

# HIGHLIGHTS



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## A Message from the Deputy Inspector General

This Highlights edition provides a summary of selected noteworthy activities, accomplishments, and concerns that the Office of Inspector General (OIG) is reporting in its *Semiannual Report to Congress* for the six-month period ending March 31, 2010.

Our audits made significant recommendations addressing vulnerabilities in the Department's programs and operations. We issued 29 audit and other reports which among other things, recommended that \$142.4 million in funds be put to better use. In addition, our investigations continue to combat labor racketeering in the workplace and fraud against the Department's programs, particularly the Foreign Labor Certification programs. During this reporting period, our investigative work resulted in 169 indictments, 157 convictions, and \$48.1 million in monetary accomplishments.

We look forward to continuing to work with the Department to ensure the rights and benefits of American workers and retirees are safeguarded.

A handwritten signature in cursive script that reads "Daniel R. Petrole".

Daniel R. Petrole, Deputy Inspector General

## Selected Statistics

Investigative monetary accomplishments.....	\$48.1 million
Funds recommended for better use.....	\$142.4 million
Outstanding questioned costs.....	\$37.4million
Audit and other reports issued .....	29
Indictments.....	169
Convictions.....	157
Debarments.....	44
Investigative cases opened.....	285
Investigative cases closed.....	218
Investigative cases referred for prosecution.....	163
Investigative cases referred for administrative/civil action.....	86

## Safety and Health of Miners

The Department's Mine Safety and Health Administration (MSHA) is charged with administering programs to protect the safety and health of the nation's miners. Over the last several years, we have documented serious management and accountability weaknesses in MSHA.

Our most recent audit of inspector training found that MSHA did not ensure its journeyman inspectors received required periodic training. This occurred because MSHA lacked controls— at both the headquarter and district level—to track and ensure completion of the required periodic retraining.

We are also concerned that MSHA has not completed action on all of our recommendations related to the review and approval of roof control plans. For example, MSHA has not yet developed and implemented explicit criteria and guidance for assessing the quality of, and potential safety risk associated with, proposed mine roof control plans. Lastly, we are recommending a critical clarification of MSHA's statutory authority to issue verbal mine closure orders to protect the health and safety of miners.



## Foreign Labor Certification

Ensuring the integrity of the DOL's Foreign Labor Certification programs, while also ensuring a timely and effective review of applications to hire foreign workers, is a continuing challenge for the Department.

OIG investigations continue to identify program weaknesses, as well as schemes carried out by immigration attorneys, labor brokers, employers, and others. For example, during this period the OIG and its law enforcement partners investigated eight co-conspirators in a large-scale visa fraud scheme for crimes ranging from visa, asylum, and marriage fraud, and filing fraudulent documents to obtain employment-based visas for hundreds of foreign workers. Those recently sentenced in this scheme, which began in 2003, included, among others, a former immigration attorney, three labor brokers, and a human resource manager with a major hotel chain. The sentences for the eight ranged as high as 45 months' imprisonment.

In another OIG visa fraud investigation, two brothers, who were also principal officers of a foreign labor contract firm, were sentenced to 41 and 30 months' imprisonment, respectively, for their roles in an H-2B visa petition fraud conspiracy. In addition, three other conspirators received sentences of up to 15 months' imprisonment for their participation. The scheme centered on assisting undocumented workers in filing H-2B visa petitions with DOL in exchange for minimum payment of \$20,000 per visa. None of the undocumented workers were ever employed in the capacity covered by the respective petitions. The manner in which these programs are defrauded remains a significant concern for the OIG.



## Job Corps

Job Corps provides education, training and support services to approximately 60,000 students at 123 Job Corps centers located in the United States and Puerto Rico. Job Corps centers are operated for DOL by private companies through competitive contracting processes, and by other Federal agencies through interagency agreements. The program was appropriated nearly \$1.7 billion for FY 2010.

During this reporting period, the OIG audited five Job Corps Centers and found that the Centers were not reporting significant incidents, such as physical assaults, weapons possession, and narcotics possession to Job Corps as required. Furthermore, Job Corps officials need to do more to address the problems of centers not taking appropriate disciplinary action for student misconduct, including termination of enrollment, as the lack of such action may place the remaining students at risk.

We continue to be concerned that weak controls at centers have resulted in overstatement of performance data and unallowable costs charged to Job Corps. Specifically, we continue to identify instances where---due to the lack of internal controls---student attendance and reported leave went undocumented. In addition, students with unauthorized absences were not separated as required. Regarding financial activity, problems identified included \$65,553 that one center operator charged for the Center Director's personal housing and travel expenses. It is critical that Job Corps provides proactive, consistent, and rigorous oversight of contractors and personnel at all centers.



## Recovery Act

The OIG has devoted significant resources towards ensuring that Recovery Act Funds appropriated to DOL are used for the manner in which they were intended. For example, as part of the Recovery Act, \$150 million was designated for use for the Department's Health Coverage Tax Credit (HCTC) National Emergency Grants (NEG). These grants allow states to provide for the cost of qualifying health insurance coverage for eligible individuals. We conducted an audit of the administration of the HCTC NEG program to determine the status of states applying for and using these funds, and to determine what outreach ETA conducted to inform states of the availability of additional program funds.

We found that only \$8 million of the appropriated \$150 million designated for the HCTC NEG program has been awarded to states since the Recovery Act was signed into law on February 17, 2009. As of December 3, 2009, ETA had awarded only three grants covering six states for this program. Forty-four states, the District of Columbia, and Puerto Rico had not applied for HCTC NEG funds. Furthermore, eight states have \$4 million in HCTC NEG non-Recovery Act funds remaining from prior years. The low participation in HCTC NEG may have resulted from factors outside of ETA's control, such as the reduction in wait time to enroll in the Internal Revenue Service's HCTC program. The OIG believes that ETA's lack of urgency to provide effective outreach and issue guidance may be attributed to the Department's interpretation of HCTC NEG funds as "no-year money" which conflicts with the Recovery Act's clear message that funds should be expended expeditiously by the end of FY 2010. As a result, \$142 million of HCTC NEG funds may be better used if management took action to evaluate and strengthen the HCTC NEG program.

## Labor Racketeering

Labor racketeering continues to have a negative impact on American workers, employers, and the public through reduced wages and benefits, diminished competitive business opportunities, and increased costs for goods and services. The OIG has a unique programmatic responsibility to investigate labor racketeering and/or organized crime with respect to unions, employee benefit plans, and labor-management relations.



During this reporting period, a significant investigation led to the national president of the Brotherhood of Locomotive Engineers and Trainmen pleading guilty to bribery and interstate travel to carry out unlawful activity. Another major organized crime investigation led to guilty pleas by six individuals, including a high-ranking Gambino Organized Crime Family member and two Laborers International Union of North America officials, in a scheme involving illegal gambling, extortion, and labor racketeering. Another OIG investigation led to a captain in the Genovese La Cosa Nostra (LCN) Crime Family being sentenced to 16 years' imprisonment after being convicted of violating the Racketeer Influenced and Corrupt Organizations (RICO) Act.

The OIG continues its support of the International Organized Crime Strategy, a multi-agency task force headed by the Attorney General of the United States, which is committed to combat crime by international organized groups.

## New Core Financial Management System

In January 2010, the Department migrated its financial systems from the Department of Labor Accounting Related Systems (DOLAR\$) to the New Core Financial Management System (NCFMS). Prior to NCFMS's implementation, we issued a report citing several implementation risks that were not mitigated by the Department prior to the system going live. These implementation risks have impacted the current FY 2010 financial statement audit and present a threat to the future integrity and availability of DOL financial data.



## Wage and Hour Division

The OIG conducted a performance audit of the Wage and Hour Division's (WHD's) enforcement of the minimum wage and overtime exemption provisions contained in Part 541 of the Fair Labor Standards Act (FLSA). Our audit found that WHD did not have adequate controls in place to ensure employers complied with the minimum wage and overtime exemption provisions required by FLSA. We also found that WHD could improve its investigative process by strengthening its management oversight and providing better policy guidance. Furthermore, we found that WHD investigators could better document the results of their investigations and ensure Part 541 compliance publications and related materials are provided to employers.