53
Referred to DOL Program Management for Further Review and/or Action	247
Referred to Non-DOL Agencies/Organizations	205
No Referral Required/Informational Contact	518
Total	**1,023***

*During this reporting period, the Hotline office referred several individual complaints to multiple offices or entities for review (e.g., to 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.

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