Semiannual Report to Congress

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OFFICE OF INSPECTOR GENERAL
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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 March 31, 2012. During this reporting period, our investigative work led to 276 indictments, 187 convictions, and $256.3 million in monetary accomplishments. In addition, we issued 25 audit and other reports, which, among other things, recommended that $2.15 billion in funds be put to better use.*

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

- Overpayment detection controls that were not applied to $126 billion in emergency Federally-funded Unemployment Insurance (UI) benefits, leaving that portion of the UI program vulnerable to billions of dollars in undetected overpayments.
- Program design issues that hampered the Department's ability to protect the jobs and wages of U.S. workers in connection with H-2B applications filed by four Oregon forestry employers to obtain foreign labor.
- Inadequate monitoring of two Job Corps Centers' subcontracting activities, resulting in questioned costs totaling some $4.3 million.
- The need for DOL to develop performance measures on benefit payment accuracy, to ensure timely adjustment and termination of benefits, and to train claims examiners to improve the detection and prevention of Federal Employees' Compensation Act (FECA) benefit program overpayments.

Our investigations program likewise yielded impressive results, such as these:

- The guilty plea from the former administrator for the Laborers' International Union of North America (Sandhogs' Union) Local 147 benefit funds for her role in embezzling more than $40 million from employee benefit plans.
- The sentencing of a former International Longshoremen's Association Local 1604 president and international representative to prison for falsifying Employee Retirement Income Security Act (ERISA) records, and the payment of more than $216,000 in restitution for receiving unlawful payments.
- The sentencing of a former Colorado health care provider to four years in prison and three years of supervised release for his role in defrauding Office of Workers' Compensation Program's (OWCP's) Energy Employees Occupational Illness Compensation Program of more than $3.5 million through fraudulent and excessive billings.
- The sentencing to three years in prison of the former head of security for Performance Coal Company, which operated the Upper Big Branch (UBB) mine at the time of the explosion that killed 29 workers in 2010. He had previously been convicted for obstructing justice and making false statements to the Mine Safety and Health Administration (MSHA) accident investigation team.
- The guilty plea of the former superintendent of the UBB mine to conspiracy to impede MSHA's investigative efforts by giving advance notice of inspections, concealing safety violations, and ordering the falsification of records to hide hazardous conditions at the mine.

The OIG remains committed to promoting the economy, integrity, effectiveness, and efficiency of DOL. I would like to express my appreciation to the OIG staff and commend them on their professionalism and dedication to the mission of the Inspector General. 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[1]	$256.3 million
Investigative cases opened	332
Investigative cases closed	242
Investigative cases referred for prosecution	208
Investigative cases referred for administrative/civil action	106
Indictments	276
Convictions	187
Debarments	41
Audit and other reports issued	25
Funds recommended for better use	$2.15 billion
Outstanding questioned costs resolved during this period.	$8.3 million
Allowed[2]	$2.0 million
Disallowed[3]	$6.3 million

1 Includes $209 million settlement agreement reached in Upper Big Branch mine investigation. See page 9 for numerical breakout.

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

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

Significant Concerns

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

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. OIG reports have previously identified performance challenges within the Mine Safety and Health Administration (MSHA) , such as completing all statutorily required inspections at metal/nonmetal mines, maintaining an experienced and properly trained enforcement staff, applying available enforcement authorities, reducing the backlog of citations awaiting adjudication, setting and updating of regulations and standards in a timely manner, and fostering the development and implementation of new technologies. Recent reports released by an independent panel from the National Institute for Occupational Safety and Health (NIOSH) and by an internal review team of MSHA have cited challenges within MSHA in relation to the Upper Big Branch mine explosion that killed 29 workers in 2010. Unfortunately, these reports also cite deficiencies that we have reported on in the past, such as the failure of MSHA inspectors to take appropriate enforcement actions. While MSHA has made considerable progress in implementing the OIG's recommendations for corrective actions, several actions remain to be completed, including a reevaluation of its performance standard for timely completion of laboratory tests on rock dust.

The OIG is also concerned with the ability of the Occupational Safety and Health Administration (OSHA) to evaluate the effectiveness of its worker safety and health programs. Past audits found that OSHA struggled to determine the effectiveness of both Federally-operated and state-run worker safety and health programs, and to evaluate the impact of its enforcement strategies, such as the impact of penalty reductions as incentives to employers to abate workplace hazards. While OSHA has taken some corrective actions to address the OIG's recommendations, work still remains in certain areas, such as establishing a baseline against which to evaluate state programs' effectiveness and revising policies to ensure that penalty reductions properly consider employers' prior history of safety violations.

Improving Performance Accountability of Workforce Investment Act Grants

Successfully meeting the nation's employment and training needs requires selecting the best service providers, making expectations clear to grantees, ensuring that standards for measuring success are established, providing active oversight, and disseminating and replicating proven strategies and programs.

The OIG's recent work continued to identify challenges faced by the Department in ensuring that Workforce Investment Act (WIA) grants accomplish program objectives. For example, a recent DOL-OIG audit of $500 million in Recovery Act grants intended to prepare

workers for green jobs found that the program's slow pace in placing workers into green jobs raised concerns that the original placement goals would not be reached before the grant periods expired. The Employment and Training Administration (ETA) has subsequently extended many of the grants' periods of performance to give grantees more time to spend their funds and achieve expected outcomes. The OIG is currently conducting a follow-up audit of the Green Jobs Program.

Ensuring the Effectiveness of the Job Corps Program

The OIG's work has consistently identified challenges to the effective operation of the Job Corps program, which is intended to serve at-risk, low-income youth (ages 16–24). We remain concerned with Jobs Corps' administrative policies and its ability to manage contracts and subcontracts.

Previous OIG work has found that weak controls at centers have resulted in overstatement of performance results and charging of unallowable costs to Job Corps. We have also found instances in which center operators were not always awarding contracts and claiming related costs in accordance with their Job Corps–approved standard operating procedures (SOPs). For example, during this reporting period, we questioned costs totaling approximately $4.3 million at two Job Corps Centers because the Center operator did not always comply with its SOPs or because the SOPs were not adequate to ensure the best value to the government.

Past OIG audits have also identified unsafe or unhealthy conditions at some centers. Failure to address deferred maintenance at the nation's Job Corps centers could pose risks to the safety and security of Job Corps students, staff, and others on-site. We are currently conducting an audit to assess Job Corps' effort to reduce the backlog of repairs on existing buildings.

Safeguarding Unemployment Insurance

Improper payments of Unemployment Insurance (UI) compensation benefits are a continuing concern for the OIG. The Department estimates that about $43 billion of improper UI payments occurred over the past three years. For 2011, the Department reported improper payments totaling $13.7 billion, the third-largest amount for any Federal program. Moreover, the improper payment rate continued to increase, totaling 12.0 percent in 2011, up from 11.2 percent in 2010 and 10.3 percent in 2009. Although ETA has undertaken significant initiatives toward increasing the amount of overpayments detected by the states, a recent OIG audit found weaknesses in controls related to overpayment detection of Federally-funded emergency benefits that were not necessarily addressed by these initiatives. For the $126 billion in Federally-funded emergency benefits paid from October 2007 to September 2010, our audit found that ETA's reported estimate of $6.9 billion in detectable overpayments may have been significantly misstated. The OIG is continuing its work in this area with audits that are examining the efforts of selected states to identify and recover UI overpayments.

Consistent with our investigations, we continue to uncover fraud committed by individual UI recipients who do not report or who underreport their personal earnings, as well as fictitious employer schemes. In addition, recent investigations have confirmed criminal schemes involving employers who knowingly employ undocumented or improperly documented foreign workers for whom they intentionally fail to make the required UI contributions. Also, the Department estimated that about $3.4 billion of its fiscal year (FY) 2011 overpayments resulted from fraudulent misrepresentation by claimants.

Improving the Management of Workers' Compensation Programs

The Department has responsibility for managing the Energy Employees Occupational Illness Compensation Program (energy workers' program) and the Federal Employees' Compensation Act (FECA) program. The OIG's concern for the energy workers' program centers on the timeliness of its claim decisions. Complex regulatory requirements and the difficulty of locating employment and other records, as well as the inability of sick, often aging, claimants to fully understand their rights and responsibilities, contribute to the lengthy decision process. This is exacerbated by the fact that NIOSH must prepare a complicated and time-consuming dose reconstruction of the amount of radiation to which an employee with cancer was exposed, and the Department has no regulatory authority to control the completion time of the NIOSH process. The Department reported that in calendar year (CY) 2011, it took about 200 days for a final decision to be reached for cases not sent to NIOSH and about a year and a half for cases sent to NIOSH.

Likewise, the OIG remains concerned that the FECA program is not doing enough to prevent fraud and improper payments. As detailed in our recent audit report, improper FECA payment estimates appear to be lower in comparison with the fraud and abuse found by OIG investigations. For example, when the Department last reported on improper FECA payments in 2008, it estimated total annual improper payments to be $500,000. However, in FY 2008, OIG investigations alone identified more than $6 million of FECA compensation and medical fraud. Our audit also found that the Department did not always take timely action to terminate benefits when notified of a FECA claimant's death. Additionally, the Department had not designed effective procedures to ensure that benefit payments were reduced for FECA claimants who were collecting Social Security retirement benefits, nor had it implemented additional training for claims examiners on preventing improper payments by ensuring payment accuracy.

Maintaining the Integrity of Foreign Labor Certification Programs

DOL's foreign labor certification (FLC) programs are intended to provide U.S. employers access to foreign labor to meet American worker shortages under terms and conditions that do not adversely affect U.S. workers. Ensuring the integrity of the FLC programs, while also providing a timely and effective review of applications to hire foreign workers, is a continuing challenge for the Department. Our work has shown that the Department could improve its initial application reviews, postadjudication processes, and monitoring activities to better protect the jobs and wages of U.S. workers under the regulations by which the program currently operates. As detailed in a recent OIG audit, we found that program design issues hampered the Department's ability to provide adequate protections for U.S. workers in the H-2B applications filed by four Oregon forestry employers to obtain foreign labor. The OIG has started an audit to determine if similar issues exist in other industries. The Department has issued regulations to address these program weaknesses. These regulations have been enjoined by a U.S. District Court.

The Department is also challenged by the statutory limits on its authority to ensure the integrity of the H-1B visa program. The scope of the Department's review of H-1B labor condition applications is restricted to "completeness and obvious inaccuracies." Employers self-certify that they have met all program requirements, but they are not required to provide supporting documentation for DOL to review prior to making its determination. In addition, as detailed in this *Semiannual Report*, OIG investigations continue to uncover schemes carried out by immigration attorneys, labor brokers, employers, and transnational organized crime groups.

Securing Information Technology Systems and Protecting Related Information Assets

Safeguarding information assets is a continuing challenge for all government agencies, including DOL. OIG audits over the past several years have identified access controls, oversight of third-party (contractor) systems, and timely completion of background investigations as areas most challenging to the Department. These weaknesses represent a significant deficiency over access to key systems and may permit unauthorized users to obtain or alter sensitive information, including unauthorized access to financial records. While the Department has made progress in implementing OIG recommendations to remediate information technology (IT) security deficiencies, it did not always implement the recommendations in a timely manner. Overall, DOL agencies averaged more than one year to close recommendations.

Ensuring the Effectiveness of Veterans' Employment and Training Programs

Providing meaningful employment and training services to military members transitioning to civilian employment is a continuing challenge for the Department's Veterans' Employment and Training Service (VETS), particularly in light of the high unemployment rates among veterans. VETS is continuing with its corrective actions to implement OIG recommendations from prior audits of its Transition Assistance, Homeless Veterans Reintegration, and Jobs for Veterans State Grants programs. These actions include redesigning the Transition Assistance Program workshops to better ensure that participants receive the employment assistance they need and holding grantees in the Homeless Veterans Reintegration Program accountable for achieving expected results.

Improving Procurement Integrity

The OIG remains concerned with the Department's ability to ensure integrity in procurement activities. Our most recent audits and investigations have identified numerous deficiencies in procurement activities delegated to program agencies, as well as instances in which contracts were improperly steered to friends and former colleagues. In addition to concerns with contracting lapses by Job Corps center operators, the OIG conducted another audit during this period that found the Department lacked adequate documentation for several key procurement activities. Documentation is vital to the Department's efforts to ensure that Federal Acquisition Regulation and DOL policy have been followed and that contract awards were based on what was the best value to the government, and we were unable to make that determination based solely on the information in DOL's records. Other issues identified by our audit related to controls over sole-source awards, ensuring that conflicts of interest do not impair the procurement process, and preventing awards to suspended or debarred contractors. Addressing these challenges is essential for the Department to improve procurement integrity.

Worker Safety, Health, and Workplace Rights

Mine Safety and Health Administration

The Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006 (MINER Act), charges the Mine Safety and Health Administration (MSHA) with protecting the health and safety of more than 300,000 men and women working in our nation's mines.

MSHA Needs to Improve Civil Penalty Collection Practices

The MINER Act requires MSHA personnel to inspect mines to determine compliance with prescribed health and safety standards. As a result of these inspections performed during calendar years 2009 and 2010, MSHA issued 346,389 violations and assessed $283.4 million in monetary penalties. We conducted a performance audit to determine whether MSHA properly collected and accounted for final civil penalties from violators during fiscal years (FYs) 2009 and 2010.

Our audit found that, as of October 2011, MSHA had collected and deposited $124.8 million (85 percent) of $147.1 million for civil penalties that became final orders in FYs 2009 and 2010. However, MSHA did not always have an accurate amount and delinquency status for its uncollected civil penalties, and was not always timely and consistent in taking appropriate action on delinquent debt.

MSHA did not always apply penalty payments against violator debts in a timely manner. The agency's standard operating procedures (SOPs) state that penalty payments should be applied within three business days of receipt. However, because MSHA's policy was to match individual payments against specific violation case(s), if a violator submitted a penalty payment without including the specific violation case(s) this sometimes resulted in delays in applying the payment until MSHA gathered the needed information. From June 2003 through September 2010, MSHA received payments totaling approximately $286 million; yet MSHA had accumulated unapplied penalty payments of $2.9 million for this period. These unapplied penalty payments resulted in overstatement of violators' unpaid debt balances and uncertainty as to violators' delinquency status when MSHA was identifying debts for possible referral to the U.S. Department of the Treasury for collection.

We also found that while MSHA's actions to pursue repeat, long-term violators went above the requirements of the Debt Collection Improvement Act of 1996, its policies and procedures did not assure that all potential repeat, long-term violators were identified. This occurred because MSHA had not finalized policies and procedures to categorize violators as potential repeat, long-term violators. As a result, some violators were able to ignore their civil penalty obligations without being subject to MSHA's repeat, long-term violator actions.

Finally, MSHA did not consistently ensure that civil penalties were uncollectible before stopping collection efforts and writing off the debt. MSHA had adequate SOPs in place regarding debt write-off requirements, but poor management oversight did not assure that they were followed. As a result, MSHA may have written off civil penalties for violators that could have paid their debts.

We made four recommendations to MSHA to improve controls over its collection of and accounting for final civil penalties, and to facilitate the appropriate and consistent write-off of uncollectible civil penalties. MSHA agreed with our recommendations and stated it would improve its civil penalty collection practices. (Report No. 05-12-001-06-001, November 18, 2011)

Upper Big Branch Mine Employees Sentenced for Obstruction, False Statements, and Conspiracy

Hughie Stover, a former head of security for Performance Coal Company, was sentenced on February 29, 2012, to three years in prison, two years of supervised release, and a $20,000 fine. Stover was convicted of making false statements to MSHA's accident investigation team and obstructing justice. As part of the scheme, Stover directed one of his employees to dispose of thousands of pages of security documents at the Upper Big Branch (UBB) mine. Stover also ordered the destruction of security records relating to allegations that advance notification had been given at UBB of MSHA inspections.

On March 29, 2012, Gary May, a former superintendent of UBB, pled guilty to conspiracy to impede MSHA's investigative efforts between February 2008 and April 2010. May admitted that he gave advance notice of MSHA inspections to other UBB employees. In addition, he concealed health and safety violations when he knew inspections were imminent, including changing or adjusting the ventilation systems to conceal possible violations. May also ordered that examination record books be falsified, omitting mention of hazardous conditions that would have otherwise been reviewed by MSHA, and he told miners to override the methane gas detector on a piece of mine equipment so that the equipment could illegally operate without the benefit of that safety feature.

This is a joint investigation with the Federal Bureau of Investigation (FBI) and the Department of Justice (DOJ) with support from MSHA personnel detailed to DOJ. *United States* v. *Hughie Stover*; *United States* v. *Gary May* (S.D. West Virginia)

$209 Million Settlement Agreement Reached in UBB Investigation

As a result of a multiagency investigation into the UBB explosion, Alpha Natural Resources, Inc., and Alpha Appalachia Holdings, Inc., formerly known as Massey Energy Company, entered into a nonprosecution agreement with the U.S. Department of Justice on December 6, 2011. Pursuant to the agreement, Alpha has committed to a settlement payment of more than $209 million. The agreement sets forth the payment to be made as follows: $46 million to make restitution to the victims injured in the explosion and to the family members of the fallen miners; $80 million on safety remedial measures within Alpha's mines and to construct a safety training facility in West Virginia; $48 million to fund a trust controlled by three different academic professionals for research and development projects to improve mine health and safety; and pay up to $32.3 million and withdraw its contests for outstanding citations and orders for conduct that occurred at Massey mines prior to Alpha's acquisition of Massey. Alpha also agreed to pay up to $2.5 million to resolve citations and orders that already had become final orders.

This was a joint investigation with FBI and MSHA.

Allegations of Retaliation and Intimidation Against MSHA Were Not Substantiated

Following the April 5, 2010, underground explosion at the UBB mine in West Virginia, MSHA initiated an investigation into the causes of the accident. At the time of the explosion, Performance Coal Company operated the UBB mine as a subsidiary of Massey Energy Company.

In March 2011, the OIG received a complaint from the United Mine Workers of America (UMWA) alleging that attorneys for both Performance Coal and MSHA's Office of the Solicitor were holding private meetings to discuss "important issues" and were inappropriately "making

deals," resulting in MSHA's vacating legitimate safety citations and orders. In April 2011, the OIG also received a complaint from an attorney representing Performance Coal alleging misconduct by the MSHA inspector who was leading MSHA's accident investigation. The complaint alleged that the inspector had repeatedly ordered the withdrawal of the company's scientific experts from the mine without a good-faith basis, attempted to intimidate the company's experts with retaliatory citations and orders, and threatened future retaliatory orders against the company's expert in an attempt to influence the expert's work product and opinions.

The OIG's Office of Legal Services conducted a review of these allegations by looking at five events referenced in the Performance Coal complaint, of which one was also referenced in the UMWA complaint. Our review, which was completed in November 2011, did not substantiate the allegation that the inspector engaged in a campaign or pattern of intentional intimidation or retaliation. Further, we found no evidence that MSHA, as an entity, engaged in such a campaign or pattern at the inspector's behest or otherwise.

However, during our review, we did identify three questionable management actions. First, we found that a decision made by MSHA officials and the Office of the Solicitor to vacate a citation and order was not based on the merits of the order and citation, but rather was made to avoid an appearance of retaliation and any potential congressional scrutiny. Next, while we found no evidence of intimidation or retaliation, we found that the inspector used poor judgment when he met with an expert consultant from Performance Coal Company without any other individuals present and when he made statements at the meeting that could have been perceived and/or interpreted as intimidating. Finally, we found that it may have been equally, if not more, appropriate for MSHA to consider other, less punitive approaches, short of issuing a citation and order, with respect to a training-related order and citation issued against te expert consultant from Performance Coal Company, given that MSHA had allowed him to go underground in the mine for some three months before realizing that he did not have the proper training. In responding to our report, the Department generally agreed with our findings.

Occupational Safety and Health Administration

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

New York City Man Sentenced for Extortion and Grand Larceny

Anthony Lewis, a former co-owner of a fictitious minority labor coalition, the Committee on Contract Compliance (COCC), was sentenced to 7–21 years in prison on October 4, 2011, following his conviction related to a scheme to extort thousands of dollars from New York City contractors. Lewis was previously convicted, along with his co-conspirator, Kyle Correll, of enterprise corruption, grand larceny, engaging in a scheme to defraud, extortion, and attempted grand larceny. Lewis was also found guilty of attempted extortion.

By often posing as official representatives of government regulatory agencies, such as OSHA and the New York City Department of Buildings, Lewis and Correll extorted money from building contractors throughout New York City. Wearing hardhats bearing the COCC name, Lewis and Correll conducted false inspections, during which they documented and videotaped alleged violations and hazards at various job sites. They then threatened to report the job site contractors to regulatory agencies unless the contractors agreed to pay them for their silence. This case was worked jointly with OSHA and the New York County District Attorney's Office. *United States* v. *Anthony Lewis and Kyle Correll* (New York State Supreme Court)

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.

Colorado Man Sentenced for Defrauding Health Care Programs for Nuclear Weapons Workers and Miners

Anthony Breaux, a former Colorado health care provider, was sentenced on March 16, 2012, to four years in prison and three years of supervised release. He pled guilty on November 10, 2011, to health care fraud and money laundering for his role in defrauding OWCP's Energy Employees Occupational Illness Compensation program. As part of the sentencing, Breaux was ordered to pay more than $3.5 million in restitution.

Breaux was the owner of a Colorado-based business that provided home health care services to eligible claimants. From June 2010 through June 2011, he submitted fraudulent bills for reimbursement containing falsified nursing progress notes. He submitted forged doctors' orders that successfully led to his receiving approval to provide services to patients 24 hours a day, 7 days a week. Many of the documents submitted by Breaux for payment indicated that registered nurses from his company frequently provided health care services to patients in excess of 24 hours per day. By overbilling, billing for services not provided, and billing for services authorized by fraudulent means, he received fraudulent payments totaling more than $3.5 million.

This is a joint investigation with FBI and the Internal Revenue Service (IRS). *United States* v. *Anthony Paul Breaux* (D. Colorado)

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 death. In FY 2011, the FECA program made more than $1.9 billion in wage loss compensation payments to claimants and processed approximately 20,000 initial wage loss claims. At the end of FY 2011, nearly 50,000 claimants were receiving regular monthly wage loss compensation payments.

OWCP's Efforts to Detect and Prevent Improper FECA Payments Have Not Addressed Known Weaknesses

In February 2008, the Government Accountablity Office (GAO) reported that OWCP had not established an effective strategy for managing improper payments in the FECA program and did not collect the information it needed to accurately assess the FECA program's risk of improper payments. Without such data, OWCP could not focus on the program's most vulnerable areas. In addition, the OIG has raised these concerns in our annual Top Management Challenges report for several years. We conducted a

performance audit to determine to what extent OWCP has addressed known weaknesses in detecting and preventing improper payments in the FECA program.

Our audit found that OWCP has made some progress in addressing improper payments, and its strategy has continued to evolve. For example, OWCP completed the rollout of its FECA benefit payment system, the integrated Federal Employee Compensation System. This system is designed to track due dates of medical evaluations, revalidate eligibility for continued benefits, use data sharing to help prevent improper payments, boost efficiency, and improve customer satisfaction. OWCP has also sought legislative authority to allow it access to Social Security Administration (SSA) wage records so it can perform data matches of FECA claimants who are also eligible for Social Security, to determine if they are collecting dual benefits.

However, OWCP's efforts have not resulted in addressing all reported weaknesses. It did not have performance measures for payment accuracy, which are common for other Federal disability programs. OWCP believed payment accuracy should not rise to the level of an operating plan goal but should continue to be monitored and the results addressed through program initiatives, system enhancements, accountability reviews, and measurement of claims examiners' compliance with FECA requirements. However, without such program performance measures, we believe OWCP is unable to demonstrate its progress in improving payment accuracy.

We also found that OWCP did not always take timely action to terminate benefits when notified of the death of FECA benefits recipients. Additionally, OWCP had not designed effective procedures to ensure that benefit payments were reduced for FECA claimants who were known to be collecting SSA retirement benefits, nor had it implemented additional training for claims examiners on preventing improper payments by ensuring payment accuracy. We believe these conditions can be attributed to OWCP's not sufficiently emphasizing the importance of detecting and preventing improper payments. As a result, overpayments continue to go undetected. For CY 2010, we identified more than $690,000 in payments that were made to deceased FECA claimants.

Furthermore, since receiving a waiver from the Office of Management and Budget (OMB) in FY 2009 exempting it from the requirement to report an estimate of the annual amount of improper FECA payments, OWCP has not made any such estimates. At the time of our audit, OWCP did not have a plan for how it will estimate improper payments under the requirements of the Improper Payments Elimination and Recovery Act (IPERA), which was signed into law in July 2010. OWCP's improper payment estimates reported in FYs 2005 to 2008 fluctuated widely, from $3.3 million in FY 2005 down to $722,000 in FY 2006, up to $2.6 million in FY 2007, and then down again to $500,000 in FY 2008. These estimates appear to be low in comparison with the fraud and abuse found by OIG investigations. For example, in FY 2008, OIG investigations alone identified more than $6 million in FECA compensation and medical fraud. Additionally, in FY 2010, our audit work on OWCP's FECA match with SSA death records identified more than $690,000 in improper payments, and OIG investigations identified more than $1.3 million of FECA fraud. These results demonstrate that OWCP needs to improve its improper payment estimation methodology.

We made five recommendations to OWCP to improve its ability to detect and prevent improper FECA payments, including developing a program performance measure on payment accuracy, improving procedures to ensure timely adjustment and termination of benefits, and training all claims examiners on improper payments. OWCP stated it will implement the requirements of the recently enacted IPERA and will explore opportunities to incorporate additional payment reviews that the OIG recommended into its existing accountability review process. OWCP did not agree with the recommendation to develop a program performance measure on payment accuracy. (Report No. 03-12-001-04-431, February 15, 2012)

Audit of Federal Employees' Compensation Act Durable Medical Equipment Payments

In addition to wage replacement and other benefits, FECA authorizes payment for durable medical equipment (DME), which is equipment that can withstand repeated use, serves a medical purpose, is generally not useful to a person in the absence of illness or injury, and is appropriate for use in a patient's home. OWCP uses a contractor, Affiliated Computer Services (ACS), to process medical bills, including those for DME. Incidents in Medicare, Medicaid, and other government programs in which DME providers have been investigated, charged, and convicted of fraudulent DME-related billings indicate a need for strong controls in this area. The OIG contracted for a performance audit to determine the adequacy of OWCP's controls over the DME program, including the provider enrollment process, reasonableness of DME costs, and improper payments for DME. The audit covered DME medical claims totaling $12.6 million that OWCP paid to 2,700 providers from October 1, 2009, to December 31, 2010.

The audit found that OWCP has a series of controls over its DME payment administration process in order to reduce the risk of improper payments and ensure that DME costs are reasonable. However, we found weaknesses in controls related to the provider enrollment process, use of the "miscellaneous DME" (DME–miscellaneous) code, and analysis of DME rentals versus new purchases. We also found the relaxation of certain controls over price reasonableness in cases deemed "catastrophic."

OWCP's enrollment process for DME providers was not adequately designed to ensure that it obtained and documented the required information. DME providers submit enrollment forms to ACS for processing, which ACS reviews to ensure they are properly completed. Provider verification policies and procedures require ACS to perform several procedures to verify that providers are legitimate, but documenting this process is not required. We analyzed enrollments of 40 providers by attempting to independently verify that they were legitimate businesses, because ACS did not maintain documentation to support its determination of their legitimacy. While OWCP indicated that a "notes" field in the database is used for documentation purposes, our testing results did not find this field was used for such a purpose. We did not analyze non-DME providers, but we noted that OWCP requires the same verification process to be followed by its service provider for all medical providers. Therefore, without adequate documentation to support that verification procedures were actually performed, we found that controls over the provider enrollment process are not sufficient to support approval.

OWCP excessively used the miscellaneous DME procedure code for DME medical bills. This code had the highest dollar amount of claims paid during our audit period—$1.5 million for 2,500 items, or 13 percent of total DME claims. The majority of DME–miscellaneous claims were submitted by just 19 of the approximately 2,700 providers. Bills designated as DME–miscellaneous were at a much higher risk for improper payment because they were not subject to a maximum allowable amount and were therefore paid as billed.

OWCP did not always have evidence that its claims examiners analyzed the cost effectiveness to rent or purchase when reviewing requests for new DME. In our review of 13 cases in which DME was rented, we determined that the rental payments for three items exceeded the price of new purchases by $24,713, even under OWCP's fee schedule, which provides for a maximum cost that could be paid if purchased. In none of these cases was there evidence that the claims examiners had performed any pricing analysis. Finally, we found that OWCP had limited controls over catastrophic claimant cases to ensure the costs were reasonable. With catastrophic cases, although reviewed annually and subject to the OWCP fee schedules and bill processing edits for duplicates, bundling and unbundling, and so on, numerous additional controls are bypassed, such

as audits for relationship of prescriptions to accepted conditions; authorization other than the "catastrophic" designation by the District Director; or billing for add-on items when the base item was not billed, increasing the risk of improper payments. Our review of 12 claimants raised concerns about 11 of the claims in that OWCP paid for DME items that were typically denied as not medically necessary under other government programs, at amounts that appeared excessive, and for items that were not appropriately described.

We made six recommendations to OWCP relating to additional controls over the FECA DME program; we also recommended that OWCP perform a detailed analysis of items paid under the DME–miscellaneous code over the past two years to determine if any coding corrections are needed, and that it review the items we questioned and recover the overpayments identified. OWCP generally agreed with our recommendations but indicated that its enrollment verification was already adequately documented and it did not have the authority to recover the report's rental versus purchase overpayments. (Report No. 03-12-002-04-431, March 26, 2012)

Doctor Ordered to Pay Restitution to OWCP and the Ohio Bureau of Workers' Compensation After Performing Illegal Medical Exams

James Mann, a former physician based in Ohio, was sentenced on November 21, 2011, for his role in a fraudulent worker's compensation scheme. He was ordered to pay more than $90,000 in restitution to OWCP, in addition to a fine of $100,000. Mann was also sentenced for his role in a similar scheme against the Ohio Bureau of Workers' Compensation (BWC). In addition to the restitution, he was ordered to pay investigative costs in excess of $10,000 to BWC.

Mann conducted FECA schedule award examinations despite having lost his medical license. He also fraudulently signed the names of licensed physicians on correspondence and OWCP evaluation forms. The injured Federal employees resided in states as far away as Louisiana, Alabama, Illinois, and Michigan. Mann also defrauded the Ohio BWC, which provides workers' benefits to state employees.

This was a joint investigation with BWC. *United States* v. *James Mann* (N.D. Ohio); *State of Ohio* v. *James Mann*

$229,000 in Restitution Ordered for 1,477 Fraudulent Medical Travel Refund Requests

Keldrick Hamilton, a former letter carrier with the U.S. Postal Service (USPS), was sentenced on January 30, 2012, to one year and six months in prison, followed by one year of supervised release, and ordered to pay more than $229,000 in restitution for his role in defrauding OWCP. From January 2007 through November 2010, Hamilton devised a scheme whereby he filed fraudulent medical travel refund requests, claiming he had five rehabilitation appointments daily, seven days a week, when in fact he did not have any appointments. As a result, OWCP improperly paid Hamilton a total of more than $229,000 in FECA-related travel reimbursements.

This was a joint investigation with USPS-OIG. *United States* v. *Keldrick Hamilton* (N.D. Texas)

FECA Claimant Sentenced for Failing to Report Income from Illegally Sold Medication

Nancy Hurley, a former USPS employee, was convicted on January 4, 2012, of making false statements in order to obtain FECA benefits. From January 2007 through January 2008, Hurley participated in a drug scheme, whereby she

conspired with others to sell medical prescriptions and pharmaceuticals for personal profit. During the same time, Hurley falsified forms to OWCP by failing to report her income and consequently improperly received FECA benefits. Even though the income from the sale of the prescriptions and pharmaceuticals was unrelated to her FECA benefits, she failed to report the income as required by law. Hurley was also convicted for her participation in the illegal sale of pharmaceuticals.

This was a joint investigation with USPS-OIG. *United States* v. *Nancy Hurley* (S.D. Ohio)

Unemployment Insurance Programs

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

Recovery Act: ETA Is Missing Opportunities to Detect and Collect Billions of Dollars in Overpayments Pertaining to Federally-Funded Emergency Benefits

The UI program's growth to unprecedented levels over the past three years presented challenges to ETA regarding both program implementation and detection of benefit overpayments. During this period, $126 billion was paid for Federally-funded emergency benefits, $6.9 billion of which ETA estimated went for Federally-funded overpayments that should be detectable by the states. We conducted a performance audit to determine if ETA had effective controls over the states' detection of overpayments of Federally-funded emergency UI benefits.

Although ETA has undertaken significant initiatives toward improving the detection of overpayments by the states, we found weaknesses in controls related to overpayment detection of Federally-funded emergency benefits that were not necessarily addressed by these initiatives. From October 1, 2007, to September 30, 2010, the UI program grew to unprecedented levels, paying nearly $318 billion in benefits to unemployed workers, of which $126 billion was for Federally-funded emergency benefits. The methodology ETA used to estimate the amount of overpayments in the emergency program was designed primarily for state-funded benefits. This methodology may not be appropriate for the Federal emergency benefits, given the large increase in those benefits (from less than $39 billion in FY 2009 to nearly $84 billion in FY 2010) and the differing eligibility requirements for receiving state-funded versus Federal emergency benefits. As a result, ETA's reported estimate of $6.9 billion in detectable overpayments of Federally-funded emergency benefits may have been significantly misstated.

Furthermore, we found that ETA did not measure the effectiveness of improper payment detection activities for the $126 billion in Federally-funded emergency benefits. ETA reported that the UI program met its performance goal—to identify 50 percent of detectable overpayments—by identifying more than 52 percent of detectable overpayments. However, ETA reported on only

state-funded benefits and did not include how well states were doing in detecting overpayments from Federally-funded emergency benefits. Using data provided by ETA, we determined that states had detected only $1.3 billion (19 percent) of the estimated $6.9 billion in detectable overpayments from Federally-funded emergency benefits. If ETA had established and states had met the same detection goal for Federally-funded overpayments that was in place for state-funded overpayments (50 percent), an additional $2.15 billion of overpayments would have been detected and potentially recovered. This amount could then have been put to better use for paying legitimate claims for unemployment compensation.

Finally, while ETA conducted on-site reviews of the Federally-funded emergency benefits in all states and collected the related data on overpayment detections and recoveries, the states' performance goals pertained to only state-funded benefits. Therefore, ETA and its regions could not objectively measure how well states were doing in identifying improper payments related to Federally-funded emergency benefits.

We recommended that ETA take steps to develop and implement a valid and reliable method for estimating the rate of detectable overpayments in the Federally-funded emergency programs, establish a valid performance measure for Federally-funded emergency programs, increase ETA monitoring regarding improper payment detection activities related to Federally-funded emergency programs, and develop and implement a plan to increase detection efforts over the estimated $5.6 billion in detectable overpayments related to Federally-funded emergency benefits that states did not identify in the past three years. ETA raised concerns about the need to develop a new performance measure for temporary programs such as emergency benefits, but did agree to study how it might adapt its existing methodology for estimating overpayments to include all benefits paid. (Report No. 18-12-001-03-315, January 31, 2012)

Four Las Vegas Men Sentenced for Using Undocumented Persons to Steal $4.4 Million in UI Benefits

Four Las Vegas men were sentenced on February 3, 2012, to Federal prison terms. Francisco Garcia was sentenced to three years and one month in prison for his guilty plea to conspiracy to commit mail fraud, money laundering, and false representation of a Social Security number. Nabor Garcia, Eloy Garcia, and Efrain Garcia, who were co-conspirators and relatives of Francisco Garcia, were each sentenced to 15–24 months in prison for their roles in the scheme to unlawfully obtain millions in UI funds. As part of the sentence, the judge ordered the defendants to pay restitution in the amount of $4.4 million and forfeit the real properties purchased with the fraudulently obtained UI benefits.

From November 2007 to September 2009, the four defendants submitted 591 UI claims to the State of Nevada, resulting in their illegal receipt of UI, emergency unemployment compensation benefits, Federal compensation benefits, and state extended benefits. They recruited undocumented persons to apply for UI benefits, even though the individuals were not entitled to the benefits because they were illegally in the United States. The defendants obtained work history and identifying information from the undocumented persons, and submitted the fraudulent claims for UI through the state's UI benefit telephone hotline and Web site. Once the claims were accepted, the state provided the benefits through debit cards or checks mailed to addresses that the defendants controlled. In some cases, the defendants provided the undocumented workers with a portion of the benefits and told them that their claims had stopped, when in fact the state had continued to pay the claims. In other instances, the defendants told applicants that their UI claims were not accepted, when in fact they had been.

This was a joint investigation with the IRS–Criminal Investigation (IRS-CI), the United States Postal Inspection

Service (USPIS), and the SSA-OIG, with the assistance of the State of Nevada Department of Employment, Training and Rehabilitation, Employment Security Division. *United States* v. *Francisco Garcia et al.* (D. Nevada)

Former Iowa Workforce Development Employee Sentenced to Four Years in Prison for UI Benefit Fraud

Linda Pippen, a former Iowa Workforce Development (IWD) employee, was sentenced on March 14, 2012, to four years in prison for embezzling more than $43,000 in UI benefits while working at IWD. She pled guilty on December 28, 2011, to theft of government funds and aggravated identity theft and was ordered to pay restitution totaling more than $43,000.

Pippen used her position as an IWD workforce advisor to alter the computerized accounts of individuals who had been receiving UI benefits. She caused the accounts to inaccurately reflect that the individuals were eligible to receive UI benefits when in fact their eligibility had expired. In furtherance of the scheme, Pippen altered bank accounts and routing numbers, so that funds were fraudulently directed to bank accounts under her control.

This was a joint investigation with the Iowa Division of Criminal Investigation. *United States* v. *Linda Pippen* (N.D. Iowa)

Former State Employee Sentenced to One Year and Nine Months in Prison for UI Fraud

Rebecca Stoneking, a former State of California Employment Development Department (EDD) employee, was sentenced on December 8, 2011, to 21 months in prison for her role in a scheme to defraud the UI program. She was also ordered to pay more than $90,000 in restitution, jointly and severally with her co-defendants, Timothy Oller and Russell Williams.

In her former position, Stoneking had access to EDD's employer database and ability to adjust the base wages of workers enrolled in California's UI system. Between 2008 and 2010, using her position as an EDD account technician, she manipulated wage data submitted by a Sacramento firm that filed for bankruptcy protection in 2006. Stoneking fraudulently entered the names of Oller and Williams into that firm's quarterly reports to EDD. The illegal adjustment enabled Oller and Williams to file successful claims for UI benefits to which they were not entitled. The firm did not detect the fraud because it was going out of business and conducting mass layoffs at the time. This was a joint investigation with California EDD Investigations Division. *United States* v. *Rebecca Stoneking* (E.D. California)

Chicago Man Sentenced to One Year and Six Months in Prison for UI Fraud Scheme

Ignacio Oropeza Lopez was sentenced on February 22, 2012, to one year and six months in prison and three years of supervised release. The judge also ordered that he pay more than $592,000 in restitution to the Illinois Department of Employment Security (IDES).

From 2006 to 2011, Lopez submitted fraudulent UI applications for himself and approximately 98 other undocumented workers he recruited for involvement in the scheme. In order to increase the amount of benefits paid by IDES, Lopez would falsely claim additional dependents for himself and those he recruited. He was aided by a volunteer employee at IDES, who would submit the initial UI application, falsely giving the impression that the claim had been properly reviewed by an IDES employee and was therefore legitimate. Lopez was responsible for causing IDES to pay more than $592,000 in fraudulent UI benefits.

This was a joint investigation with FBI and Immigration and Customs Enforcement (ICE). *United States* v. *Ignacio Lopez* (N.D. Illinois)

Prison Terms for Texas Women for Defrauding UI Program

Andrea Mims and Lea Ann Battles were sentenced to Federal prison for defrauding the UI program. Mims and Battles were sentenced on December 5, 2011, to one year and nine months, and two years and three months, respectively. Each will be required to serve three years of supervised probation following completion of her prison term. Mims was also ordered to pay more than $110,000 in restitution, while Battles will pay more than $96,000.

Mims and Battles participated in a scheme in which they created numerous fictitious employers and used the personally identifiable information (PII) of friends and family members to obtain fraudulent UI benefits. Mims filed fraudulent UI claims using the PII of friends and family members without their knowledge. Battles would offer to assist her friends and family members in filing UI claims, knowing that they were ineligible to receive UI benefits. Using the referenced PII, Mims and Battles would file a fraudulent UI claim falsely identifying one of the fictitious employers they created as the claimant's last employer. Once the claim was filed, they then would call the bank issuing the UI debit card and request a change of address, redirecting the card obtained in the unwitting friend's or family member's name to one of 17 post office boxes they controlled. In some instances, they would request that a replacement card be mailed to their home address. Mims and Battles filed at least 23 fraudulent UI claims as part of this scheme.

This was a joint investigation with USPIS and the Texas Workforce Commission (TWC). *United States* v. *Andrea Mims and Lea Ann Battles* (S.D. Texas)

Five Sentenced to Prison for Receiving More Than $800,000 in UI Fraud Conspiracy

Yvette Compito, Jesse Davis, Karamoko Goodman, Lajammal Brumfield, and Shamema McQueen were sentenced between October 2011 and January 2012 for their roles in a fictitious employer scheme that defrauded the California EDD. Compito, Davis, and Goodman each received sentences for conspiracy to commit mail fraud. Compito received 51 months in prison and was ordered to pay more than $800,000 in restitution to EDD. Davis and Goodman were, respectively, sentenced to 24 and 48 months in prison and directed to pay a portion of the ordered restitution. Brumfield and McQueen each pled guilty to mail fraud and received prison sentences of four and six months, respectively. Their restitution will be determined at a later date.

From January 2000 to January 2007, the defendants operated a "fictitious employer" scheme whereby they established 13 fake casting agencies for the sole purpose of reporting false wages to the California EDD. They then filed UI claims based on the false wages, fraudulently collecting more than $800,000 in UI benefits for approximately 150 individuals.

Nonexistent employees were recruited in a variety of ways, including using the identities of minor children, many of whom were students of a high school where Davis worked as a security guard. The use of minors allowed the defendants to avoid law enforcement detection due to the unlikelihood of minors' having conflicting wages from legitimate employers in the EDD system.

After establishing a fraudulent workforce, the defendants filed UI claims, alleging that the claimants were laid-off actors, actresses, or models from the fictitious casting agencies in the Los Angeles area.

This was a joint investigation with the California EDD–Criminal Investigations Division. *United States* v. *Compito, Goodman, Davis, Brumfield, and McQueen* (E.D. California)

Florida Man Pleads Guilty to Wire Fraud and Identity Theft

Arnold Thomas, of Fernandina Beach, Florida, pled guilty on October 26, 2011, to wire fraud and aggravated identity theft for his role in defrauding the Louisiana Workforce Commission (LWC) through a fictitious employer scheme. As part of the plea agreement, he agreed to pay full restitution in the amount of more than $1.2 million.

Thomas devised a scheme to defraud LWC by submitting false quarterly wage reports in the names of fictitious companies and then filing false applications for UI benefits in the names of various third parties. Many of the identities used in the scheme were discovered to have belonged to current or former inmates of the Department of Corrections system, primarily in the State of Florida. Thomas used the personal identifiers of the inmates to file UI claims without their knowledge. After successfully testing the LWC system to see if those UI claims would be approved, he then retrieved the benefits from the addresses to which they were directed. The defendant submitted approximately 392 false applications for UI benefits, which resulted in a loss of more than $1.2 million to the LWC.

This was a joint investigation with SSA-OIG and LWC. *United States* v. *Arnold Thomas* (M.D. Louisiana)

Maryland Man Pleads Guilty in Identity Theft and Access Device Conspiracy to Obtain UI Benefits

Vivek Jain, a resident of Gaithersburg, Maryland, pled guilty on October 27, 2011, to conspiracy to commit access device fraud and aggravated identity theft in a scheme to use the PII of others to fraudulently obtain approximately $170,000 in UI benefits issued through prepaid debit cards. As part of the plea agreement, he has agreed to an order of forfeiture and restitution of between $120,000 and $170,000.

From the summer of 2010 to February 2011, Jain and his co-defendant conspired to fraudulently apply for UI benefits using identifying information of individuals they obtained through a marketing company where they were employed. The defendants applied for benefits through the Maryland Department of Labor Licensing and Regulation (DLLR), often using mailing addresses they obtained from real estate listings. Once the fraudulent benefits were approved, Jain changed the mailing addresses of the debit cards and redirected them to mailboxes that he and his accomplice rented at commercial establishments in Maryland and Kansas.

This was a joint investigation with USPIS, with the assistance of the Maryland DLLR–Division of Unemployment Insurance. *United States* v. *Vivek Jain* (D. Maryland)

Chicago Man Pleads Guilty in UI Fraud Scheme

Roberto Cisneros pled guilty to mail fraud on January 31, 2012, for his role in defrauding IDES of nearly $480,000 in UI benefits. Cisneros, an undocumented foreign national, faces deportation after sentencing.

From 2006 to January 2009, Cisneros knowingly assisted undocumented foreign nationals lacking legal working status or valid Social Security numbers in applying 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 and use the proceeds for himself. In many instances, he would tell claimants that their

applications had been rejected, knowing that this was not true. Cisneros caused IDES to issue 441 checks to approximately 57 ineligible UI claimants, totaling nearly $480,000, of which $261,000 was deposited directly into accounts he controlled.

This was a joint investigation with USPIS and Department of Homeland Security, Homeland Security Investigations (DHS-HSI). *United States* v. *Roberto Cisneros* (N.D. Illinois)

Texas Employee Pleads Guilty to Internal UI Scheme

DeShon Haynes, a former TWC employee, pled guilty on January 13, 2012, to aggravated identity theft and mail fraud.

Haynes used her former position as a TWC customer service representative to identify and revive inactive UI claims. By using the PII of the claimants without their knowledge or consent, she made weekly certification calls to TWC through which she was able to cause benefits to continue to be deposited to the reactivated UI accounts. Haynes knew that mailing addresses to which debit cards for withdrawing UI funds were sent were taken from the TWC database. Consequently, she changed PIN numbers and addresses in the database for the claims she illegally revived. She then contacted the bank issuing the cards to request replacement cards for the claims and had all of the cards sent to addresses that she controlled. Haynes used the fraudulently obtained debit cards at various ATMs and retail establishments to obtain UI funds for her personal benefit. As a result of the scheme, she received more than $38,000 in fraudulent UI benefits.

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

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. OIG investigations are finding that emerging organized criminal groups are using DOL foreign labor certification processes in illegal schemes, and in so doing are committing crimes that negatively impact workers.

Program Design Issues Hampered ETA's Ability to Ensure the H-2B Visa Program Provided Adequate Protections for U.S. Forestry Workers in Oregon

At the request of a member of Congress, we conducted a performance audit of the H-2B visa program to determine whether ETA was able to ensure that the program provided adequate protections for U.S. workers in connection with the applications filed by four Oregon forestry employers. To obtain H-2B certification and comply with employment protections, employers 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. In order to test ETA's oversight of four Oregon-based forestry employers, we reviewed all H-2B applications that the four employers submitted between October 1, 2009, and January 31, 2011.

Our audit found that program design issues hampered ETA's ability to provide adequate protections for U.S. workers in the H-2B applications filed by the four employers. Employer self-attestation does not permit meaningful validation before the application is approved. Although ETA promulgated new regulations to address these issues, those regulations have been enjoined by a U.S. District Court.

Our analysis of the four employers' recruitment reports found that only two individuals from Oregon were listed, indicating that workers in Oregon were likely unaware these job opportunities were available. In fact, although 146 U.S. workers were contacted by the four employers regarding possible employment, none were hired, and the employers hired 254 foreign workers. Two of the four employers reported to ETA that they had made job offers to 29 U.S. workers at the time of their H-2B application submission, but we verified that none of these workers began employment.

Employers are required to post a job order and newspaper advertisements in the state of initial employment only, regardless of whether subsequent work will be performed in other states. We found that six of the nine H-2B applications we reviewed—involving three of the four employers—listed work sites in Oregon but did not list Oregon as the state of initial employment. These employers posted job orders with the SWA only in the state where the work began. They were not required to recruit U.S. workers in Oregon, and we were provided no evidence that they did.

We also found that certain SWAs did not fulfill their responsibilities for the H-2B applications we reviewed. H-2B regulations require SWAs to share job orders with states where subsequent work will be performed, thus allowing U.S. workers in those states to have an opportunity to apply. However, the five SWAs we reviewed did not transmit posted job orders to Oregon or other states. Moreover, three SWAs were not making required job referrals to employers. This failure by the SWAs to carry out their H-2B program responsibilities further contributed to the difficulties Oregon workers faced in becoming aware of and applying for jobs with these four employers.

We recommended that ETA reassess the requirement for employers to recruit U.S. workers only in the state of initial employment, that it develop and implement procedures to strengthen the application and postadjudication processes, and that it develop and implement controls to better monitor SWAs' compliance with program requirements. ETA generally agreed with our recommendations and has planned to take actions to address them. (Report No. 17-12-001-03-321, October 13, 2011)

Immigration Lawyer Sentenced for Role in Fraudulent Green Card Scheme

Michael Choi, a former immigration attorney, was sentenced on January 12, 2012, to two years and six months in prison for conspiring to violate Federal immigration laws, making false statements to the government, and filing false tax returns. In addition, he was ordered to pay the IRS more than $161,000 in restitution. Jong Soon Park, a former client of Choi's, was sentenced on January 11, 2012, to four years of supervised release.

From about 2001 to 2008, Choi, a principal of Choi and Associates, conducted a fraudulent scheme to obtain green cards by submitting false foreign labor certifications to DOL. He enlisted individuals residing in Korea, who had no intention of emigrating to the United States, to allow their names to be placed on the visa applications. Choi solicited undocumented individuals to pay him to substitute their names on existing applications without having to work at the supposed petitioning businesses. He charged his clients anywhere from $30,000 to $60,000 in cash to obtain the green cards.

Choi gave cash bribes, averaging between $20,000 and $30,000, and free legal services to Korean business owners to induce them to sign petitions as the petitioning employer, falsely indicating that they intended to employ or did employ the alien beneficiaries. He submitted false immigration documents to the U.S. Citizenship and Immigration Services (USCIS), along with forged payroll checks, in order to give the false impression that his clients were legitimate employees of these Korean-owned businesses. Under Choi's direction, Park submitted fraudulent immigration documents, employment records, and income tax returns to obtain green cards for himself and his family. As a result, Park, along with his wife and two children, face the potential of being deported.

Three business owners who conspired with Choi (Hee Chan Bang, Keun S. Hwang, and Sung Mahn Gang) testified against him at trial and were sentenced between January and February 2012 to three years of supervised release. This was a joint case with FBI, IRS-CI, DHS-HSI, and SSA-OIG. *United States* v. *Michael Choi et al.* (E.D. Pennsylvania)

Controller of Staffing Company Sentenced for H-2B Visa Fraud

Jose Maria Meza Diaz, a former controller of VR Services, was sentenced on November 23, 2011, to two years in prison for UI tax evasion, workers' compensation insurance fraud, H-2B visa fraud, and alien smuggling. Meza will also face deportation upon completing his sentence. Rafaela Dutro Toro, an employee of VR Services, was found guilty of alien smuggling and conspiracy to commit alien smuggling and worker visa fraud on November 8, 2011.

VR Services, a staffing company based in Orlando, Florida, supplied temporary labor to numerous businesses in the hotel and labor leasing industries throughout Florida and the United States. VR Services was a conglomerate comprising 11 smaller "shell" companies. Toro was the assistant director of Travel Work Study Overseas, Inc. (TWSO), one of VR Services' companies. TWSO functioned as an H-2B recruiting agency with offices in São Paulo, Brazil, and Orlando, Florida. The scheme involved a conspiracy that used the shell companies to obtain H-2B visas for hundreds of foreign workers to come to and remain in the United States. The defendants submitted fraudulent recruitment reports stating that U.S. workers had been hired, as well as altered or fake hotel contract agreements in support of the labor certification applications on which the H-2B visas were based.

Meza concealed the employment of hundreds of undocumented foreign hotel workers and $11 million in payroll through the shell companies associated with VR Services. He failed to report the workers and their wages on employer quarterly tax reports and workers' compensation insurance premium forms submitted to the Florida Department of Revenue and its workers' compensation insurance providers. As a result of his actions, Meza evaded paying approximately $40,000 in UI taxes and $200,000 in workers' compensation insurance premiums. In addition, he and his fellow conspirators helped supply foreign workers to more than 100 hotels and allowed more than 1,000 foreign workers to enter and remain in the United States illegally.

This was a joint investigation with DHS-HSI; the U.S. Department of State Diplomatic Security (DOS-DS); and Brazilian authorities with the Public Ministry of São Paulo, Brazil. *United States* v. *Jose Maria Meza Diaz and Rafaela Dutro Toro* (M.D. Florida)

President of Texas Staffing Company to Pay $1 Million for Role in Visa Fraud Scheme

Jose Ramiro Vicharelly, president and executive director of International Staffing Solutions, which also operated as Texas Staffing Resources (TSR), was sentenced on February 29, 2012, for his role in an H-2B visa fraud scheme. Vicharelly was sentenced to three years and five months in prison and ordered to pay $1 million in restitution. In November 2011, Vicharelly's daughter, Angela Paola Faulk, was sentenced to one year and five months in prison. His wife, Irma Vicharelly; Faulk's husband, Servando Gonzalez Jr.; and former TSR recruiter Rene Morales were each sentenced to two years of probation. Another conspirator, Pedro Saul Ocampo Munguia, did not appear for sentencing and is considered a fugitive.

Beginning as early as August 2004, Vicharelly, along with his co-defendants, conspired to obtain H-2B visas under false pretenses. The defendants approached Austin, Texas, businesses, offering to obtain H-2B visas through which the companies could legitimately employ foreign nationals or undocumented individuals already working in their companies. Unbeknownst to the employers, in order to obtain the H-2B visas, the defendants would submit fraudulent visa petitions with forged signatures or bogus supporting documentation requesting a surplus number of workers. The defendants then sold the surplus visas to other undocumented individuals in the Austin area for $1,500 to $2,200 each. To further conceal the scheme, the defendants also traveled to Mexico to coach the individuals on what to say when interviewed by the U.S. Consulate while attempting to enter the United States.

This was a joint investigation with DHS-HSI. *United States* v. *Jose Vicharelly, Irma Vicharelly, Angela Paola Faulk, Servando Gonzalez Jr., Rene Morales, and Pedro Saul Ocampo Munguia* (W.D. Texas)

Court Orders Jail Time and $1 Million in Restitution in H-2B Visa Fraud Scheme

Carrol Hall, a former owner and operator of a Houston-based company known as HB Services, LLC, was sentenced on March 2, 2012, to one year in prison and two years of supervised release. In addition, Hall was ordered to pay more than $1 million in restitution. Hall and Sam Bolling, a co-owner of HB Services, LLC, had previously pled guilty to conspiracy to encourage and induce illegal immigration.

HB Services, LLC, was marketed to specialize in the procurement of H-2B visas on behalf of employers seeking contract foreign labor. HB Services, LLC, solicited various construction and contracting companies as clients on whose behalf it petitioned for foreign workers. HB Services, LLC, falsely told employers that under the H-2B visa program, it was necessary to request significantly more foreign workers than actually needed to ensure that the workers required were obtained. The employers enlisted by Hall and Bolling petitioned for more than 1,000 foreign workers. Once the H-2B visas were approved, Hall and Bolling made arrangements with individuals in Mexico to recruit and assist the prospective workers with the H-2B visa application process, including arranging interviews for them with the U.S. Consulate and arranging their transportation from Mexico to the Social Security office in Houston in order to obtain Social Security cards. After obtaining Social Security cards, the workers were dismissed without further arrangement for their employment. None of the workers associated with the H-2B visas were ever employed by any of the petitioning employers. The foreign workers paid between $500 and $3,500 each for the fraudulent visas and transportation to the United States.

This was a joint investigation with DOS-DS. *United States* v. *Carrol Hall and Sam Bolling* (S.D. Texas)

Manpower Supply Company Owner Convicted for Role in Visa Fraud Scheme

Yoo Taik Kim, a former owner of a manpower supply company, was convicted on November 22, 2011, of visa fraud, false statements, and unlawful procurement of citizenship.

Kim, through his company, Hi-Cap Enterprises (dba Koto Manpower), contracted with Trans Bay Steel Corporation to provide it with temporary workers to complete a large construction project in Northern California. In 2001, Trans Bay notified Koto Manpower that its labor needs had been significantly reduced. However, Koto Manpower continued to recruit under Trans Bay's name and brought a total of 49 welders from Thailand to San Francisco. Trans Bay eventually hired 10 of the welders but was unaware that an additional 39 were residing in the United States. Kim and his associates transported the remaining workers to Southern California, where they lived in substandard conditions in apartments provided by Koto Manpower. 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 own 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 Koto Manpower.

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

Job Corps

Job Corps, which is under the oversight of ETA, provides education, vocational training, and support services to approximately 60,000 students annually at 125 nationwide centers, both residential and nonresidential. Its primary purpose is to help at-risk youth become more employable, responsible, and productive citizens. Job Corps' budget for program year 2011 was approximately $1.7 billion.

Management and Training Corporation Did Not Ensure Best Value in Awarding Job Corps Center Subcontracts

Management and Training Corporation (MTC) is under separate five-year contracts with the Office of Job Corps to operate the Clearfield and Paul Simon Job Corps Centers. The Federal Acquisition Regulation (FAR) required DOL to perform a contractor's purchasing system review to evaluate the efficiency and effectiveness with which the contractor spends government funds and complies with government policy when subcontracting. Additionally, when awarding the contracts to MTC, ETA approved MTC's contracting standard operating procedure (SOP), which were required to be consistent with FAR. We conducted performance audits of the Centers to determine whether MTC complied with its own SOPs and ensured best value when awarding subcontracts and claiming costs.

Our audit of subcontracts managed and expenditures incurred by MTC at both Centers from April 1, 2010, to March 31, 2011, found that the contractor did not always ensure that best value was received by the government when awarding subcontracts and purchase orders. MTC had not established a control environment—including training and oversight—to ensure consistent compliance with its SOPs. Furthermore, neither ETA nor Job Corps staff adequately monitored the two Centers' subcontracting activities. We questioned costs totaling approximately $3 million at MTC Clearfield and $1.3 million at MTC Paul Simon, because MTC did not always comply with its SOPs and could not document that it had ensured the best value to the government.

Our review of all subcontracts that exceeded $25,000 at each Center found that MTC had improperly awarded the majority of the subcontracts, because it did not comply with its own procurement procedures to perform required cost or price analysis and responsibility checks. Because several of the subcontracts at each Center were for physician services, it was critical that MTC perform the responsibility checks to ensure that students at the centers received adequate care.

Our review of a statistical sample of purchase order expenditures at each Center found numerous instances of MTC's not adequately justifying and documenting sole-source procurements. Specifically, we found the following:

- For the 41 purchase order expenditures reviewed at MTC Clearfield, we questioned costs totaling $77,866 related to 16 purchases because MTC Clearfield did not adequately justify and document sole-source awards.
- For the 50 purchase order expenditures reviewed at MTC Paul Simon, we questioned costs totaling $224,198 related to 23 purchases because MTC Paul Simon did not adequately justify and document 16 sole-source awards and improperly submitted denied grant costs for 7 purchases.

In addition, at MTC Clearfield we reviewed 10 expenditures that were not included in our statistical sample and found that MTC Clearfield could not justify why the expenditures

were paid without a related contracting instrument. We questioned $144,428 for these 10 expenditures.

We recommended that ETA recover the $4.6 million in costs we questioned at the Centers, as appropriate; that it direct MTC to strengthen procedures, training, and oversight to ensure compliance with its own procurement criteria; and that it direct ETA/Job Corps staff to review all future MTC Clearfield and MTC Paul Simon subcontracts and purchase orders for best value prior to award approval.

ETA generally agreed with our findings, fully or partially accepted all of our recommendations, and will require both Centers to request ETA approval before any future subcontracting awards. MTC disagreed with our use of FAR as criteria for its subcontracting awards. In the final report, we clarified that MTC must comply with its own SOPs, which were approved by ETA and are consistent with FAR principles for fair and open competition. (Report No. 26-12-002-03-370, March 30, 2012, and Report No. 26-12-003-03-370, March 30, 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.

BLS Controls over Technical Training Data Collection Workers Need Strengthening

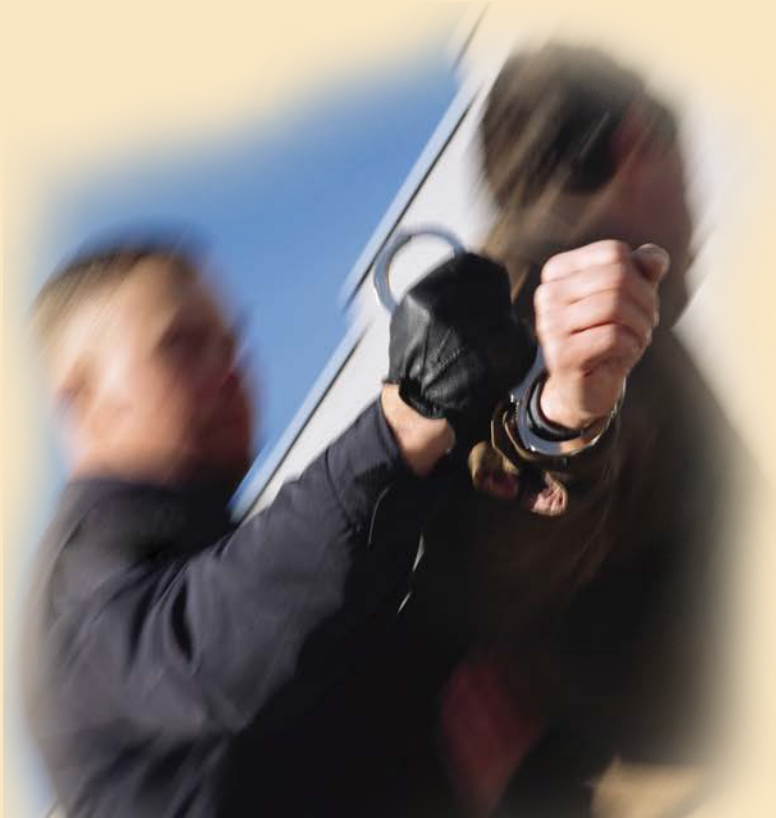
BLS is responsible for the production of some of the nation's most sensitive and important economic data. Through its collection and dissemination of these data, BLS's statistics support the formulation of economic and social policy, decisions in the business and labor communities, legislative and other programs affecting labor, and research on labor market issues. Within BLS, the Office of Field Operations (OFO) is responsible for collecting nationwide economic survey data for BLS divisions, including the Division of Industrial Price Surveys (DIPS), the Division of National Compensation Surveys (DNCS), and the Division of Consumer Price Surveys (DCPS). OFO is also responsible for designing training programs to provide data collectors the tools they need to collect data for BLS surveys. We conducted a performance audit to determine if OFO provides required training to data collectors to ensure they are prepared to accurately collect data for use in BLS surveys.

Our audit found that OFO could not demonstrate it had provided all required training to data collectors to ensure they were prepared to accurately collect data for use in BLS surveys. OFO was able to demonstrate it provided entry-level classroom training for all data collectors. In addition to the required classroom training, on-the-job training in the regional office(s) is also required for entry-level data collectors. However, OFO could not demonstrate that DCPS data collectors had received the required on-the-job-training in their respective regional offices. OFO also did not maintain sufficient documentation to support that it had provided required refresher training to advanced data collectors in the DIPS and DNCS divisions.

Although policies and procedures for documenting on-the-job-training were in place, OFO did not monitor the regional offices to ensure they maintained adequate documentation to substantiate that data collectors had been provided the required training. OFO did not have established policies and procedures for maintaining documentation to support that advanced data collectors had completed required refresher training. Without adequate documentation to substantiate that data collectors had completed required training, OFO could not be fully assured that they were adequately trained and fully understood their role.

We recommended that BLS ensure OFO implements a common learning management system, which will promote improved record keeping for training and improve the monitoring of regional offices. BLS agreed with our recommendations to improve record keeping and monitoring of its data collector training programs. However, BLS disagreed with portions of the findings in the report regarding records of training completion. (Report No. 17-12-004-11-001, March 30, 2012)

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 cases are illustrative of our work in helping to eradicate both traditional and nontraditional labor racketeering in the nation's labor unions, employee benefit plans, and workplaces.

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 Pleads Guilty to Embezzling $40 Million from Construction Workers' Union Funds

Melissa King, former administrator for the Laborers' International Union North America (Sandhogs' Union) Local 147 Benefit Funds, pled guilty on October 21, 2011, to a two-count superseding information, charging her with embezzlement from multiple ERISA employee benefit plans and filing false tax returns. King is the owner of King Care, LLC, which at one time was the third-party administrator (TPA) of the Local 147 Retirement, Annuity, and Additional Security Benefit Funds.

Between 2002 and 2008, King embezzled more than $40 million by transferring large sums of money out of the Local 147 Funds' bank accounts into a King Care, LLC, account under her control. She then used the embezzled funds to finance her expensive lifestyle, including more than $7 million paid to American Express for personal purchases, $5.5 million to buy and maintain horses, $1 million for fine and antique jewelry, $900,000 to pay the mortgage on her home, $300,000 for women's clothing, $300,000 for luxury automobiles, $150,000 to a hotel, $99,000 for private jet travel, and $25,000 per month for a Manhattan apartment. King is awaiting sentencing.

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

Blagojevich Fundraiser Sentenced to More Than Ten Years in Prison for Pension Kickback Scheme

Antoin Rezko, a major fundraiser for convicted former Illinois Governor Rod Blagojevich, was sentenced on November 22, 2011, to more than ten years in prison, three years of supervised release, a $1,600 special assessment, and a $250,000 forfeiture related to his role in a pension kickback scheme involving the Illinois Teachers' Retirement System (TRS). TRS is a $30 billion pension fund for approximately 325,000 members, a majority of whom are members of the Illinois Federation of Teachers.

Rezko and a co-defendant, Stuart Levine, who held a position on the TRS board and the Illinois Health Facilities Planning Board, were found guilty of devising and participating in a scheme to defraud by depriving the beneficiaries of TRS and the people of the State of Illinois the duty of Levine's honest services. Rezko used Levine's position to obtain financial benefits for himself, his nominees, and his associates. During the course of the scheme, Rezko and Levine solicited, demanded, and received hundreds of thousands of dollars in undisclosed kickbacks and payments from, among others, investment firms seeking to do business with TRS and a contractor that was interested in building a hospital. Rezko and Levine also attempted to establish an asset management company for TRS that would enable them, or their nominees, to benefit financially without their participation's being disclosed to TRS. Levine pled guilty on October 27, 2006.

This was a joint investigation with FBI, IRS-CI, and USPIS. *United States* v. *Antoin Rezko* (N.D. Illinois)

President of Franklin Drywall Sentenced for Misappropriating Employees' Wages, and Pension and Benefit Funds

Phillip Franklin, owner and president of Franklin Drywall, was sentenced on November 3, 2011, to two years' imprisonment. In addition, the government is seeking restitution of more than $3.2 million. In January 2011, Franklin pled guilty to filing false reports with the Minnesota Carpenters Pension and Benefit Funds, and the Painters and Allied Trades District Council 82 Pension and Benefit Funds.

Franklin devised a scheme to underpay his employees for overtime while also underpaying the union pension and benefit contributions required by the collective bargaining agreements (CBAs). He avoided payments by directing his staff to falsify time sheets and submit false information to the union and to the pension benefit funds that materially underreported the hours worked. Additionally, Franklin instructed his office staff to report no more than 40 hours of work per week for any Franklin Drywall union employee. He knew the fraudulent information that he provided to the benefit funds would be used to compile reports required by ERISA, ultimately making the reports inaccurate, in violation of ERISA.

This was a joint investigation with EBSA. *United States* v. *Phillip Franklin* (D. Minnesota)

Former Office Manager Sentenced to Prison Term for Embezzlement, Tax Evasion, and Making False Statements

Tami Loy, former office manager of the Mattoon (Illinois) Eye Center, was sentenced on November 10, 2011, to three years and two months in prison and ordered to pay restitution of more than $270,000 to her former employer and more than $62,000 to the IRS. In April 2011, she pled guilty to mail fraud, tax evasion, and making false statements on the annual 5500 forms required by ERISA. As a result of Loy's conviction, she is prohibited from acting in any official capacity or exercising discretionary control of any employee benefit plan for a period of 13 years. From 2002 to 2007, Loy embezzled more than $270,000 from her employer, including funds intended for the company's employee profit sharing plan. Loy admitted that in order to conceal her embezzlement, she created phony accounts, false bank statements, and false Vanguard profit sharing statements.

This was a joint investigation with EBSA, IRS-CI, USPIS, and the Mattoon Police Department. *United States* v. *Tami Loy* (C.D. Illinois)

Physician Convicted of Falsely Billing Health Care Companies and Medicare

Dr. Jaswinder Chhibber, a Chicago physician, was convicted on March 13, 2012, of health care fraud and making false statements. From approximately 2005 to 2010, Chhibber ordered medically unnecessary tests, falsified patients' medical records, and used false diagnosis codes on insurance claim forms for at least five patients who testified at trial, 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 Medicare and Blue Cross patients, including those covered by various union-sponsored health care funds.

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

Accountant / Plan Trustee Pleads Guilty to Embezzlement

Bernard Mullan, former certified public accountant for Peterboro Tool Company, Inc., Profit Sharing Trust (the Plan), pled guilty on January 12, 2012, to one count of embezzlement from an employee benefit plan and one count of making false statements in documents required by ERISA.

From October 2007 to November 2009, Mullan embezzled $249,000 from the Plan's accounts. This was in addition to $225,000 that Mullan had previously embezzled from the Plan. As a trustee of the Plan, Mullan held sole signatory authority over the Plan's bank accounts. He was responsible for investing the Plan's assets, distributing the Plan's benefits, and preparing the Plan's Annual Return/ Report of Employee Benefit Plan (Form 5500), as required by ERISA.

To conceal the embezzlement, Mullan overstated assets on the Summary Annual Report (for year ending May 2009) that he provided to Plan participants. In addition, he overstated Plan assets on fraudulent Form 5500 (for years ending May 2007, May 2008, and May 2009), which he prepared and submitted to DOL and IRS. On the May 2009 form 5500, Mullan claimed that the Plan had suffered a loss of more than $405,000, fraudulently attributing it to "unrealized depreciation of assets."

This was a joint investigation with EBSA. *United States* v. *Bernard Mullan* (D. New Hampshire)

Company Owner / Trustee Pleads Guilty to Kickback Scheme Involving Union Benefit Plan

Robert Fabrizio, owner of Three Generations Contracting and MAF Consulting, pled guilty on November 10, 2011, to receiving kickbacks to influence operations of an employee benefit plan, money laundering conspiracy, and unlawful payments to a union official.

Fabrizio was signatory to a CBA with Local 8A-28A of the Metal Polishers/Refinishers, Painters, Production & Novelty Workers, Sign Pictorial & Display, Automotive Equipment Painters Workers Union (Local 8A-28A). He was also an employer trustee of the Local 8A-28A Welfare Fund. Fabrizio conspired to facilitate a kickback scheme, whereby the TPA of the Welfare Fund paid him $740,000 through a shell company (MAF) to secure the TPA's contract with the Fund.

This was a joint investigation with IRS, OLMS, and EBSA. *United States* v. *Robert Fabrizio* (E.D. New York)

Company Owners Plead Guilty to Embezzlement from an Employee Benefit Fund

Greg Fucci Sr. and his son, Greg Fucci Jr., owners of multiple contracting companies, pled guilty on December 16, 2011, to embezzlement from an employee benefit plan. As part of the plea agreement, they will pay more than $885,000 as a forfeiture to the International Union of Painters and Allied Trades (IUPAT) District Council 9 Benefit Funds.

Between 2005 and 2011, the Fuccis paid union painters a portion of their salaries off the books and without benefits. These acts were in violation of the CBA between IUPAT District Council 9 and the Fuccis' contracting companies.

Throughout this period, the Fuccis reported to District Council 9 that each union painter worked approximately 21 hours per week (the minimum necessary to qualify for health care benefits). In fact, the painters regularly worked in excess of 40 hours per week. As a result, the Fuccis did not contribute to the District Council 9 Benefit Funds for the hours that each union painter worked in excess of the reported 21 hours.

The under-reporting of hours prevented the accurate collection of contributions and caused the required ERISA filings by the District Council 9 Benefit Funds to be fraudulent. Through this scheme, the Fuccis were able to personally enrich themselves at the expense of the District Council 9 Benefit Funds and IUPAT members.

This was a joint investigation with FBI and EBSA. *United States* v. *Greg Fucci Sr. et al.* (S.D. New York)

Contractor Pleads Guilty to Filing False Reports

Christina Tharpe, a former construction company president, pled guilty on December 21, 2011, to providing false statements on documents required by ERISA. Tharpe's company, Tharpe-Ferraro, Inc. (TFI), had a CBA with Local 5 of the International Union of Bricklayers & Allied Craftworkers (BAC). TFI was contracted by another construction company to perform brick masonry and concrete services on a development of approximately 60 townhouses. As part of the CBA, TFI was required to contribute money to the BAC Benefit Fund based upon the hourly rate and the hours worked per employee. The information contained in the monthly remittance forms is used by the benefit fund to certify its annual reporting obligations to DOL.

Tharpe submitted false remittance forms for three months. She identified only two of the many employees who worked on the contract during that period, depriving the BAC Benefit Fund of approximately $70,000 in contributions. Tharpe also provided a no-show job to a La Cosa Nostra organized crime family member.

This was a joint investigation with FBI. *United States* v. *Christina Tharpe* (D. New Jersey)

Trucking Owner Indicted for Defrauding Teamsters Local 282

A former owner of multiple trucking companies and four other individuals were indicted on March 8, 2012. They are charged with embezzlement from ERISA-covered plans, unlawful payments, and health care fraud. The owner and his co-conspirators operated a scheme that centered on avoiding approximately $5 million in payments and contributions to the International Brotherhood of Teamsters Local 282 (Local 282) Benefit Funds.

One of the trucking companies entered into a CBA with Local 282, making it eligible for valuable trucking and demolition contracts. Once the contracts were obtained, the owner and his co-defendants conducted a substantial portion of the demolition work using nonunion companies that they controlled. This is known in the industry as "double-breasting."

The scheme allowed the defendants to under-report the number of hours worked by drivers, misclassify an employee's position (to ensure eligibility for health care benefits), underpay wages, and make reduced contributions to the Local 282 union benefit plans. In furtherance of this scheme, one of the defendants received more than $20,000 from a union trucking company and other things of value from the nonunion company and/or its representatives.

This was a joint investigation with EBSA, the U.S. Department of Transportation (DOT)–OIG, and the New York City Business Integrity Commission. (E.D. New York)

Internal Union Corruption Investigations

Our internal union investigation cases involve instances of corruption, including officers who abuse their positions of authority in labor organizations to embezzle money from union and member benefit plan accounts, and 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. Following are examples of our work in this area:

International Union Vice President Pleads Guilty to Federal Fraud and Tax Charges

Kenneth Aurecchia, a former regional vice president of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, pled guilty on January 24, 2012, to wire fraud and tax charges.

On numerous occasions, Aurecchia traveled to conferences and attended functions related to his various union positions, and fraudulently applied for and obtained duplicate reimbursements for related expenses totaling more than $100,000. In addition, he failed to pay $18,000 in Federal taxes. Prior to his travel, he often requested and received travel money advances from the multiple union and nonunion funds he represented. When Aurecchia returned from the trips, he would submit travel vouchers for expenses that had been previously paid via the advanced money.

This was a joint investigation with OLMS, EBSA, and IRS. *United States* v. *Kenneth Aurecchia* (D. Rhode Island)

Former County Commissioner Convicted of Racketeering and Hobbs Act Extortion

Jimmy Dimora, a former Cuyahoga County (Ohio) commissioner, was convicted on March 9, 2012, of racketeering, bribery, conspiracy, obstruction, Hobbs Act extortion, and tax evasion. The conviction stemmed from various illegal schemes, including one involving Robert Rybak, a former business manager of the Journeymen Plumbers Union Local 55. Rybak was previously sentenced on January 20, 2011, to serve two years and three months in prison.

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 the Cuyahoga County Human Resource Department. In addition, Rybak provided to Dimora other reduced-cost home improvements, meals, and entertainment, as well as political donations. On February 14, 2012, Linda Rybak was fired from her position as a program officer at the Cuyahoga County Human Resources Department.

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

Labor-Management Investigations

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

Former Illinois Governor Sentenced on Corruption Charges

Rod Blagojevich, the former Illinois governor, was sentenced on December 8, 2011, to 14 years in prison, two years of supervised release, and a fine of $20,000 with $1,800 in assessment fees. He was previously convicted of various charges, including wire fraud, two counts of attempted extortion, solicitation of a bribe, extortion conspiracy, solicitation conspiracy, and making false statements. The wire fraud conviction included two counts in which Blagojevich engaged in telephone conversations with a Service Employees International Union official. During the calls, he attempted to obtain employment for either himself or his wife with a nonprofit group in exchange for a Senate appointment. The group comprised seven unions that organized campaigns to promote unions' interests.

This was a joint investigation with FBI, IRS-CI, and USPIS. *United States* v. *Blagojevich* (N. D. Illinois)

Former Laborers' President Sentenced for Receiving Prohibited Payments from Employers

Joseph Pavone, a former Laborers Local 560 president, was sentenced on January 19, 2012, to two years of probation, ordered to pay a $1,000 fine, and ordered to pay more than $6,000 in restitution, including more than $3,800 to Brandeis University. Pavone pled guilty on October 19, 2011, to requesting and receiving prohibited payments from employers. From 2007 to 2009, Pavone was employed as a laborer for a general contractor renovating facilities and dormitories at Brandeis University. As the designated union shop steward at the site, he was entitled to work any available overtime hours covered by the CBA.

Pavone received prohibited payments (from three different subcontractors) for hours that he did not work. For instance, he directed one subcontractor's construction foreman to include overtime hours for him (Pavone) when other laborers worked overtime. In another instance, he was compensated for three days of work from a subcontractor for times when he also received pay from his employer (the general contractor). Pavone was also paid by another subcontractor for one-half hour of overtime each day, rather than having that subcontractor make the overtime work available to him.

This was a joint investigation with OLMS. *United States* v. *Joseph Pavone* (D. Massachusetts)

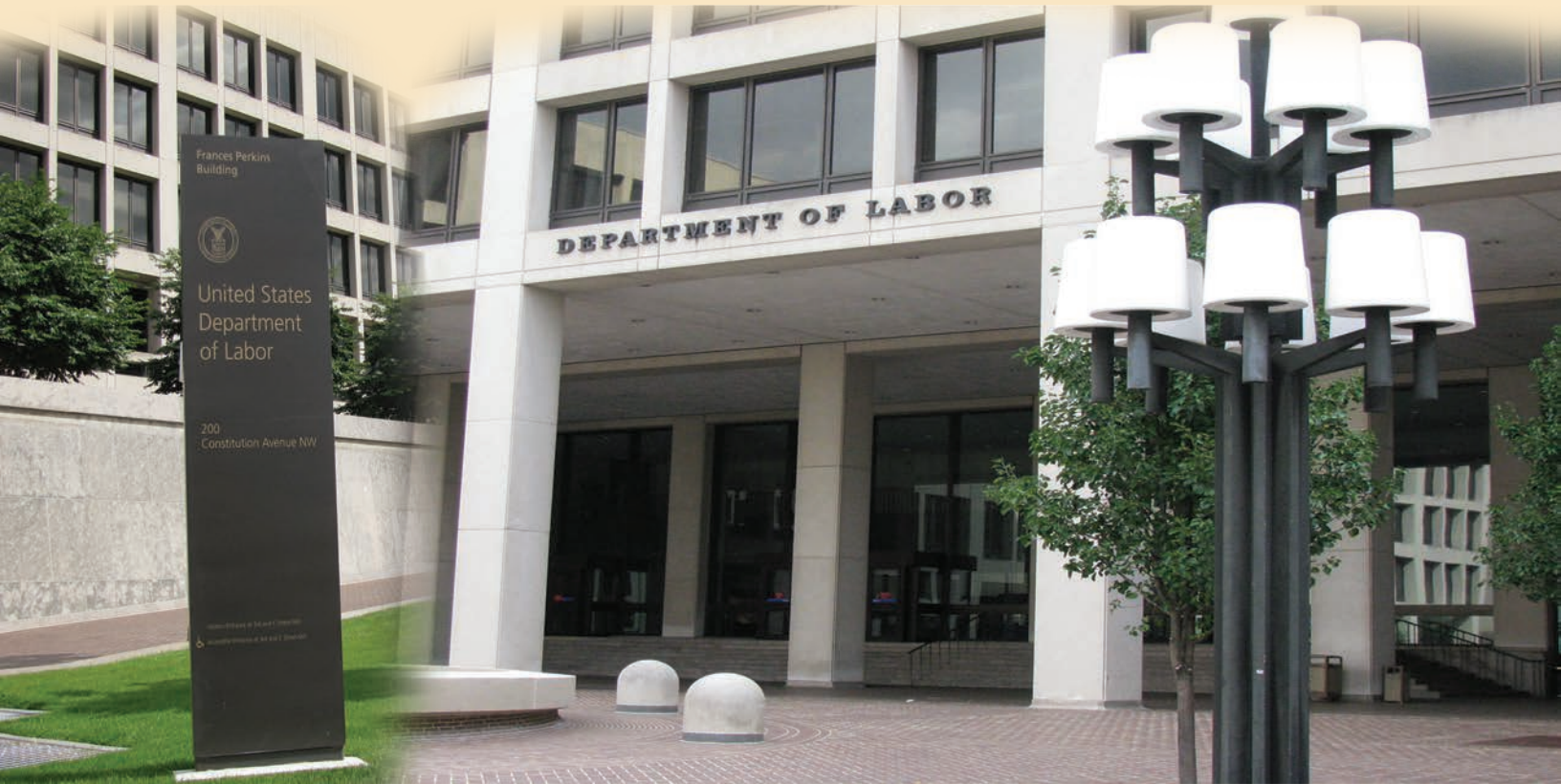
Longshoreman Local Union President Sentenced to Pay More Than $216,000 in Restitution

Frank Rago, a former International Longshoremen's Association (ILA) Local 1604 president and international representative, was sentenced on October 3, 2011, to one year in prison and three years of supervised release after being convicted in January 2010 of falsification of documents required by ERISA and receipt of unlawful labor payments. He was also ordered to pay more than $216,000 in restitution and $10,000 in forfeiture.

Upon being appointed as an ILA representative in 2001, Rago arranged a no-show job with a Local 1604 employer. The no-show job enabled Rago to continue receiving his line handler salary without working. Rago directed the employer to make deductions from the wage earnings of the Local 1604 members in order to finance his no-show salary.

This was a joint investigation with OLMS. *United States* v. *Frank Rago* (D. Massachusetts)

Departmental Management



Department Oversight Needs to Be Strengthened to Minimize Procurement Risk

Acquisition authority within DOL is decentralized among several agencies. Recent OIG reports of two agencies' procurement activity found that they could not demonstrate that their procurement processes had complied with the Federal Acquisition Regulation (FAR). Furthermore, the OIG has raised these concerns about the Department's procurement program in our annual Top Management Challenges report for several years, and they remain a concern for the OIG.

We conducted a performance audit to determine to what extent the Department ensured that contracts were awarded based on the best value to the government and contract modifications were issued within the terms of the initial contracts. Our audit found the following:

- Our review of 67 contracts awarded in FY 2010 found that DOL could not demonstrate through documentation that component agencies had awarded 4 contracts based on the best value to the government. Component agencies could not demonstrate price reasonableness for three of these contracts. The fourth contract did not have documentation to justify the contractor selected. Based on our sample, we estimated there could be as much as $1.3 million out of $58.8 million in our universe of contracts that may have similar documentation problems.

- Our review of 68 contract modifications issued in FY 2010 found that DOL could not produce documentation that ensured component agencies had issued 5 contract modifications within the scope of work and terms of the initial contracts. Component agencies exceeded the contract ceiling for four of these contract modifications, one of which contained neither a clear statement of work nor evidence of a price reasonableness determination. For the fifth contract, the component agency issued the modification for work performed at the direction of a program office without the contracting officer's knowledge or consent. Based on our sample results, we estimated as much as $21.8 million out of $183 million in our universe of contract modifications may have similar problems.

- We identified 23 sole-source contracts with no documented support that component agencies had obtained required conflict-of-interest certifications. Without this certification, there is a risk that an undisclosed business or personal relationship could exist between officials involved in the procurement and the contractor.

- For 24 contracts and contract modifications, documentation was lacking to demonstrate procurement officials had checked the Excluded Parties List System (EPLS) for suspended or debarred contractors prior to award.

Although we were able to determine that the Department did not award any of the sampled contracts to suspended or debarred contractors, because of the lack of documentation by the Department, we were unable to determine if all of the contracts reviewed were properly awarded for the reasons cited above.

Our audit also found that DOL had not updated its procurement regulations and guidance since 2008, and had not developed detailed and standardized procedures for EPLS, higher-level review, and conflict of interest. Furthermore, the Senior Procurement Executive's monitoring of DOL procurement activities through its procurement management reviews lacked Department-wide coverage. The Department did not agree that the reviews lacked Department-wide coverage, pointing out that it had conducted 19 reviews since 2001 on a rotational and risk-based basis. However, 14 of the 19 reviews were conducted prior to FY 2007. Furthermore, no review has been done of the Office of the Assistant Secretary for

Administration and Management's (OASAM's) Office of Procurement Services, which has the largest volume of contracting activity in the Department.

We recommended that OASAM update DOL's procurement regulations and guidance and develop detailed and standardized procurement procedures using *Standards for Internal Control in the Federal Government* and input from component agency officials. The Department agreed to take appropriate action to update Department-wide procurement policies and procedures. However, it did not agree with our assessment of the potential risk to the integrity of the procurement process, emphasizing that the findings were primarily documentation issues and there were no findings of procurement abuse or improperly awarded contracts. Adequate documentation is critical to the Department's efforts to ensure controls have been followed. Without it, the Department is at risk of improperly awarding contracts. (Report No. 17-12-002-07-711, March 30, 2012)

Significant Deficiencies Persist in the Department's Information Technology Security Program

DOL systems contain vital, sensitive information that is central to the Department's mission and to the effective administration of its programs. DOL systems are used to determine 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.

As required by the Federal Information Security Management Act (FISMA), the OIG conducted an independent audit to determine whether the Department was meeting requirements. We assessed the effectiveness of selected management, operational, and technical information technology (IT) security controls in place for eight major information systems within five DOL agencies. In addition, we considered work performed by the OIG and external auditors, which included the OIG's financial statement audit work and performance audits of IT remediation.

Our audit found that DOL and its agencies were not meeting IT security controls required by OMB and FISMA. Specifically, we identified significant deficiencies related to access controls, background investigations, and oversight of third-party systems.

Access Controls—Access controls have been reported as significant deficiencies for the past six years. In FY 2011, we identified 68 access control findings and an additional 70 recommendations from FY 2010 and earlier that had not yet been implemented. These identified access control weaknesses could compromise the integrity of information presented in DOL systems and present opportunities for fraud and misuse.

Background Investigations—A background investigation is a key control element to ensure that individuals hired do not pose a threat to the physical security of personnel and information systems. Risks resulting from the lack of background investigations on Federal employees and contractors supporting DOL systems have been consistently identified since 2008. In FY 2011, we found that background investigations had not been initiated for 98 of 274 individuals in our sample.

Oversight of Third-Party Systems—Insufficient oversight of third-party systems remains a significant deficiency, which has been reported since FY 2009. Weaknesses in third-party oversight led to issues in the areas of access controls and of identity and access management in two of the systems we tested.

Correcting identified deficiencies in a timely manner is an integral part of management accountability. The Department has made progress in closing OIG

recommendations to remediate IT security deficiencies. We found that almost 99 percent of the prior-year IT security recommendations tested had been implemented successfully. However, the Department did not always close them in a timely manner. Overall, DOL agencies averaged more than one year to close recommendations, and four recommendations took more than six years to close. Furthermore, the Department did not always prioritize recommendations according to risk, or use an accurate and complete plan of actions and milestones for tracking remediation efforts.

We recommended that OASAM create a plan of action and milestones with the highest priority for addressing the significant deficiencies in the areas of access controls, background investigations, and oversight of third-party systems. We also recommended that OASAM communicate to component agencies the importance of prioritizing corrective action plans to ensure that IT security deficiencies are corrected in a timely manner. OASAM agreed to take appropriate actions in response to our recommendations. OASAM did not agree that the findings and risks reported rise to the level of seriousness contemplated by the term significant deficiency. Nevertheless, OASAM agreed that the reported issues should be mitigated and agreed to take appropriate actions in response to our recommendations. (Report No. 23-001-01-001, October 20, 2011; Report No. 23-12-002-07-001, March 19, 2012; and Report No. 23-12-003-07-001, March 30, 2012)

DOL Needs to Immediately Take Corrective Action to Safeguard Information Technology Equipment

We are currently conducting an audit to determine if DOL and its component agencies are effectively sanitizing excess IT media before transfer or disposal. During our initial testing, we identified IT equipment ready for imminent disposal that still contained government business information and personal documents. We also identified improper handling of equipment during the sanitization process and inaccurate recording of the equipment in property management records. Given those results, it was evident that the Department was not ensuring sanitization of IT equipment prior to disposal, thus leaving itself at risk of releasing sensitive data, including PII. We issued an alert report recommending that the Department immediately stop disposal of any IT equipment Department-wide until it can ensure that 100 percent of the equipment has been properly sanitized. OASAM agreed to temporarily stop all outgoing shipments of IT equipment for disposal and to take the necessary corrective actions to safeguard data contained on IT equipment during its transfer to the contractor that is providing IT destruction services. (Report No. 23-12-005-07-001, March 1, 2012)

Consolidated Financial Statements Audit

The OIG contracted to audit the Department's annual consolidated financial statements. The Department received an unqualified opinion, which means that DOL's financial statements were presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles.

In considering internal control over financial reporting, three deficiencies were identified that were considered to be material weaknesses and two deficiencies that were considered to be significant deficiencies. All of the following deficiencies had been reported in one or more prior years:

Material Weaknesses

1. Lack of Sufficient Controls over Financial Reporting

The Department experienced significant issues related to financial reporting in FY 2010 as a result of implementing its new accounting and reporting system, the New Core Financial Management System. Although DOL has made substantial improvements in its financial reporting processes, there continued to be certain control deficiencies in FY 2011, including those related to the

reconciliation of data and financial processes. The Office of the Chief Financial Officer did not agree that the level of the deficiencies related to financial reporting and budgetary accounting continued to be at the material weakness level as of September 30, 2011.

2. Lack of Sufficient Controls over Budgetary Accounting

In FY 2010, the Department encountered significant issues in accounting for its budgetary resources and their related status. Substantial improvements were made in DOL's budgetary accounting in FY 2011. However, certain control deficiencies were identified related to areas including budgetary reconciliations that either were not performed timely, or were not performed at all for the first two quarters, and inadequate monitoring of undelivered orders to determine if they should be deobligated in the general ledger in the first quarter. The Office of the Chief Financial Officer did not agree that the level of the deficiencies related to financial reporting and budgetary accounting continued to be at the material weakness level as of September 30, 2011.

3. Lack of Sufficient Security Controls over Key Financial and Support Systems

FY 2011 testing of significant DOL financial and support systems in four component agencies determined that security control deficiencies continued to be systemic across DOL agencies. These weaknesses, which were the result of DOL agencies, not investing the necessary level of effort and resources to ensure that IT policies and procedures were operating effectively, were classified into the following four categories: account management, system access settings, system audit logs reviews, and vulnerability management. Collectively they posed a significant risk to DOL data integrity, which could impact the Department's ability to accurately and timely perform financial reporting duties. The Department, in its response, did not agree that the identified issues rose to the level of a Department-wide significant deficiency. Nonetheless, the Department agreed that the identified issues should be mitigated and provided a plan of actions to address them with the respective DOL agencies.

Significant Deficiencies

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

Testing of 170 journal entries recorded in the first two quarters resulted in 51 for which supporting documentation was not adequate to determine whether the journal entries were recorded in the proper period, represented a valid economic event, or were recorded in accordance with the U.S. Standard General Ledger (USSGL). Also identified were 46 instances of exceptions with the remaining 119 journal entries, such as entries that were either not recorded in accordance with the USSGL and applicable Federal accounting standards, or were not recorded in the proper period. It was found that the Office of the Chief Financial Officer updated its policies and procedures related to journal entries in June 2011, which resulted in improvements during third- and fourth-quarter testing, although some of the same exceptions were identified with the earlier testing.

2. Weakness Noted over Payroll Accounting

In FY 2011, DOL used the U.S. Department of Agriculture's National Finance Center (NFC) to process its payroll. As in prior years, weaknesses were identified in the Department's payroll accounting controls related to payroll / time and attendance reconciliation reports and the reconciliation between the general ledger and the payroll reports that NFC provided. The testing of 23 payroll / time and attendance reconciliation reports identified exceptions, including nine instances in which the DOL human resources (HR) offices did not provide the requested reports and 10 instances in which the HR offices did not review the reports in a timely manner.

In response to the findings related to journal entries and payroll accounting, the Department has initiated corrective actions to address our recommendations. (Report No. 22-12-002-13-001, November 15, 2011)

Single Audits

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.

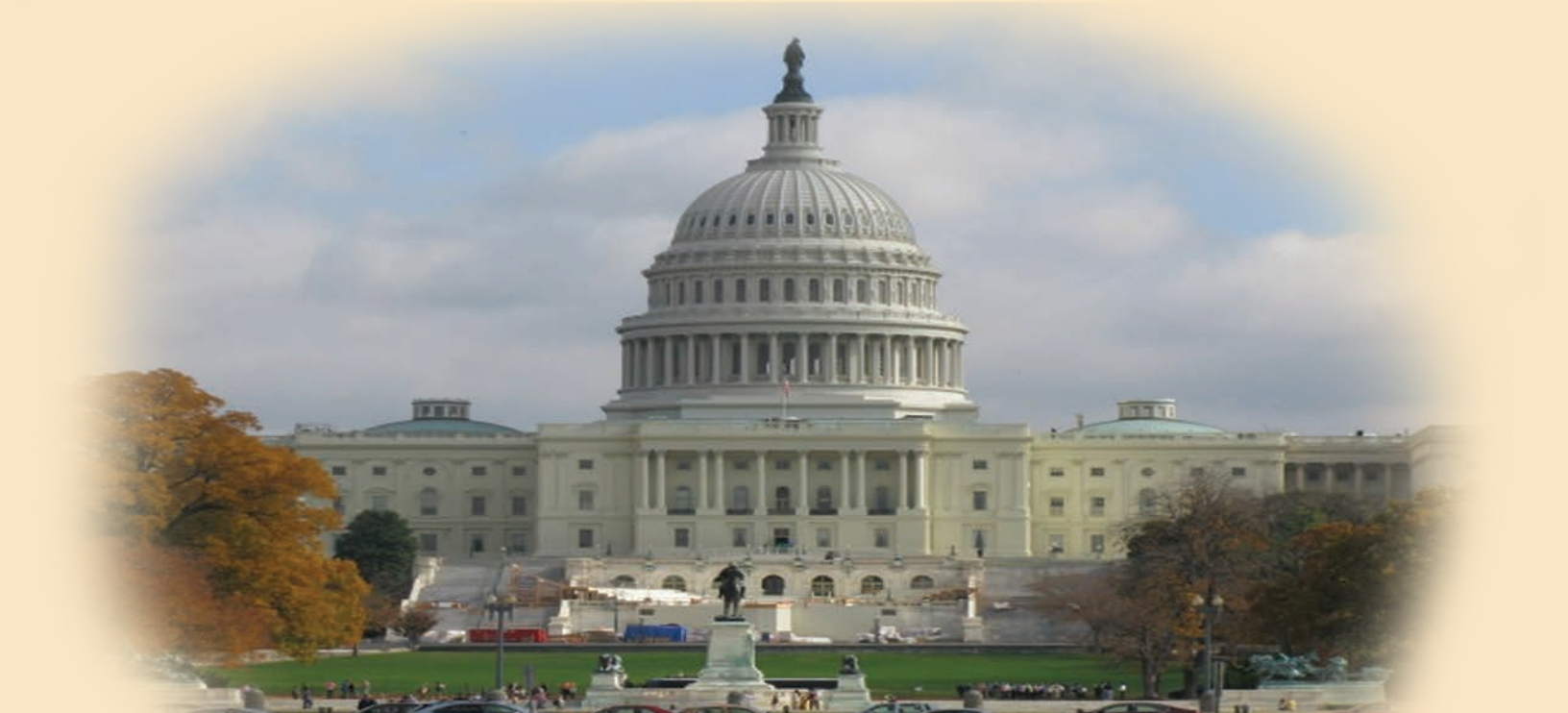
Single Audits Identify Material Weaknesses and Significant Deficiencies in 47 of 107 Reports

We reviewed 107 single audit reports this period, covering DOL expenditures of almost $31 billion during audit years 2010 through 2011. These expenditures included more than $11 billion related to Recovery Act funding. The non-Federal and state auditors issued 20 qualified or adverse opinions on awardees' compliance with Federal grant requirements, their financial statements, or both. In particular, the auditors identified 144 findings and more than $800,000 in questioned costs in 47 of the 107 reports reviewed. The findings were identified as material weaknesses or significant deficiencies, indicating serious concerns about the auditees' ability to manage DOL funds and comply with the requirements of major grant programs. We reported these 144 findings and 166 related recommendations to DOL managers for corrective action. Not correcting these deficiencies could lead to future violations and improper charges.

Recipients expending more than $50 million a year in Federal awards are assigned a cognizant Federal agency for audit, and the cognizant agency is responsible for conducting or obtaining quality control reviews of selected A-133 audits. In FY 2010, DOL was the cognizant agency for 16 recipients.

During the period, we conducted a quality control review of the Michigan Department of Energy, Labor, and Economic Growth single audit and supporting audit documentation. The purpose of this review 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 this review, we found the audit work performed was generally acceptable and met the requirements of the Single Audit Act and OMB Circular A-133.

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 UI, FECA, and DUA, the Department and the OIG need legislative authority to easily and expeditiously access state UI wage records, SSA wage records, and employment information from the National Directory of New Hires (NDNH), which is maintained by the Department of Health and Human Services.

By cross-matching UI claims against NDNH data, states can better detect overpayments to UI claimants who have gone back to work but who continue to collect UI benefits. However, the law (42 U.S.C. 653 (i)) does not permit DOL or the OIG access to the NDNH. Moreover, access to SSA and UI data would allow the Department to measure the long-term impact of employment and training services on job retention and earnings. Outcome information of this type for program participants is otherwise difficult to obtain.

Amend Pension Protection Laws

Legislative changes to ERISA and criminal penalties for ERISA violations would enhance the protection of assets in pension plans. To this end, the OIG recommends the following:

- **Expand the authority of EBSA to correct substandard benefit plan audits and ensure that auditors with poor records do not perform additional plan audits.** Changes should include providing EBSA with greater enforcement authority over registration, suspension, and debarment, and the ability to levy civil penalties against employee benefit plan auditors. The ability to correct substandard audits and take action against auditors is important because benefit plan audits help protect participants and beneficiaries by ensuring the proper value of plan assets and computation of benefits.

- **Repeal ERISA's limited-scope audit exemption.** This provision excludes pension plan assets invested in financial institutions such as banks and savings and loans from audits of employee benefit plans. The limited audit scope prevents independent public accountants who are auditing pension plans from rendering an opinion on the plans' financial statements in accordance with professional auditing standards. These "no opinion" audits provide no substantive assurance of asset integrity to plan participants or the Department.

- **Require direct reporting of ERISA violations to DOL.** Under current law, a pension plan auditor who finds a potential ERISA violation is responsible for reporting it to the plan administrator, but not directly to DOL. To ensure that improprieties are addressed, we recommend that plan administrators or auditors be required to report potential ERISA violations directly to DOL. This would ensure the timely reporting of violations and would more actively involve auditors in

safeguarding pension assets, providing a first line of defense against the abuse of workers' pension plans.

- **Strengthen criminal penalties in Title 18 of the United States Code.** Three sections of U.S.C. Title 18 serve as the primary criminal enforcement tools for protecting pension plans covered by ERISA. Embezzlement or theft from employee pension and welfare plans is prohibited by Section 664; making false statements in documents required by ERISA is prohibited by Section 1027; and giving or accepting bribes related to the operation of ERISA-covered plans is prohibited by Section 1954. Sections 664 and 1027 subject violators 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 WIA Program Through Reauthorization

The reauthorization of the WIA provides an opportunity to revise WIA programs to better achieve their goals. Based on our audit work, the OIG recommends the following:

- **Improve state and local reporting of WIA obligations.** A disagreement between ETA and the states about the level of funds available to states drew attention to the way WIA obligations and expenditures are reported. The OIG's prior work in nine states and Puerto Rico showed that obligations provide a more useful measure for assessing states' WIA funding status if obligations accurately reflect legally committed funds and are consistently reported.

- **Modify WIA to encourage the participation of training providers.** WIA participants use individual training accounts to obtain services from approved eligible training providers. However, performance reporting and eligibility requirements for training providers have made some potential providers unwilling to serve WIA participants.

- **Support amendments to resolve uncertainty about the release of WIA participants' personally identifying information for WIA reporting purposes.** Some training providers are hesitant to disclose participant data to states for fear of violating the Family Education Rights and Privacy Act.

- **Strengthen incumbent worker guidance to states.** Currently, no Federal criteria define how long an employer must be in business or an employee must be employed to qualify as an incumbent worker, and no Federal definition of "eligible individual" exists for incumbent worker training. Consequently, a state could decide that any employer or employee can qualify for a WIA-funded incumbent worker program.

Improve the Integrity of the FECA Program

The OIG believes reforms should be considered to improve the effectiveness and integrity of the FECA program in the following areas:

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

Clarify MSHA's Authority to Issue Verbal Mine Closure Orders

The Mine Safety and Health Act of 1977 (Mine Act) charges the Secretary of Labor with protecting the lives and health of workers in coal and other mines. To that end, the Mine Act contains provisions authorizing the Secretary to issue mine closure orders. Specifically, Section 103(j) states that in the event of any accident occurring in a coal or other mine where rescue and recovery work is necessary, the Secretary or an authorized representative of the Secretary shall take whatever action he deems appropriate to protect the life of any person. Under Section 103(k), the Act states that an authorized representative of the Secretary, when present, may issue such orders as he deems appropriate to insure the safety of any person in the coal or other mine.

The primary purpose of the Mine Act is to give the Secretary the authority to take appropriate action—including ordering a mine closure—to protect lives. As such, the OIG recommends a technical review of the existing language under Section 103(k) to ensure that MSHA's long-standing and critically important authority to take whatever actions may be necessary, including issuing verbal mine closure orders, to protect miner health and safety is clear and not vulnerable to challenge.

Appendices

Appendix

Reporting requirements under the following acts:

Inspector General Act of 1978

REPORTING	REQUIREMENT	PAGE
Section 4(a)(2)	Review of Legislation and Regulation	50
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	62
Section 5(a)(4)	Matters Referred to Prosecutive Authorities	63
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	57
Section 5(a)(7)	Summary of Significant Reports	ALL
Section 5(a)(8)	Statistical Tables on Management Decisions on Questioned Costs	56
Section 5(a)(9)	Statistical Tables on Management Decisions on Recommendations That Funds Be Put to Better Use	56
Section 5(a)(10)	Summary of Each Audit Report over Six Months Old for Which No Management Decision Has Been Made	62
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

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

Section 3(d)	Peer Review	64

American Recovery and Reinvestment Act of 2010

Section 1553(b)(2)(B)(iii)	Whistleblower Reporting	65

OIG Congressional Testimony

During this semiannual period, the OIG testified twice before congressional committees. The full text of our testimony is available on our Web site at http://www.oig.dol.gov/testimony.htm.

- March 27, 2012—House Committee on Education and the Workforce
  Howard L. Shapiro, Counsel to the Inspector General, testified on the OIG's report of inquiry regarding allegations of retaliation and intimidation related to the Upper Big Branch mine accident investigation.

- November 2, 2011—House Committee on Oversight and Government Reform, Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending
  Elliot P. Lewis, Assistant Inspector General for Audit, testified on the OIG's audit of the Department's Green Jobs Program.

Funds Put to a Better Use

Funds Put to a Better Use Agreed to by DOL	Number of Reports	Dollar Value ($ millions)
For which no management decision had been made as of the commencement of the reporting period	4	677.1
Issued during the reporting period	2	2,150.7
Subtotal	6	2,827.8
For which management decision was made during the reporting period:		
• Dollar value of recommendations that were agreed to by management	3	553.1
• 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	3	2,274.7

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	15.2
For which management or appeal decisions were made during the reporting period	3	553.1
Subtotal	7	568.3
For which final action was taken during the reporting period:		
• Dollar value of recommendations that were actually completed	3	497.6
• 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	4	70.7

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)	28	16.3
Issued during the reporting period	16	6.2
Subtotal	44	22.5
For which a management decision was made during the reporting period:		
• Dollar value of disallowed costs		6.3
• Dollar value of costs not disallowed		2.0
For which no management decision had been made as of the end of the reporting period	25	14.2
For which no management decision had been made within six months of issuance	10	9.0

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)	55	28.9
For which management or appeal decisions were made during the reporting period	13	6.2
Subtotal	68	35.1
For which final action was taken during the reporting period:		
• Dollar value of disallowed costs that were recovered		0.0
• Dollar value of disallowed costs that were written off by management		0.0
• Dollar value of disallowed costs that entered appeal status		
For which no final action had been taken by the end of the reporting period	64	35.1

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				
Consolidated Financial Statements Audit of ETA's E-Grants System, Unemployment Insurance Data; Report No. 22-12-011-03-001; 02/22/12	3	0	0	0
Job Corps Program				
Management & Training Corporation Did Not Ensure Best Value in Awarding Subcontracts at the Paul Simon Job Corps Center; Report No. 26-12-002-03-370; 03/30/12	5	1,325,612	0	0
Management & Training Corporation Did Not Ensure Best Value in Awarding Subcontracts at the Clearfield Job Corps Center; Report No. 26-12-003-03-370; 03/30/12	5	3,036,067	0	0
Bureau of Labor Statistics				
BLS Controls over Training Data Collection Workers Need Strengthening; Report No. 17-12-004-11-001; 03/30/12	2	0	0	0
Goal Totals (4 Reports)	**15**	**4,361,679**	**0**	**0**
Worker Benefit Programs				
Unemployment Insurance Service				
Recovery Act: ETA Is Missing Opportunities to Collect Billions of Dollars in Overpayments Pertaining to Federally-Funded Emergency Benefits; Report No. 18-12-001-03-315; 01/31/12	3	0	2,150,000,000	0
Federal Employees' Compensation Act				
OWCP'S Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses; Report No. 03-12-001-04-431; 02/15/12	5	0	690,000	0
Audit of Federal Employees' Compensation Act, Durable Medical Equipment Payments; Report No. 03-12-002-04-431; 03/26/12	4	68,546	0	0
Special Report Relating to the Federal Employees' Compensation Act Special Fund; Report No. 22-12-001-04-431; 11/02/11	0	0	0	0
Longshore and Harbor Workers' Compensation				
Longshore and Harbor Workers' Compensation Act Special Fund Financial Statements and Independent Auditors' Report; Report No. 22-12-004-04-432; 03/01/12	2	0	0	0
District of Columbia Workers' Compensation Act Special Fund Financial Statements and Independent Auditors' Report; Report No. 22-12-005-04-432; 03/01/12	2	0	0	0
Office of Workers' Compensation Programs				
Consolidated Financial Statements 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	0	0
Goal Totals (7 Reports)	**18**	**68,546**	**2,150,690,000**	**0**
Worker Safety, Health, and Workplace Rights				
Mine Safety and Health				
MSHA Needs to Improve Its Civil Penalty Collection Practices; Report No. 05-12-001-06-001; 11/18/11	4	0	0	0

Final Audit Reports Issued, continued

Occupational Safety and Health				
Federally Operated Whistleblower Protection Program Cost; Report No. 22-12-014-10-105; 01/20/12	0	0	0	0
Foreign Labor Certification				
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	0	0
Goal Totals (3 Reports)	**7**	**0**	**0**	**0**
Departmental Management				
Office of the Assistant Secretary for Administration and Management				
Consolidated Financial Statements 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	0	0
DOL Successfully Implementing Outstanding Recommendations, but Timeliness and Accuracy Are Issues; Report No. 23-12-003-07-001; 03/30/12	1	0	0	0
Department Oversight Needs to Be Strengthened to Minimize Procurement Risk; Report No. 17-12-002-07-711; 03/30/12	1	0	0	0
Office of the Chief Financial Officer				
Fiscal Year 2011 Independent Auditor's Report on the DOL Consolidated Financial Statements; Report No. 22-12-002-13-001; 11/14/11	35	0	0	0
Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements for the Year Ended September 30, 2011; Report No. 22-12-006-13-001; 03/29/12	21	0	0	0
Consolidated Financial Statements Audit of OCFO's New Core Financial Management System and PeoplePower; Report No. 22-12-009-13-001; 02/22/12	2	0	0	0
Goal Totals (6 Reports)	**63**	**0**	**0**	**0**
Final Audit Report Totals (20 Reports)	**103**	**4,430,225**	**2,150,690,000**	**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 Michigan Department of Energy, Labor and Economic Growth for October 1, 2008, through September 30, 2010; Report No. 18-12-004-03-390; 03/16/12	0	0
Goal Totals (1 Reports)	**0**	**0**
Departmental Management		
Office of the Secretary		
OIG Results for DOL's FY 2011 Federal Information Security Management Act Reporting; Report No. 23-12-001-01-001; 10/20/11	0	0
Office of the Assistant Secretary for Administration and Management		
Federal Information Security Management Act Departmental Security Issues; Report No. 23-12-002-07-001; 03/19/12	2	0
Alert Memorandum: DOL Needs to Immediately Take Corrective Action to Safeguard Information Technology Equipment; Report No. 23-12-005-07-001; 03/01/12	1	0
Office of the Chief Financial Officer		
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	2	0
Goal Totals (4 Reports)	**5**	**0**
Other Report Totals (5 Reports)	5	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			
Career and Recovery Resources, Inc.; Report No. 24-12-534-02-201; 01/30/12	2	0	0
Vietnam Veterans of San Diego dba Veterans Village of San Diego; Report No. 24-12-545-02-201; 3/19/12	1	0	0
Goodwill Industries of Greater Grand Rapids, Inc.; Report No. 24-12-548-02-201; 03/19/12	1	40,000	0
Older Workers Program			
Experience Works, Inc.; Report No. 24-12-526-03-360; 01/10/12	3	261,465	0
The Workplace, Inc.; Report No. 24-12-535-03-360; 01/30/12	2	0	0
National Council on Aging, Inc.; Report No. 24-12-538-03-360; 02/07/12	1	0	0
Farmworker Programs			
La Cooperativa Campesina de California; Report No. 24-12-501-03-365; 11/30/11	1	0	0
Mississippi Delta Council for Farmworkers Opportunities, Inc.; Report No. 24-12-504-03-365; 11/30/11	3	0	0
NAF Multicultural Human Development Corporation; Report No. 24-12-506-03-365; 12/01/11	4	0	0
Oregon Human Development Corporation; Report No. 24-12-549-03-365; 03/19/12	2	14,850	0
Workforce Investment Act			
YMCA of Middle Tennessee; Report No. 24-12-502-03-390; 11/30/11	1	0	0
Bluegreen Alliance Foundation; Report No. 24-12-503-03-390; 11/30/11	2	0	0
Anne Arundel Workforce Development Corporation; Report No. 24-12-507-03-390; 12/16/11	3	0	0
Labor's Community Agency, Inc.; Report No. 24-12-508-03-390; 12/02/11	2	0	0
AFL-CIO Workers for America Institute, Inc.; Report No. 24-12-509-03-390; 01/10/12	2	0	0
Garfield Jubilee Association, Inc.; Report No. 24-12-510-03-390; 12/09/11	3	815	0
East Harlem Employment Services, Inc.; Report No. 24-12-511-03-390; 12/09/11	17	0	0
Utility Workers' Union of America; Report No. 24-12-512-03-390; 12/12/11	2	0	0
Institute for Career Development, Inc.; Report No. 24-12-515-03-390; 12/12/11	12	0	0
State of South Carolina; Report No. 24-12-516-03-390; 12/9/11	2	30,049	0
East Central Community College; Report No. 24-12-518-03-390; 12/16/11	1	0	0
Living Classrooms Foundation; Report No. 24-12-520-03-390; 12/16/11	1	0	0
Western Governors University; Report No. 24-12-521-03-390; 12/16/11	1	0	0
High Plains Community Development Corporation; Report No. 24-12-522-03-390; 01/10/12	3	0	0
Austin Electrical Joint Apprenticeship Training Committee C-NEST; Report No. 24-12-523-03-390; 01/05/12	2	0	0
Berea's Children's Home and Family Services; Report No. 24-12-524-03-390; 01/05/12	3	0	0
Workforce Development Council Snohomish County; Report No. 24-12-525-03-390; 01/05/12	1	0	0
Jefferson Community College; Report No. 24-12-528-03-390; 1/13/12	2	28,554	0

Single Audit Reports Processed, continued

Neighborhoods Inc., dba Neighborworks Lincoln; Report No. 24-12-529-03-390; 01/30/12	3	1,410	0
Oakland Community College; Report No. 24-12-530-03-390; 02/15/12	4	0	0
Cincinnati State Technical and Community College; Report No. 24-12-531-03-390; 01/30/12	1	0	0
Talbert House, Inc.; Report No. 24-12-533-03-390; 01/30/12	3	1,045	0
Project Return, Inc.; Report No. 24-12-536-03-390; 01/30/12	2	0	0
Town of Guadalupe; Report No. 24-12-537-03-390; 02/07/12	1	0	0
Republic of Palau National Government; Report No. 24-12-539-03-390; 02/07/12	4	14,801	0
Spanish Speaking Unity Council of Alameda County, Inc.; Report No. 24-12-541-03-390; 02/15/12	1	0	0
Central Vermont Community Action Council; Report No. 24-12-542-03-390; 02/15/12	1	0	0
Way Station, Inc. & Subsidiary; Report No. 24-12-543-03-390; 02/15/12	1	0	0
Human Resources and Occupational Development Council; Report No. 24-12-547-03-390; 03/19/12	2	0	0
Goal Totals (39 Reports)	**103**	**392,989**	**0**
Worker Benefit Programs			
Unemployment Insurance Service			
Government of the U.S. Virgin Islands; Report No. 24-12-500-03-315; 11/30/11	10	285,596	0
State of Illinois; Report No. 24-12-505-03-315; 12/02/11	9	13,857	0
Commonwealth of Pennsylvania; Report No. 24-12-513-03-315; 12/09/11	6	91,320	0
State of Utah; Report No. 24-12-519-03-315; 12/16/11	1	30,202	0
State of New York; Report No. 24-12-527-03-315; 01/10/12	3	0	0
Job Service North Dakota; Report No. 24-12-532-03-315; 01/30/12	1	0	0
New Mexico Department of Workforce Solutions; Report No. 24-12-540-03-315; 02/14/12	10	0	0
Goal Totals (7 Reports)	**40**	**420,975**	**0**
Single Audit Report Totals (46 Reports)	**143**	**819,964**	**0**

Unresolved Audit Reports over Six Months Old

Agency	Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)
Nonmonetary Recommendations and Questioned Costs			
Final Management Decision/Final Determination Issued Did Not Resolve; OIG Negotiating with Agency			
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
OSHA	OSHA Needs to Evaluate 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
ETA	Los Angeles JCC Did Not Ensure Best Value in Awarding Subcontracts; Report No. 26-11-001-03-370; 03/31/11	1	2,475,460
ETA	Adams and Associates 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
ETA	ETA Did Not Ensure Best Value in Awarding Subcontracts at the Turner Job Corps Center; Report No. 26-11-003-03-370; 09/30/11	1	1,029,415
ETA	Job Corps Must Strengthen Controls to Ensure Low-Income Eligibility of Applicants; Report No. 26-11-005-01-370; 09/30/11	1	2,274,303
OWCP	OWCP Needs to Improve Its Monitoring and Managing of Defense Base Act Claims; Report No. 03-11-001-04-430; 03/23/11	2	0
ETA	Federal Information Security Management Act Audit of ETA's E-Grants System and Unemployment Insurance Database Management System; Report No. 23-11-027-03-001; 09/30/11	2	0
Final Determination Not Issued by Grant/Contracting Officer by Close of Period			
VETS	Kansas Controls over Jobs for Veterans State Grant Need to Be Strengthened; Report No. 04-11-002-02-201; 03/31/11	2	167,065
VETS	State of Louisiana; Report No. 24-11-543-02-201; 05/06/11	1	147,057
VETS	Michigan Veterans Foundation; Report No. 24-11-602-03-390; 09/15/11	1	0
Final Decision Not Issued by Agency			
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	3	0
Total Nonmonetary Recommendations, Questioned Costs		**21**	**8,981,789**
Cost-Efficiencies			
Final Determination Not Issued by Grant/Contracting Officer by Close of Period			
Final Agency Decision Not Issued			
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	124,000,000
Total Cost-Efficiencies		**1**	**124,000,000**
Other Monetary Impact			
Final Management Decision/Determination Issued by Agency Did Not Resolve; OIG Negotiating with Agency			
OSHA	OSHA Needs to Evaluate the Impact and Use of Hundreds of Millions of Dollars in Penalty Reductions as Incentives for Employers to Improve Workplace Safety and Health; Report No. 02-10-201-10-105; 09/30/10	2	318,200,000
Total Other Monetary Impact		**2**	**318,200,000**
Total Audit Exceptions, Cost-Efficiencies, and Monetary Impact		**24**	**451,181,789**

Investigative Statistics

	Division Totals	Total
Cases Opened:		332
Program Fraud	278	
Labor Racketeering	54	
Cases Closed:		242
Program Fraud	197	
Labor Racketeering	45	
Cases Referred for Prosecution:		208
Program Fraud	158	
Labor Racketeering	50	
Cases Referred for Administrative/Civil Action:		106
Program Fraud	85	
Labor Racketeering	21	
Indictments:		276
Program Fraud	204	
Labor Racketeering	72	
Convictions:		187
Program Fraud	133	
Labor Racketeering	54	
Debarments:		41
Program Fraud	19	
Labor Racketeering	21	
Recoveries, Cost-Efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions:		$256,347,995
Program Fraud	$246,082,257	
Labor Racketeering	$10,265,738	

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	$7,495,896
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	$5,472,654
Resolutions/Forfeitures: The dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations	$32,791,776
Fines/Penalties: The dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations	$538,750
Civil Monetary Actions: The dollar amount/value of forfeitures, settlements, damages, judgments, court costs, or other penalties resulting from OIG criminal investigations	$210,347,995
Total:	**$256,347,995**[1]

[1] As a direct result of a multiagency investigation into the UBB explosion, Alpha Natural Resources, Inc., and Alpha Appalachia Holdings, Inc., formerly known as Massey Energy Company, entered into a nonprosecution agreement with the U.S. Department of Justice on December 6, 2011.

Pursuant to the agreement, Alpha has committed to a settlement payment of more than $209 million, to be made as follows:

- $46 million to make restitution to the victims injured in the explosion and to each of the family members of the fallen miners;
- $80 million will be invested to improve safety remedial measures within Alpha's mines and to construct a safety training facility in West Virginia;
- $48 million to fund a trust that will be used to fund research and development projects by qualified academic institutions, not-for-profit entities, or individuals associated with either of those types of entities designed to improve mine health and safety; and
- more than $32 million to settle all outstanding MSHA citations, including those that were issued as a result of the accident investigation into the explosion.

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 DOT-OIG conducted a peer review of the system of quality control for DOL-OIG's audit function for the year ending 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 that DOL-OIG conformed to professional standards in the conduct of audits. The peer review gave DOL-OIG a pass rating and made no recommendations.

Peer Review of DOL-OIG Investigative Function

The Treasury Inspector General for Tax Administration initiated in FY 2010 a peer review of the system of internal safeguards and management procedures for DOL-OIG's investigative function for the year ending 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 referred one Recovery Act whistleblower complaint during this semiannual reporting period:

An individual submitted a complaint to the OIG claiming that she had been terminated from her position with an entity receiving Recovery Act funds immediately after she reported concerns about false reporting with respect to the eligibility of families who were receiving child care services. The OIG determined that the Recovery Act funds in question were appropriated to HHS, and the OIG forwarded the case to the HHS-OIG.

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 October 1, 2011, through March 30, 2012, the OIG Hotline received a total of 987 contacts. Of these, 596 were referred for further review and/or action.

Complaints Received (by Method Reported):	**Totals**
Telephone	510
E-Mail/Internet	338
Mail	116
Fax	23
Walk-In	0
Total	**987**
Complaints Received (by Source):	**Totals**
Complaints from Individuals or Nongovernment Organizations	917
Complaints/Inquiries from Congress	6
Referrals from GAO	13
Complaints from Other DOL Agencies	23
Complaints from Other (Non-DOL) Government Agencies	28
Total	**987**
Disposition of Complaints:	**Totals**
Referred to OIG Components for Further Review and/or Action	32
Referred to DOL Program Management for Further Review and/or Action	289
Referred to Non-DOL Agencies / Organizations	275
No Referral Required / Informational Contact	420
Total	**1,016***

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