

**U.S. Department of Labor
Office of Inspector General
Office of Audit**

BRIEFLY...

Highlights of Report Number **03-11-001-04-430**, to the Acting Director of the Office of Workers' Compensation Programs.

WHY READ THE REPORT

The Office of Inspector General (OIG) initiated an audit of the Defense Base Act of 1941, (DBA), Title 42, United States Code, Section 1651 et seq., which requires all federal government contractors (employers) and subcontractors to provide workers' compensation insurance for their employees (U.S. citizens and foreign nationals) who work outside of the United States. DBA insurance is provided by private insurers or through self insurance, and is intended to be a counterpart to domestic workers' compensation coverage. As such, it is the sole recourse for U.S. and foreign workers who suffer on-the-job injuries or death while engaged in work in foreign locations under a federal government contract. DBA is administered by the Department's Office of Workers' Compensation Programs (OWCP), Division of Longshore and Harbor Workers' Compensation (DLHWC), which is responsible for ensuring that workers' compensation benefits are provided for covered employees promptly and correctly. Benefit payments reported by insurers in Calendar Year 2009 totaled \$242 million.

WHY OIG CONDUCTED THE AUDIT

The audit objective was to answer the following question:

To what extent does OWCP ensure that employers and insurers are adhering to DBA claims-processing requirements?

The audit covered OWCP's oversight of the DBA claims process as of May 2010, excluding OWCP's involvement in resolving disputes and contested cases. We reviewed a random statistical sample of 172 of 11,247 open cases where the claimant's date of injury occurred between January 1, 2004, and December 31, 2009.

READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2011/03-11-001-04-430.pdf>.

March 2011

OWCP NEEDS TO IMPROVE ITS MONITORING AND MANAGING OF DEFENSE BASE ACT CLAIMS

WHAT OIG FOUND

Although OWCP has been proactive in addressing DBA issues at the program level as well as active in resolving disputes, we found improvements need to be made in case-file management. Our testing results for the sampled DBA cases disclosed (1) employers did not always report claimant injuries in a timely manner; (2) insurers did not always provide timely initial compensation payments and OWCP did not ensure claimants received the statutory assessment for late payments; (3) insurers did not always report the notice of final payment or suspension of payment in a timely manner; (4) OWCP did not always notify claimants within the required timeframe when their claims were controverted (objected by the employer); (5) employers or insurers did not always respond in a timely manner to OWCP requests for information; and (6) OWCP assessed penalties in less than one percent of the instances in our sampled cases in which employers and insurers did not meet DBA reporting requirements.

These conditions can be attributed to the challenges OWCP faced in administering DBA, a program that was enacted during World War II but has not been modified or adequately staffed to take into consideration the increased use of contractors and foreign nationals in the recent wars. However, we concluded that OWCP can improve its monitoring of DBA case management so that problems are identified and appropriate corrective action promptly taken. As a result, OWCP could not ensure workers injured while employed in dangerous war zones and supporting the U.S. military overseas efforts, received proper and timely workers' compensation benefits under DBA.

WHAT OIG RECOMMENDED

OIG recommended OWCP seek changes to the DBA legislation to reflect the current environment and implement changes to its case management information system to assist management and claims examiners in identifying the problems identified in this audit.

The OWCP Acting Director generally agreed with the recommendations to enhance the DBA data system and revise the DBA statute. While OWCP agreed that it did not always comply with existing regulations to enforce compliance with DBA requirements by using fines and penalties, OWCP believed that doing so would likely be counterproductive to the needs of the injured workers, the contractors, the insurance companies, and OWCP.