

Semiannual Report Office of Inspector General U.S. Department of Labor



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

October 1, 1988 - March 31, 1989



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Semiannual Report Office of Inspector General U.S. Department of Labor



U.S. Department of Labor
Elizabeth Dole, Secretary

Office of the Inspector General
J. Brian Hyland, Inspector General

October 1, 1988 - March 31, 1989

The Inspector General's Message

This is the twenty-first Semiannual Report of the U.S. Department of Labor's Office of Inspector General (OIG). I am issuing it in accordance with the provisions of the Inspector General Act of 1978 (P.L. 95-452). The Congress made clear its intent in this Act that the Inspector General should be a leading force in detecting, investigating and preventing fraud, waste, and abuse in or affecting the programs administered by this Department.

I look back with considerable satisfaction on the accomplishments of the OIG during the 6-year period since I was nominated by President Reagan to be the Inspector General. I am pleased to be associated with many well motivated employees of the Department of Labor who have contributed to these efforts, but I am especially indebted to the highly dedicated professionals and support staff of the OIG who have worked so tirelessly with what has too often been too little public appreciation of their work. They have worked to improve the management and operations of the Department of Labor, thereby saving or recovering vast sums of Federal funds and helping to convict numerous individuals for serious violations of Federal criminal laws.

During this 6-year period, OIG auditors questioned the expenditure of over \$1 billion. More than half of this was determined by the Department to have been improperly expended and recovery was sought. Over this same 6-year period, nearly 4,700 criminal indictments and 3,600 convictions resulted from our investigative work. These investigations also produced over \$100 million in fines, penalties, restitutions, settlements, recoveries, and cost efficiencies. Over this 6-year period, a good portion of this success is attributable to the history of support and cooperation that my Office has received from the Department's management and employees.

Recently, however, I fear that the OIG has been experiencing something of a significant shift that may not bode well for future cooperation in audits and investigations. Where speedy cooperation was once encouraged by top-level Department of Labor management, our requests for information or assistance are now too often subjected to a protracted delay. Today, questions about OIG authority, requests for clarifications, requests for opinions or rulings from the Solicitor or DOJ, or other such actions are routinely used to frustrate any audit or investigative activity that does not fit the current, narrow view of OIG authority that has been held by certain departmental officials.

Furthermore, I am concerned about the effectiveness of the Department's enforcement of law designed to protect the pension and benefit plans, but am heartened with the Secretary's recent statement, "Developing a sound, comprehensive pension and retirement policy is among the Department's most important responsibilities and one of my top priorities."

The Department has been entrusted with a responsibility and it must keep that trust. To paraphrase President Bush, when the Government says something, it must mean it. It must keep its word, its promise, its vow to the American people. This means enforcing the criminal as well as the civil provisions of those laws entrusted to it by the Congress and the American people.

I am hopeful that the placement of appointees in the new Administration will lead us back to a positive environment in which we all shall strive to meet the difficult challenges confronting the American worker. To be successful in this endeavor, Secretary Dole must have the benefit of the talents and energies of all of the Department's organizations and employees.

I trust that this report will, in addition, help the Secretary assure that a well balanced and effective enforcement program is one of the first steps taken to create a comprehensive pension policy. The OIG will continue to monitor and report on actions taken by DOL management to address and resolve these serious problems.



J. BRIAN HYLAND
Inspector General

SIGNIFICANT CONCERNS OF THE INSPECTOR GENERAL

Problems with ERISA Oversight

In 1987 there were approximately 870,350 private pension plans and some 4.5 million welfare plans. The private pension plans alone cover approximately 76.6 million participants, and they include assets of more than \$1,600,000,000,000 (\$1.6 trillion), or about \$7,000 for every man, woman, and child in America. This amount of funds, roughly equal to one-half the public debt, is the basis for the future economic well-being of most American workers, in their retirement. Yet, the Department of Labor's oversight of this massive amount of pension funds has been ineffective.

A report issued by the Senate Governmental Affairs Committee in April 1986 found that inadequate staffing has dangerously compromised the Department's ability to enforce the Employee Income Retirement Security Act of 1974 (ERISA). Despite this finding, and similar ones in a 1984 OIG audit report, the Department of Labor still has only about 300 auditors and investigators to examine these funds: a number that permits the annual review of less than 1 percent of the ERISA-covered benefit plans. In this vital, asset-rich area, the risk of ignoring the potential consequences of inadequate enforcement is monumental.

Perhaps foreseeing that enforcement resources would never be adequate, the framers of the law attempted to provide safeguards through provisions of ERISA that require annual reporting to the Secretary and to plan participants and beneficiaries of the financial condition of the assets of covered plans. A significant element in this "fail-safe" provision is the requirement that the annual report for all plans with over 100 participants shall include a report by an independent qualified public accountant (IPA).

ERISA Safeguards are Ineffective

In this Semiannual Report, the OIG states its concerns that these safeguards have been dissipated through a combination of permissive regulations and lax enforcement. Reports prepared by IPAs are of questionable value in monitoring benefit plan compliance with the civil and criminal provisions of Title I of ERISA and Title 18 of the U.S. Code. Although audit reports are required annually for submittal to the Department, the IPAs may omit from the scope of the audit and report any assets held in trust in a government-regulated industry such as banking, insurance, and savings and loan institutions.

As, unfortunately, has been demonstrated by the recent savings and loan crisis, government regulation of an industry does not ensure that invested assets are protected. Limited scope reviews, under ERISA, although classified as audits, do not adequately test the employee benefit plan assets. These limited scope audits also result in reports with disclaimed opinions and limited liability for the auditors. They are of little value and give no assurance of asset integrity to benefit plan participants. As the result of recent OIG audit survey work, over 50 percent of tested IPA audits were of the limited scope variety. Some of these were also of substandard quality.

**Reports are not
Useful for ERISA
Enforcement**

The OIG review disclosed that IPA-prepared reports currently are not useful for enforcement purposes because:

1. ERISA violations are rarely identified;
2. Known ERISA violations are inadequately disclosed;
3. IPA-prepared reports cannot be relied upon to meet ERISA requirements and AICPA guidelines; and
4. The IPA prepared reports are too untimely to be useful because they are provided to the DOL about 2 years after the end of the plan year.

Problems exist in the Department's ERISA management as well. For example, the DOL agency responsible for receipt and review of annual reports--including IPA audit reports--does not have a system in place that adequately recognizes when a required report is delinquent.

Thus, the situation exists in which the protection of pension and welfare plan assets hinges on provisions in the law for reporting on the financial status of the plans. But the intent of the Congress to assure adequate enforcement in large part through sound, meaningful reporting and disclosure, has not been achieved. The Congress, GAO, and OIG have all chronicled ERISA enforcement difficulties. Properly performed audits play a vital role in protecting pension funds. These independent audits could serve as an integral part of the system of controls critical to identifying and reporting on problems relating to plans. The OIG believes that legislative reconsideration is needed.

**Weak or Non-existent
Internal Controls**

The failure to adequately review plans opens the door for fraud and abuse. Weak or non-existent internal controls by the plans enable sponsors and employers to defraud the plans by understating their required contributions. Inadequate internal controls also enable plan assets to be disbursed to ineligible individuals. Inadequate examination of excessive administrative costs can result in situations where nearly half of a sponsor's contributions are siphoned off to "middlemen" or "consultants." Inadequate review by IPAs of the selection of service providers can result in conflicts of interest and kickbacks that are all too common in the benefit-plan field.

The failure to verify the existence of plan investments, assure the accuracy of current valuations, the nature of the investments, and their degree of risk can lead to plan failures. The very hearings that led to the enactment of ERISA stressed the importance of extensive reporting requirements as the primary mechanism to detect and deter waste and abuse. However, effective monitoring and enforcement does not occur because the reporting system fails to provide all essential information about the identification of prohibited transactions. As a result, the reporting system envisioned by the Congress has failed to achieve its goal of becoming the primary defense for participants' rights.

Savings and Loan Crisis Similarities

In a situation with a striking number of parallels, a recently-issued GAO report sharply criticized the public accounting profession for its failure to identify and report on significant problems in the management and operation of the savings and loan (S&L) industry. The GAO concluded that many of the S&Ls in the U.S. have failed or are now insolvent largely because of uncollectable loans resulting from risky lending practices, fraud and abuse, and poor economic conditions. Despite the importance of the audits as an oversight measure in the S&L industry, GAO found that most of the audit reports that it reviewed in its study failed to report on the S&Ls' financial or internal controls. Hence, one of the primary mechanisms available to identify potential problems was not employed. The Congressional Budget Office estimates that the cost to the American taxpayer of the S&L bailout will be over \$100 billion.

An unknown portion of the \$1.6 trillion in assets that are currently in private pension plans likewise may be at risk, for many of those same reasons. Similarly, the burden of insuring and protecting failed benefit plans will fall upon all taxpayers, not just plan beneficiaries and parties, since the Pension Benefit Guarantee Corporation is the final insurer of these plan assets. Unless steps are taken now, today's S&L bail-out may become tomorrow's ERISA nightmare.

Legislative Recommendations

Because of the absence of effective DOL monitoring and IPA reporting, the OIG is concerned about the degree to which employee benefit plan funds may be at risk to fraudulent schemes. The OIG believes that the Congress should direct attention to safeguarding the assets of this constituency that includes nearly one-third of American citizens.

ERISA, particularly Section 103(a)(3)(C), must be amended to restrict sharply any exemptions to full and complete reporting by the IPAs of the status of employee benefit plan assets.

ERISA must be amended further to require the DOL to:

1. Direct IPAs to search for any prohibited transactions and require that all findings--regardless of their materiality--be communicated directly to the Department as well as to the plan administrators and trustees;
2. Mandate that IPAs conduct compliance testing of fund operations as well as their traditional financial audit; and
3. Establish appropriate standards for IPA performance and appropriate sanctions that may be applied against IPAs that do not meet them.

The recommendation that the Department of Labor be empowered to set standards and impose sanctions upon those IPAs whose work is considered to be substandard is similar to the provisions of the Single Audit Act. This

Standards for Benefit Plan Audits Should be Stringent

legislative change would give the Department of Labor audit oversight responsibility for the quality of ERISA audits. Only when the IPA takes the basic steps necessary to verify the existence of employee benefit plan investments and appropriately value them will the congressional vision of using disclosure of plan information as a meaningful enforcement tool be realized.

Standards for employee benefit plan audits should be even more stringent than those required by Federal securities laws. As a final recommendation, the OIG believes that the Department of Labor should encourage the AICPA to apply to ERISA the approach it uses with the Securities Exchange Commission, to establish an ERISA Practice Section that would provide appropriate training in ERISA auditing issues, and to require submission to peer reviews. The OIG has expressed its concern to the AICPA about improving the benefit-plan audit guide in order to reorient IPAs to their enforcement responsibilities. The AICPA has formed a committee to review the audit guide with the Pension and Welfare Benefits Administration's participation. In a slightly different vein, the Senate Permanent Subcommittee on Investigations has recently asked the GAO to review the Department of Labor's ERISA enforcement program.

The Funds at Risk are more than SSTF & FSLIC Combined

We strongly recommend that the appropriate congressional committees look immediately into this matter. The funds potentially at risk in this arena are even more than those in the Social Security Trust Fund and the FSLIC covered institutions combined. These are savings American workers have set aside for their future. These workers trust that the Government will protect these funds by holding the managers and trustees of their pension funds accountable. They deserve no less.

Concerns about Investigative Authority

Since its inception in 1978, the OIG has conducted various investigations into violations of criminal law by individuals and organizations. These criminal law violations have related to various activities and programs that are administered by the DOL. The programs involved enforce ERISA, OSHA, FLSA, Davis-Bacon Act, and the Copeland Anti-Kickback Act. As a result of OIG investigations, criminal indictments have been obtained by U.S. Attorneys for violations of these laws. (See, for example, the Lundberg case, pages 16-17 of this report.)

DOL Attempts to Limit Investigative Authority

The former Solicitor of Labor tried to limit the overall investigative jurisdiction of the OIG by obtaining an opinion from the Department of Justice's Office of Legal Counsel (OLC) which argues for restriction of the OIG's investigative authority to only those areas involving program funds of the Department of Labor or employee integrity issues. The FBI has authority to investigate potential criminal violations related to programs enforced by the Labor Department; however, the FBI does not generally exercise this authority and, in fact, has formally agreed to share their primary enforcement role with the OIG. Since it appears that the Secretary of Labor does not generally have authority to investigate criminal violations under Title 18 U.S.C. and certainly recent Secretaries have not vigorously pursued the criminal sanctions available under DOL program legislation, there would appear to be a wide range of Department of Labor program-related criminal offenses that will go uninvestigated if this opinion prevails.

The OIG believes that the IG Act has granted the OIG broad criminal investigative authority regarding the program and operations of the Department, and that this position is consistent with the Congress' intent that criminal sanctions be used to protect American workers from unsafe and inequitable working conditions, mismanaged and corrupt health and welfare plans, and other labor-related violations. The OIG contends that civil and criminal enforcement activities can and should proceed together, wherever appropriate. This is consistent with past OLC opinions and past practice in the Department.

**Congress' Intent that
Criminal Sanctions be
used to Protect
American Workers**

The OIG has no desire to duplicate, nor has it ever maintained that it has the authority to duplicate, the compliance and regulatory efforts of the Department's agencies. The OIG does maintain, however, that it has the authority to conduct criminal investigations which have as their objective the detection and prevention of fraud. Currently, these types of investigations will not be undertaken unless the OIG does so, since neither the Department nor the FBI has shown any appreciable interest in pursuing criminal sanctions in these areas. For example, in the Lancaster Battery case recently concluded (see page 14), OIG supplemented OSHA's administrative enforcement efforts, which led to the first sentence of imprisonment for an individual federally charged with unsafe workplace violations. Under the OLC opinion, the OIG would no longer be able to conduct this type of investigation.

Should the OLC opinion be given significant standing, a major vacuum would exist in which criminal activity would not be adequately addressed. By preventing OIG from pursuing selected criminal investigations, the OLC opinion gives credence to a public and congressional perception that the Department of Labor has placed a lesser value on programs whose fundamental objectives are protecting the public good and the rights of workers, and a greater value on programs directly using Federal funds.

"Can I afford the fine?"

Criminal remedies are essential to promoting broad-based compliance with the laws and regulations that relate to DOL programs. Realistically, such compliance is achieved only when credible deterrents exist. Inordinate reliance on civil and administrative remedies will not promote deterrence. Such an approach tends to foster an environment in which the transgression is worth committing because the benefits are so high and the risks and costs of being caught are so low. Indeed, those who would consider committing violations in this environment pause only to ask, "Can I afford the fine?"

Today there is little stigma attached to a civil law suit. This is not so with a criminal conviction and possible incarceration. The fear of disgrace and/or confinement provides a significantly greater deterrent to those who would contemplate violating laws and regulations. Clearly criminal remedies must be integrated into DOL's enforcement strategy if the Department's efforts at broad-based compliance are to be effective.

**Congressional
Clarification is needed**

The OIG believes that in pursuing its mission of detecting and preventing fraud, waste, and abuse in Department programs, it is justified in pursuing the criminal sanctions available to it by law. Otherwise, the ability to carry out an essential part of the OIG's mission will be impeded and the Department's overall enforcement function will be denigrated. Clarification is needed from the Congress in this area.

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Selected Statistics

October 1, 1988 - March 31, 1989

Audit Activities

Reports issued on DOL activities	376
Total Audit exceptions	\$116.6 million
Recommended cost efficiencies	\$50.1 million
Reports issued for other Federal agencies	7
Dollars resolved	\$120.8 million
Allowed	\$74.2 million
Disallowed	\$35.8 million
Sustained cost efficiencies	\$10.8 million

Fraud and Integrity Activities

Allegations reported	1,002
Cases opened	815
Cases closed	1,015
Cases referred for prosecution	322
Individuals or entities indicted	306
Successful criminal prosecutions	401
Referrals for administrative action	68
Administrative actions	19
Fines, penalties, restitutions, and settlements	\$2,323,200
Recoveries	\$1,166,700
Cost efficiencies	\$1,135,000

Labor Racketeering Investigation Activities

Cases opened	34
Cases closed	20
Individuals indicted	36
Individuals convicted	56
Fines	\$3,243,850
Forfeitures	\$9,502,010
Restitutions	\$488,653

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OFFICE OF INVESTIGATIONS

SUMMARY OF INVESTIGATIVE ACTIVITY AND SIGNIFICANT RESULTS

During this reporting period, the OIG's Office of Investigations opened 815 cases nationally; closed 1015; referred 322 for prosecution; and forwarded 68 to DOL program agencies for administrative action. Investigative results for the 6-month period were 306 firms or individuals indicted; 401 successful prosecutions; and approximately \$4,624,900 in recoveries, restitutions, fines, settlements, cost efficiencies, and administrative penalties assessed.

The following examples detail a few of our more significant and complex investigations which have culminated during this reporting period. The examples are illustrative of the OIG's commitment to aggressively seek felony prosecutions by conducting probative and thoughtful investigations of those who violate laws affecting DOL programs.

Five Construction Officials Arrested On Bribery Scheme

An OIG undercover investigation, which began in April 1988, resulted in the arrests of five construction officials on February 27, 1989. They were charged with allegedly paying \$18,000 in bribes to an OIG Special Agent, posing as a Wage and Hour Compliance Officer, in return for reducing the penalties their companies owed for underpayments to workers during the construction of the Brookhaven Health Care Facility, a federally financed nursing home in East Patchogue, New York, and for filing false wage and hour reports with DOL and the U.S. Department of Housing and Urban Development (HUD). Because the facility was federally funded, Federal law required that the construction workers be paid the "prevailing wage rates" for non-government projects. By paying less than prevailing wages, some 50 employees were underpaid in excess of \$325,000 in wages.

Those charged and arrested were James Biddle, Sr., President, and William Milliman, Secretary/Treasurer, Mader Construction Company, West Seneca, New York; Glenn Becker, President, Blue Rose Mechanical Inc., Bohemia, New York; Tony Favale, President, FTW Construction Corp., Smithtown, New York; and John Wehrin, Project Manager, Cowper-Siegfried Company, Inc., Buffalo, New York.

The OIG investigation was conducted jointly with the FBI, HUD OIG, and the U.S. Postal Inspection Service, and is another example of the OIG's efforts to target construction companies which defraud the Government by submitting bills for wages reportedly paid to their employees at the prevailing rate, while actually paying at a much lower rate and using the difference to increase profits. Further prosecutive action is pending. *U.S. v. Becker et al.* (E.D. New York)

Former Owner of Battery Company Receives Prison Sentence

On December 2, 1988, Stuart C. Manix, former president and owner of Lancaster Battery Company, Inc., Lancaster, Pennsylvania, was sentenced in U.S. District Court in Philadelphia to 2 1/2 years incarceration, 5 years probation, and ordered to pay \$30,000 in fines. The sentencing came after he pled guilty to four felony counts of submitting false statements to both the Department of Defense and the Occupational Safety and Health Administration (OSHA). Two of the counts charged were in connection with Defense contracts for the purchase of batteries from Lancaster Battery, while the other two counts stemmed from false or altered test results Manix submitted to OSHA.

The OIG investigation began in October 1986, after the U.S. Attorney's Office in Philadelphia had received a criminal referral from the DOL Solicitor's office. The U.S. Attorney's Office requested OIG to develop additional evidence to support criminal felony charges as such evidence was not present in the Solicitor's referral. The referral was based on the results of an OSHA inspection of Lancaster Battery in June 1985, when citations were issued for alleged willful violations of record keeping and lead standard requirements, serious violations of the OSHA arsenic standard, and several other-than-serious violations. Based on the inspection findings, OSHA proposed penalties totaling \$55,000. Lancaster Battery contested the allegations, but subsequently settled with OSHA for \$37,200.

By focusing on the full range of Federal felony statutes, instead of the limited misdemeanor provisions of the Occupational Safety and Health Act, the OIG, working concurrently with the Defense Criminal Investigative Service, developed evidence to support a criminal information in September 1988, which charged Manix with felony violations. The investigation disclosed that, in addition to falsely certifying compliance with Defense quality standards, Manix had falsified the results of employees' blood tests and air sampling tests submitted to OSHA, thereby concealing high levels of lead exposure that contaminated the employees' blood and respiratory systems and caused serious medical disorders.

This was the first investigation of this nature conducted by the OIG, and the first time in the 18-year history of OSHA, that anyone had been sentenced on Federal charges to imprisonment on work place safety violations. *U.S. v. Manix* (E.D. Pennsylvania)

Five Indicted In Conspiracy To Embezzle \$9 Million From Pension Funds

On March 17, 1989, five former officials and associates of Lundberg Industries, Ltd. (LIL), a New Mexico corporation, were indicted by a Federal grand jury in Albuquerque, NM, for mail fraud, embezzlement, aiding and abetting, and conspiring to embezzle over \$9 million in pension funds. The defendants were charged with stealing the retirement funds of over 900 active and retired employees of LIL. Named in the indictment were: Thomas D. Lundberg, president of LIL; John Sanders, an attorney; Samuel A. Longo, a financial consultant; Clarence David Donaldson, an insurance agent; and David Joel Boatright, an actuary and pension fund consultant.

This indictment details the results of an extensive criminal investigation of several complex financial transactions allegedly utilized in the scheme, and represents the joint efforts of OIG, both OI and Office of Audit; the United States Attorney for the District of New Mexico; and the District Attorney for the Fifth Judicial District of New Mexico, which initiated the original investigation; and the New Mexico Attorney General.

The coordinated investigation and resulting indictment alleged that the defendants utilized the U.S. mails to further their scheme by mailing material which fraudulently represented that the pension plans controlled by LIL were in good financial condition and their benefits were secure. The indictment also alleged that the defendants obtained funds from the pension plans in their control by means of fraudulent loans, unlawful stock transactions, illegal real estate transactions, and unlawful conversion of reported pension surpluses.

In furtherance of the alleged conspiracy, the investigation documented one scheme wherein Lundberg and Sanders, in December 1985, executed documents to purchase Potash Company of America for \$3 million. With this purchase, LIL acquired three existing employee benefit plans with assets in excess of \$11 million. With the assistance of Donaldson and Boatright, Lundberg and Sanders then obtained fictitious loans totaling over \$2.5 million from one pension plan. The defendants then converted the money to their own use.

In another scheme, it is alleged that Lundberg, Longo, and others not charged in the indictment, again aided by Boatright and Donaldson, conspired, through a complicated real estate transaction involving the purchase of 127 acres of undeveloped land in Texas, to authorize two more loans totaling \$1,550,000 from the pension plans. The four defendants again converted this money to their own use.

The grand jury further charged that on December 8, 1986, Lundberg and his wife, as members of the LIL Board of Directors, authorized LIL to purchase 17 shares of Lundberg's personal LIL stock for \$903,905.81, and authorized LIL to make an \$88,000 personal loan to Lundberg. On the same day, Lundberg, acting as trustee of the pension plan, purchased the 17 shares of LIL stock for \$903,905.81. Lundberg paid for the stock with two checks written on the pension plan account in the amounts of \$815,905.81 and \$88,000. One month later, Lundberg, having acquired over \$3 million in alleged excess pension funds from another fraudulent transaction involving the other principals, caused LIL to repurchase the 17 shares of LIL stock back from the pension plan for the same \$903,905.81. Lundberg had originally purchased the shares for \$1,700.

Upon discovery of these actions and the virtual financial bankruptcy of LIL along with its controlled pension plans, the Pension Benefit Guaranty Corporation (PBGC) took administrative control of the multi-million dollar pension plans and is now paying benefits to pensioners. The benefits of the pensioners are fully guaranteed by the PBGC. Civil action has been initiated against the defendants by PWBA and PBGC to seek over \$7 million in restitution.

If convicted of all Federal charges, each defendant could face a prison term in excess of 50 years and/or fines in excess of \$200,000. *U.S. v. Lundberg et al.* (D. New Mexico)

Top Officials of an Indiana Manpower Administration Convicted of Racketeering

On February 16, 1989, in Federal District Court, Hammond, Indiana, Ronald S. Sullivan; Joe L. Cain and Bernice B. Deloney were each found guilty of one count of racketeering, racketeering conspiracy, and conspiracy to defraud the U.S. Department of Labor (DOL). Sullivan is the former administrator, Gary Manpower Administration (GMA) a Gary, Indiana Comprehensive Employment and Training Act prime sponsor; Cain was its director of operations; and Deloney was the director of Vocation Occupation Training and Education Consultants, Inc. (VOTEC, Inc.), a job training contractor. Additionally, Sullivan was found guilty on four counts of bribery, while Cain and Deloney were found guilty on two of four bribery counts.

Following the verdicts, in what was characterized as highly unusual in a public corruption case, the judge ordered them detained pending sentencing. Sullivan faces up to 105 years imprisonment, and Deloney faces up to 75 years. On April 21, 1989, Cain was sentenced to the custody of the U.S. Attorney General for a period of 11 years on the racketeering and bribery charges. He received a suspended sentence and was placed on 3 years probation on the conspiracy charge. Cain's imprisonment is subject to the provisions of 18 USC 4205 (b) (2), which allows the U.S. Parole Commission the discretion to determine when Cain can be released on parole with no minimum term of confinement required. Sentencing for Sullivan and Deloney is pending.

This trial was the culmination of one of the OIG's most significant and notable program fraud investigations pertaining to the now defunct Comprehensive Employment and Training Act (CETA), the predecessor of the Job Training Partnership Act (JTPA). This was a joint investigation conducted by OIG and the Internal Revenue Service (IRS), under the direction of the U.S. Attorney for the Northern District of Indiana. In September 1984, the U.S. Attorney requested OIG to assist IRS after IRS had discovered what appeared to be instances of CETA fraud and abuse by GMA.

From 1974 until 1984, GMA received \$95 million from DOL's Employment and Training Administration (ETA) to conduct their programs in the Gary area. The investigation, which included the service of approximately 375 subpoenas and several hundred interviews, revealed evidence of a conspiracy to defraud the U.S. Government and the people of Gary.

This illicit activity gravitated around two distinct bribery schemes. In one, as GMA officials, Sullivan and Cain, exacted approximately \$70,000 in bribes from the operator of Plus, Ltd., a GMA job training contractor. The second arose after Cain left GMA and became an official of DECAR, Inc., another GMA job training contractor. Cain and Deloney engaged Sullivan to use his GMA administrator influence to award lucrative contracts to Cain and Deloney. In return, Cain and Deloney invested over \$145,000 in DVR, Inc., an entity which used these CETA funds to lease and operate a lounge and restaurant, in which all three individuals had an ownership interest. (Please see the CETA funds flow diagram on page 20.)

The magnitude and success of this investigation is further demonstrated by the following synopsis of indictments and convictions:

June 27, 1986 - A 35-count indictment was returned against Shirley Montgomery, the former president of the Private Industry Council at Gary. She pled guilty to four counts of theft/embezzlement from employment and training funds on November 5, 1986.

July 24, 1986 - An eight-count indictment was returned against Leonard Perkins, owner of Plus, Ltd. He pled guilty to seven counts, which included theft/embezzlement from employment and training funds on January 30, 1987.

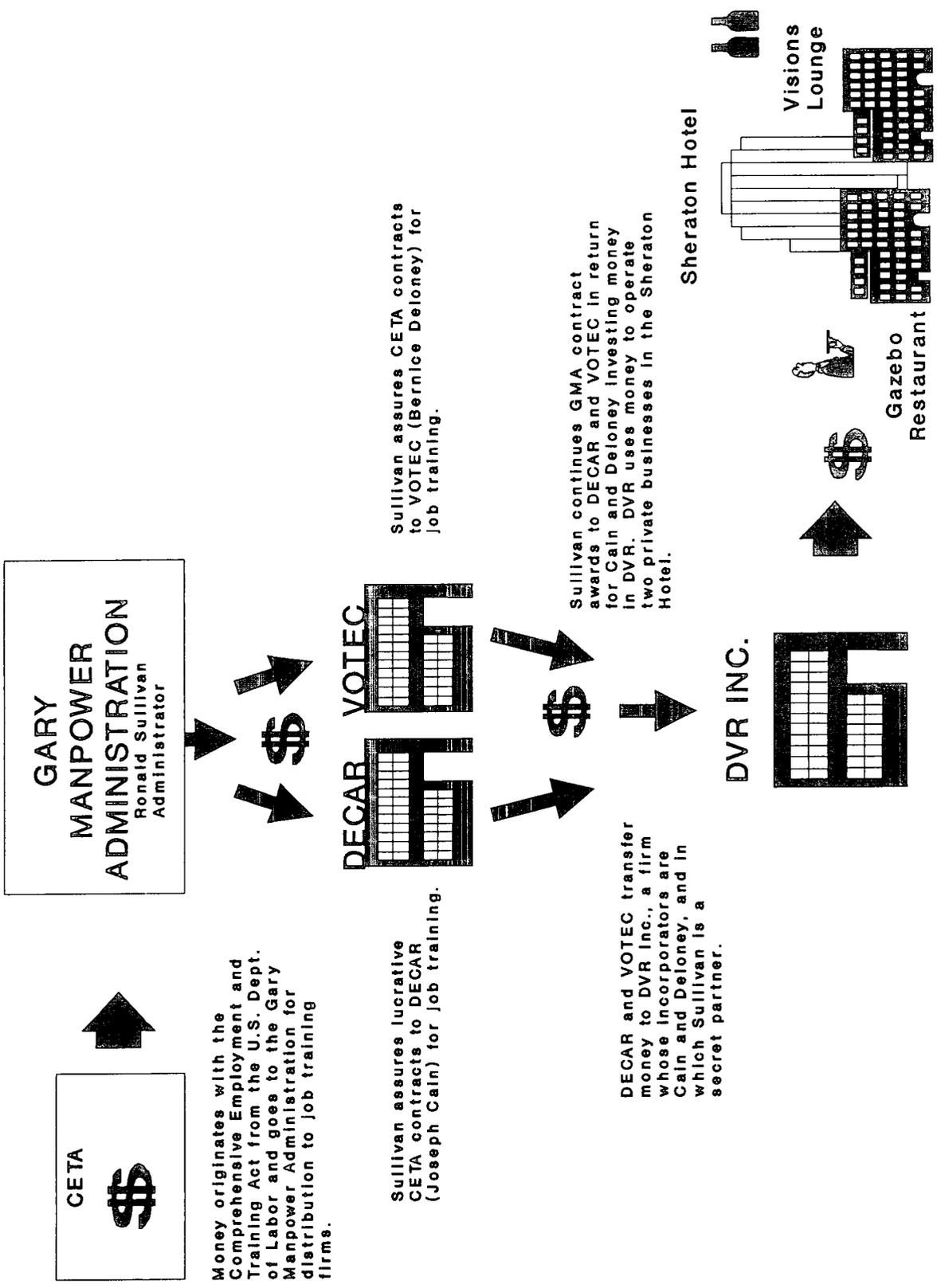
January 29, 1987 - An 11-count indictment was returned against Deloney. On September 24, 1987, she was convicted on 11 counts, which included theft/embezzlement from employment and training funds, and income tax evasion.

February 27, 1987 - Cain was charged in a nine-count indictment, charging theft/embezzlement from employment and training funds, and filing false income tax returns; his former spouse, Allene D. Gayles, was also a GMA contractor and named in a separate 12-count indictment, charging her with the same offenses. On May 4, 1987, she pled guilty to all 12 counts. On July 7, 1987, he plead guilty to income tax evasion and filing false tax returns, and entered a conditional guilty plea to theft/embezzlement of employment and training funds.

March 27, 1987 - Sullivan was indicted on one count of filing a false income tax return, based upon his failure to declare kickbacks he received. On November 19, 1987, he was convicted.

To date, court-ordered fines and restitutions total approximately \$130,000 and \$88,000, respectively. Cash forfeitures, ordered as a result of the racketeering activity, amount to \$228,557. Moreover, upon completion of the investigation, the OIG will provide ETA information developed during the investigation so that ETA may use it to make demands on the City of Gary for misapplied CETA funds. *U.S. v. Cain et al.* (N.D. Indiana)

Flow of CETA money in Gary



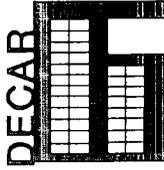
CETA


Money originates with the Comprehensive Employment and Training Act from the U.S. Dept. of Labor and goes to the Gary Manpower Administration for distribution to job training firms.

GARY MANPOWER ADMINISTRATION
 Ronald Sullivan
 Administrator





DECAR VOTEC


Sullivan assures lucrative CETA contracts to DECAR (Joseph Cain) for job training.

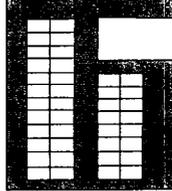
Sullivan assures CETA contracts to VOTEC (Bernice Deloney) for job training.

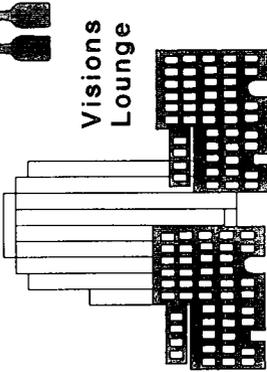





DECAR and VOTEC transfer money to DVR Inc., a firm whose incorporators are Cain and Deloney, and in which Sullivan is a secret partner.

Sullivan continues GMA contract awards to DECAR and VOTEC in return for Cain and Deloney investing money in DVR. DVR uses money to operate two private businesses in the Sheraton Hotel.

DVR INC.


Sheraton Hotel

Gazebo Restaurant

Visions Lounge


Example of Other Investigative Activity by Major Investigative Category

The following are representative of investigations reflecting the diversity of the OIG's efforts and accomplishments reported during this period.

CLAIMANT FRAUD

Significant investigative resources were devoted to identifying, investigating, and seeking the prosecution of those individuals who attempted to defraud DOL compensation or related benefit programs. Typical examples of these types of investigations follow.

On February 13, 1989, the Chief of the Audit Division for the Internal Revenue Service in Reno, Nevada, pled guilty in U.S. District Court, Reno, to one count of making a false statement. An investigation disclosed that he had received temporary total disability compensation from 1979 to 1985, during which period he owned and operated two Swiss Colony Cheese franchises having in excess of \$300,000 gross sales per year. He failed to report either the self-employment or income on forms submitted to the DOL. DOL's Office of Workers' Compensation Programs (OWCP) has declared a forfeiture in this matter of \$216,847. As part of a plea negotiation, the claimant has agreed to repay \$167,785. *U.S. v. Friede* (D. Nevada)

On March 28, 1989, the daughter of a Black Lung claimant was sentenced to 5 years probation after she pled guilty in U.S. District Court, Pittsburgh, to one count of a 6-count criminal indictment for mail fraud. Investigation disclosed that the woman falsely completed forms intended for her father and concealed the fact that he had died in 1982. She continued to receive, forge, and cash his monthly benefit checks, thereby fraudulently receiving approximately \$22,000 to which she was not entitled. Since several of the checks were cashed at a supermarket, she was also convicted in local court in September 1988 on charges of forgery and was sentenced to 5 years probation and ordered to make restitution of \$2,028. *U.S. v. Zerby* (W.D. Pennsylvania)

On December 19, 1988, a former postal employee went on trial in U.S. District Court in Pittsburgh on 48 counts of mail fraud and 3 counts of making false statements. At the completion of the Government's presentation of the case, and two days into the trial, the defendant offered to plead guilty to 7 mail fraud counts and the 3

false statement counts. The court accepted the plea and sentencing is pending. The charges stemmed from a joint OIG and Postal Inspection Service investigation, which disclosed that the individual had concealed his full-time employment as a police officer during the same period he collected workers' compensation benefits, allowing him to fraudulently receive over \$53,200 in benefits to which he was not entitled. *U.S. v. DeLisio* (W.D. Pennsylvania)

A former postal service letter carrier who had been collecting Federal Employees' Compensation Act (FECA) benefits, since April 1974, pled guilty on February 1, 1989, in U.S. District Court, Brooklyn, New York, to a criminal information charging him with having fraudulently obtained FECA and Social Security benefits. While collecting both benefits for his alleged injury, the claimant had failed to advise OWCP or the Health and Human Services (HHS) that he was working full-time driving a limousine. During this joint OIG, Postal, and HHS investigation, it was determined that the defendant had received approximately \$193,000 in FECA benefits and \$95,000 from Social Security. Sentencing is pending. *U.S. v. Flaxman* (E.D. New York)

On January 18, 1989, a former postal clerk pled guilty to mail fraud charges after an earlier indictment by a federal grand jury in Brooklyn, New York. A joint investigation with the Postal Inspection Service showed that, since his alleged on-the-job injury in January 1983, he had failed to advise OWCP of the extent of his outside employment as a model and actor including appearances in the movie "All the Right Moves" and on the television programs "The Mike Hammer Show" and "Miami Vice." It is estimated that he was overpaid in excess of \$30,000 in benefits. Sentencing is pending. *U.S. v. Ford* (E.D. New York)

Another joint investigation with the Postal Inspection Service resulted in a former letter carrier pleading guilty on October 13, 1988, in U.S. District Court, Newark, New Jersey, to one count of making a false statement to OWCP in connection with his FECA claim. He had been collecting benefits since an alleged injury in September 1972, but had been working for the City of Newark as an arson investigator, for the Essex County Prosecutor's Office, and as an announcer on a local radio station, while reporting to OWCP that he had no employment or earnings. On November 29, 1988, he was sentenced to 6 months in prison, 5 years probation, and ordered to make restitution of \$87,250. *U.S. v. Tucker* (D. New Jersey)

On January 12, 1989, an individual entered into a pre-trial agreement approved by the U.S. District Court in Milwaukee, Wisconsin, after she admitted to fraudulently receiving and cashing \$15,626 in Black Lung benefit checks payable to her deceased husband. As part of the agreement, the subject is required to make restitution in the amount of \$12,833.60. *U.S. v. Blakley* (E.D. Wisconsin)

On December 8, 1988, a former civilian U.S. Army employee pled guilty to one count of a three-count indictment charging him with making false statements to the U. S. Government. As detailed in our last report, the defendant was indicted in August 1988 for fraudulently obtaining FECA benefits by working and not reporting income. He had also used his wife's social security number to cover up his activities. He was sentenced to make restitution in the amount of \$97,912.88, given 3 years probation and ordered to perform 200 hours of community service. In this case, the OIG worked with the Health and Human Services' OIG. *U.S. v. Head* (N.D. Georgia)

On January 3, 1989, a federal grand jury returned a 27-count indictment charging a former postal employee with mail fraud and false statements. A joint investigation with the Postal Inspection Service determined that the subject operated a lawn maintenance service for 10 years while fraudulently obtaining FECA benefits. An overpayment of \$104,000 has been declared. Further judicial action is pending. *U.S. v. Randall* (S.D. Florida)

On January 27, in the second phase of cluster-type prosecutions, 43 individuals were indicted by a Jackson County grand jury, Kansas City, Missouri, on charges of illegally collecting unemployment insurance (UI) benefits. The defendants, who allegedly obtained approximately \$70,000 in UI benefits, were each charged with stealing by deceit. OIG agents, working closely with Missouri Department of Employment Security officials, coordinated the prosecution with the Jackson County Prosecutors Office. *Missouri v. Parker et al.*

During the week of December 19, 1988, charges relating to unemployment insurance fraud were filed by the Marion County Prosecutor's Office, Indianapolis, Indiana, against 27 individuals for fraudulent unemployment insurance claims amounting to \$62,351. The following week, an additional 18 individuals were charged for filing fraudulent UI claims amounting to \$26,712. The filings were the result of a concerted effort by the OIG, the Indiana Department of Employment and Training Services, and the Marion County Prosecutors Office to have a deterrent effect on the filing of fraudulent unemployment insurance claims in metropolitan Indianapolis. Additional charges are expected to be filed against numerous other individuals in the near future. *Indiana v. Petty et al.* (D. Indiana)

CONTRACTOR FRAUD

The OIG continued its support of the Wage and Hour Division's (WHD) enforcement efforts through aggressive criminal investigation of federal contractors which violated the Davis-Bacon and Related Acts, the Copeland Anti-Kickback Act, and the Fair Labor Standards Act. Examples of these investigations follow.

On February 6, 1989, in U.S. District Court, Hawaii, a contractor, who had worked on many federally-funded construction projects, was sentenced to imprisonment for a term of 2 years, fined \$35,000, and placed on 5 years probation, which will commence at the expiration of his incarceration. Investigation disclosed that the contractor and his foreman, who was also sentenced to a 2-year prison term, paid their workers less than the mandated prevailing wage and submitted falsified certified payrolls to government agencies. They attempted to cover up their criminal activities by requiring their employees to endorse and return purported salary checks. This matter had been brought to the attention of the OIG by the WHD after it had identified the contractor as a "major violator" of the Davis-Bacon Act, in hopes of obtaining a criminal prosecution of the contractor. *U.S. v. Mantikas* (D. Hawaii)

On September 29, 1988, a federal grand jury in Las Vegas returned a 27-count indictment charging three contractors with conspiracy and making false statements to the Department of Energy and DOL. The contractors allegedly conspired to avoid the Davis-Bacon Act in an attempt to recover their losses on a defense project. The scheme involved the submission of certified payroll forms on which they falsely misrepresented their employees as being "owners/operators." A Wage and Hour Division compliance investigation determined that the employees were underpaid \$459,000. The subjects then submitted supplemental certified payrolls indicating that the employees had been paid all wages due them. The subsequent OIG investigation determined that the employees had not been paid, and the defendants coerced employees into kicking back \$296,000 of their back pay. Trial is scheduled for April 14. *U.S. v. Burke et al.* (D. Nevada)

On March 10, 1989, the owners of a Buffalo area construction company pled guilty on behalf of themselves and the company for failing to pay the required prevailing wage rates while serving as the subcontractor for concrete work on a Post Office construction project during 1985 and 1986. As part of the negotiated plea

agreement in the Western District of New York at Buffalo, they agreed to be debarred from future Federal contract work for 3 years and to make restitution of the \$22,000 owed to their employees. *U.S. v. Zambito et al.* (W. D. New York)

On January 30, 1989, in U.S. District Court, Buffalo, New York, the owner of a construction company and the company pled guilty to a criminal information charging violations of ERISA and the Fair Labor Standards Act. The defendants admitted that during the period January 1982 to February 1987, they made false statements in documents required to be kept as part of the employees' pension benefit plan with a local of the Operating Engineers' Union and had failed to pay employees the proper hourly and overtime wages required on federally funded projects. As part of the plea agreement, the company has agreed to make restitution of more than \$108,000. *U.S. v. SH Construction Corp. et al.* (W.D. New York)

A joint OIG and Wage and Hour Division investigation, initiated in May 1987, resulted in the return of a 17-count indictment on January 24, 1989, by a federal grand jury in Cleveland, Ohio, against an individual and his construction firm. They operated as a subcontractor for a previously-convicted prime contractor, and are alleged to have defrauded 56 employees of approximately \$74,000 involving two contracts. If convicted on all charges, the individual could face a maximum sentence of 85 years imprisonment and a total fine of \$170,000. *U.S. v. Riggs* (N.D. Ohio)

A 15-count indictment against an individual and his excavating company was returned on December 19, 1988, by a federal grand jury in Toledo, Ohio, as a result of a joint OIG and Wage and Hour Division investigation initiated in 1986. The indictment charged the individual and his firm with making false statements and receiving kickbacks from public works employees. The Federal Government funded four contracts obtained by the individual through the Ohio Department

of Transportation during 1983 and 1984, totaling approximately \$350,000. On three of the contracts, the individual underpaid his employees approximately \$30,000. On the fourth contract, the individual required eight of his employees to kickback approximately \$10,000

in overtime wages in order to maintain their employment. If convicted on all charges, the individual could face a maximum sentence of 75 years imprisonment and a total fine of \$130,000. *U.S. v. Johnson* (N.D. Ohio)

PROGRAM RELATED FRAUD

Experience continues to demonstrate that various DOL programs continue to be susceptible to fraud and abuse. Some of the OIG investigations into program related fraud follow.

On November 9, 1988, a federal grand jury returned a four-count indictment charging a bakery products vendor with false statements to the U.S. Government. The subject kept cash received from customers on his route and proportionately falsely raised the quantity of products allegedly delivered to a Job Corps center. In this manner, he fraudulently received approximately \$178,000 over a 2 1/2 year period. Further judicial action is pending. *U.S. v. Gordon* (M.D. Georgia)

On November 3, 1988, a federal grand jury returned a 24-count indictment charging the former president of a company receiving JTPA funds with mail fraud, false statements and theft of JTPA funds for allegedly converting over \$16,449 of training funds to his own use by submitting altered or fabricated invoices. The defendant is now the Director of Admissions at a State university and formerly served on the Mississippi Board of Economic Development. Further judicial action is pending. *U.S. v. Johnson* (S.D. Mississippi)

An insurance salesman and former mayor of a small Georgia town entered a plea of guilty on February 27, 1989, to a charge of theft by conversion in the Superior Court of Wilkinson County, Georgia. Over a 3 year period, this individual collected premiums for workers' compensation insurance from the Oconee Area Planning and Development Commission, but failed to remit these premiums to the company. As a result, 1,130 JTPA participants were not provided this protection. The subject was ordered to make full restitution and fined \$2,500. In addition he was required to surrender his insurance license. *Georgia v. Dennis*

On January 17, 1989, the federal grand jury in Dayton, Ohio, indicted an official of the Dayton, Ohio, Job Corps center on charges of mail fraud, false statements, and bribery. The individual, an instructor at the center, was indicted on charges of allegedly soliciting a bribe/kickback from a Dayton area businessman for purchasing instructional Job Corps supplies. The scheme involved the manipulation of the Job Corps competitive bidding system; the individual's acceptance of less expensive equipment for approved purchase items; and splitting of the monies generated by his acceptance of less expensive items. Approximately \$10,000 in overpayment billings were generated in the scheme. If convicted, the individual faces a maximum sentence of 30 years in prison and fines up to \$263,000. The case was investigated jointly by the OIG and the Federal Bureau of Investigation. *U.S. v. Merritt* (S.D. Ohio)

On March 2, 1989, a medical clinic and a pharmacy, owned or operated by a doctor and his wife, were seized by the Federal Government under a court order. The pharmacy (as a corporation), the doctor, and his wife had previously been indicted in Roanoke, Virginia, on January 20, 1989, for conspiracy to defraud DOL, false claims, and drug diversion. In addition, the doctor's wife was charged with obstruction of justice for furnishing false and misleading information to an OIG agent. The order allowed the defendants to continue to operate the businesses under government control until after their trial. This action is the result of a joint OIG and Drug Enforcement Administration (DEA) investigation which has thus far lead to four criminal indictments. The investigation also disclosed a scheme wherein false reimbursement bills were submitted to DOL for

drugs reportedly provided to Black Lung claimants. In fact, the billed drugs had never actually been prescribed, dispensed, or were for controlled narcotics which were not used to treat Black Lung. Due to the extent of the scheme, and the time period involved, the full amount of the false billings and drug diversion has not yet been determined. However, a minimum of \$7,000 in false claims connected with 11 different patients and 21 incidents of drug diversion were cited in the indictments. Trial is pending. If convicted, the Federal government will take ownership of the property and business. *U.S. v. Mercury Drug et al.* (W.D. Virginia)

The federal grand jury in Kansas City, Missouri, on October 18, 1988, returned a seven-count indictment against an individual relating to the theft/embezzlement of JTPA funds committed to the Opportunities Industrialization Center (OIC) in Kansas City. The individual was alleged to have converted approximately \$12,387 of OIC funds to her personal use through a scheme involving check authorization and issuance of checks to herself. On November 28, 1988, the individual pled guilty to one of the counts. Sentencing in this matter is pending. The case was a joint investigation conducted by OIG and the Federal Bureau of Investigation in Kansas City. *U.S. v. King* (W.D. Missouri)

On March 1, 1989, eight medical doctors in Alaska were issued letters by OWCP proposing their debarment as providers of medical services to injured Federal employees under the Federal Employees' Compensation Act. This action was predicated on a self-initiated OIG and U.S. Postal Inspection Service Project, detailed in our last report, to ascertain the integrity of certain medical doctors in Alaska with regard to FECA claims filed by postal employees under their care. Two of the doctors were convicted of criminal violations involving the submission of false medical reports and fraudulent billings to OWCP. *U.S. v. Savikko et al.* (D. Alaska)

On October 4, 1988, two owners of an insurance and investment firm were sentenced in U.S. District Court in Clarksburg, West Virginia, to one year imprisonment, 5 years probation, and fined a total of \$70,700. The sentencing was the result of a jury-trial conviction on charges of wire fraud and fraud against an ERISA-covered pension fund. A joint investigation by OIG and Postal Inspection Service disclosed that the defendants submitted forged documents, enabling them to inflate

commissions associated with their sale of an insurance annuity which funded a hospital's employee pension plan. The scheme netted the defendants over \$700,000 in commission fees, instead of the approximate \$40,000 fee approved by the pension plan administrators. A private civil suit filed by the victims to recover the excess fees is still pending. *U.S. v. Strothman et al.* (N.D. West Virginia)

On November 8, 1988, a doctor signed a Civil Settlement Agreement in which he agreed to pay the Federal Government the sum of \$125,000. This agreement was the result of a Civil Complaint filed under the False Claims Act, charging that the doctor had double-billed for the same services provided to patients that were eligible for benefits under either the Black Lung program or the Medicare program. A joint investigation between OIG and the Department of Health and Human Services disclosed that the physician received duplicate payments exceeding \$14,000 by billing both agencies. The settlement amount represents triple damages and fines associated with the false claims. *U.S. v. Lottick* (M.D. Pennsylvania)

On January 31, 1989, a former Job Corps recruiter pled guilty in Los Angeles Municipal Court to embezzling \$7,850 from the Los Angeles Job Corps. The subject had been submitting false vouchers to the Job Corps claiming to have recruited people for job training. The Job Corps issued the recruiter \$10 for each voucher. During an interview, the subject admitted that she had filled out and submitted some 785 false vouchers to obtain funds to support her drug addiction. Sentencing is pending. *Los Angeles v. Matos*

On October 27, 1988, a doctor pled guilty in Roanoke, Virginia, to one count of Income Tax Fraud. On November 7, 1988, two co-conspirators, operators of a durable medical equipment company, pled guilty to one count of conspiracy. All three individuals had been indicted on March 18, 1988, by a federal grand jury for their part in a conspiracy to defraud DOL's Black Lung program. The basic scheme involved submitting false Certificates of Medical Necessity to DOL in order to obtain payments for leasing oxygen concentrators. The documented loss was over \$2.5 million. On March 8, the doctor was sentenced to a 5-year suspended sentence; 4 years probation; fined \$100,000, and ordered to perform 800 hours of community service. On March 29, the other two defendants were sentenced to a 5-year sus-

pendent sentence; placed on probation for 3 years; fined \$10,000; and ordered to do 300 hours of community service. The judge stated that if settlement of a related, but separate, pending civil matter was not reached within one year, he would order \$250,000 in restitution. *U.S. v. Modi et al.* (W.D. Virginia)

The federal grand jury in the Western District of Texas, at Austin, on March 7, 1989, returned a three-count in-

dictment charging an employee of the Texas Employment Commission with two counts of Mail Fraud and one count of using a fictitious name in furtherance of a fraud. The indictment alleged that the defendant devised and operated a scheme to obtain interstate unemployment insurance benefits by using his position to enter fraudulent claims in the names of legitimate workers. The defendant then caused benefit checks totaling \$4,200 to be mailed to an address he controlled. *U.S. v. Townsen* (W.D. Texas)

ETHICS AND INTEGRITY ISSUES

The administration of the Department's many programs can result in a temporary lapse in the high ethical and integrity standards expected of all Federal employees or those who act on behalf of the Government. When this does occur, the OIG continues to consider such lapses as priority matters and works with DOL management to ensure that the highest standards of conduct are maintained. Instances where there have been lapses resulting in OIG investigations follow.

An investigator from DOL's Office of Labor-Management Standards at Minneapolis, Minnesota was charged with contempt of court in a criminal information filed December 7, 1988, in U.S. District Court, Milwaukee, Wisconsin. The investigator was the case agent in a grand jury investigation relating to alleged criminal offenses on the part of union officials of a local of the International Union of Operating Engineers. The information charged that the investigator made unauthorized disclosure of matters occurring before the grand jury, without judicial authorization. On December 13, 1988, the investigator executed a plea agreement in which he agreed to plead guilty to the charges stated in the information. On March 14, 1989, he was sentenced

to pay a fine of \$1,000. *U.S. v. Gupton* (E.D. Wisconsin)

A memorandum to Regional Administrators explaining the function of an OIG regional Ethics and Integrity Coordinator resulted in an anonymous complaint that an MSHA clerk had been driving a government vehicle without a valid license. It was alleged the license had been revoked as a result of drunk driving convictions. A verification of the convictions and a review of the MSHA clerk's application for employment disclosed a falsification of the SF-171 in regards to convictions. As a result of the investigation, management issued a notice of proposed removal from Federal service.

COMPLAINT HANDLING ACTIVITIES

The OIG Complaint Analysis Office and the OIG regional offices serve employees and the general public who report suspected incidents of fraud, waste, and abuse in Department of Labor programs and operations. The Inspector General Act of 1978 provides that employees and others may report such incidents with the assurance of anonymity and protection from reprisal. Nationwide, the OIG received, analyzed, and processed 1,002 complaints from all sources during this reporting period. Some 572 calls were received on the OIG Hotlines; however, of that number only 37 were actual allegations of serious wrongdoing by DOL employees or involving DOL programs. The remainder were informational in nature, requests for assistance, anonymous calls with insufficient information for further follow-up, or they pertained to other than DOL programs, or were more administrative in nature and, therefore, referred to the appropriate DOL program agencies for action.

TOTAL ALLEGATIONS REPORTED NATIONWIDE: 1,002

ALLEGATIONS BY SOURCE:

Walk-in	4
IG Hotline	37
Other telephone calls	10
Letters from Congress	5
Letters from individuals or organizations	52
Letters from DOL agencies	173
Letters from non-DOL agencies	534
Incident Reports from DOL agencies	86
Reports by agents or auditors	96
Referrals from GAO	5

BREAKDOWN OF ALLEGATIONS REPORTS:

Referred to Audit or Investigations	676
Referred to program management	25
Referred to other agencies	17
No further action	179
Pending disposition at end of period	105

During this period there were no Hotline allegations which resulted in successful prosecutions; however, some complaints that were provided to various DOL program areas for administrative consideration resulted in action being taken. The following are examples of complaints referred and actions taken.

An anonymous complaint concerning non-payment of overtime and falsification of time cards by a Government contractor was referred to ESA for appropriate administrative action. As a result of their inquiry, violations of the Contract Work Hours and Safety Standards Act, the Fair Labor Standards Act, and the Davis-Bacon Act were disclosed and back wages amounting to \$81,895.80 were found due 94 employees.

Another anonymous caller alleged that a DOL employee was frequently using his office phone to conduct personal business during duty hours. A management inquiry substantiated the allegations. The employee

was directed to obtain clearance for his personal business activity. Upon review of the request, the employee was granted clearance to conduct outside business activities under certain conditions which included that he not use Government facilities in conducting his business and he was to conduct private business only during non-duty hours.

Correspondence concerning non-payment of overtime by a local business was referred to the Wage and Hour Division for administrative action. As a result of their payroll review, over \$1,470 in overtime pay violations were discovered.

OFFICE OF LABOR RACKETEERING

The appointment of the first Assistant Inspector General (AIG) for the Office of Labor Racketeering (OLR) provided an opportunity for OLR to reiterate its commitment to vigorously identify and reduce labor racketeering in employee benefit plans, labor-management relations, and internal union affairs.

Under the new AIG, employee benefit plan abuse will continue to be the highest investigative priority of OLR. A majority of the investigative effort expended by OLR special agents is in this priority area to support the Secretary of Labor's long-standing commitment to protect the pension and welfare benefits of the American worker. This focus also directly addresses the Inspector General's stated concern about the vulnerability of benefit plans to criminal depredations and the failure of the audit profession to ensure the safety and soundness of these plans.

Tangible results of investigative efforts in the area of employee benefit plan abuse are represented by the "Dentex" project and the Mid-Jersey Trucking Association-Teamsters Local 701 Pension Fund case, which are discussed below under examples of significant cases. The "Dentex" investigation uncovered a group of individuals who sought to use kickbacks as a means of creating a criminal monopoly in the delivery of dental and optical services to employee welfare plans. The continuing investigation of the Teamsters Local 701 Pension Fund found widespread kickbacks that defrauded the fund of millions of dollars that were invested in residential and commercial mortgages.

In the area of internal union affairs, there were several notable developments. The civil suit brought under provisions of the Racketeer Influenced and Corrupt Organizations (RICO) statute against Teamsters Local 560 in Union City, New Jersey, resulted in the first free elections in that union in over 20 years. While associates of the prior corrupt regime were elected, the presence of a vocal opposition for the first time in two decades indicates total control by the criminal element is a thing of the past.

In another major case, the General Executive Board of the International Brotherhood of Teamsters entered into an agreement with the government in settlement of a civil RICO suit brought by the U.S. Attorney's Office in the Southern District of New York. Among other things, this agreement provides for election of international officers by the membership at large, via secret ballot, as a means of promoting a more democratic process.

During the 6-month period ending March 31, 1989, OLR investigations resulted in 36 indictments and 56 convictions. Forty-two percent of the indictments and 52 percent of the convictions resulted from joint investigations with other agencies. Convictions obtained in OLR cases established a predicate for the potential civil recovery of \$6,785,000.

Examples of significant cases follow.

EMPLOYEE BENEFIT PLANS

“Dentex”

In the previous semiannual report, we mentioned the nationwide joint investigation, “Dentex,” by OLR and the FBI of corruption in the employee welfare industry. The investigation found schemes of kickbacks and bribery committed in connection with awarding of optical, dental, and other health care benefit programs. Seven federal grand jury indictments were returned in September 1988 against 11 defendants in five cities. The main defendant, charged in six of the indictments, is Angelo Commito, the principal officer of three companies that provide health care service to employee benefit plans and are based in Chicago and San Francisco.

On December 21, 1988, William Hainsworth, a former administrator for the welfare fund of Plasterers & Cement Masons Local 803 in DuPage County, Illinois, pled guilty in Chicago to one count each of embezzlement and perjury. He had been charged with embezzling \$62,484 from the fund, falsifying fund records, and making false statements before a federal grand jury.

In Baltimore on March 7, 1989, Alan S. Cohn, vice president of marketing for United HealthCare, Inc., pled guilty to one count of conspiracy to commit mail fraud. Cohn, United HealthCare, and Commito had been indicted for conspiracy, mail fraud, wire fraud, and money laundering. They were charged with attempting to defraud the Munford Corporation, an Atlanta-based retailer, by paying an undercover government agent posing as a company representative to award a contract for optical care to United HealthCare.

United HealthCare agreed to a civil injunction to refrain from violating any State, local or Federal laws and to pay an \$150,000 civil penalty to the Government.

Commito, Carl A. Mattison, and William Wire, former manager for the pension fund of the Service Employees International Union Local 1, were acquitted in Chicago. Commito and Mattison still face trial along with other defendants in either Atlanta, Baltimore, San Diego, or San Francisco. *U.S. v. Commito et al.* (D. Maryland), *U.S. v. Commito, Mattison, & Oss* (N.D. Georgia), *U.S. v. Commito et al.* (N.D. Georgia), *U.S. v. Commito et al.* (M.D. Illinois), *U.S. v. Hainsworth* (M.D. Illinois), *U.S. v. Commito et al.* (S.D. California), and *U.S. v. Commito et al.* (N.D. California)

Mid-Jersey Trucking-Teamsters Local 701 Pension Fund

David Friedland, who pled guilty in September 1988 to racketeering conspiracy involving the Mid-Jersey Trucking Industry-Teamsters Local 701 Pension Fund in North Brunswick, New Jersey, was sentenced on December 2, 1988, in Camden to 15 years in prison and fined \$25,000. Friedland was the principal defendant in the case involving the fraudulent investment of over \$20 million of the fund's money by the Omni Funding Group of Fort Lauderdale, Florida.

Friedland will serve his sentence concurrently with a 7-year sentence he is already serving for a 1982 conviction for defrauding the same benefit plan.

There were two other court actions during this reporting period relating to this investigation. Albert Bernard Muth, a Modesto, California, businessman pled guilty on February 24, 1989, in Sacramento to one count of mail fraud stemming from his acquisition of a \$750,000 loan from the Local 701 pension fund. Muth, an official of Sun Track Hydro-Thermo Solar Corporation, had falsely represented a major business ownership interest when he applied for and received the loan from Omni. He had been indicted in March 1988.

In the Southern District of Florida, Allan F. Meyer, a Fort Lauderdale attorney and certified public accountant, was indicted on March 15, 1989, for violations involving his acquisition of a loan from the Local 701 pension fund. He is charged with aiding and abetting an embezzlement from a pension fund, aiding and abetting the filing of false reports with the U.S. Department of Labor, mail fraud, and conspiracy to embezzle from a benefit plan and to commit mail fraud.

According to the indictment, Meyer received a \$1,075,000 loan from Omni and used the money to buy out his partners' interest in a citrus grove. He then quitclaimed the grove title to Joseph Higgins, owner of Omni, for use as a tax shelter. Higgins was prohibited by law from obtaining personal benefit from the fund. Higgins was required to report to the fund the facts of his personal dealing. Allegedly aided by Meyers, Higgins was able to conceal his involvement.

Meyer is the ninth person to be indicted in this investigation. Eight defendants have been convicted in court actions in New Jersey, California and Florida. To date,

the fund has lost approximately \$10 million. *U.S. v. David Friedland* (D. New Jersey), *U.S. v. Albert Muth* (E.D. California) and *U.S. v. Allan F. Meyer* (S.D. Florida)

Sheet Metal Workers Local 38 and United Wire, Metal & Machine Workers Local 810 Employee Benefit Plans

One defendant was convicted and sentenced during this reporting period and two others were sentenced in the joint OLR-IRS-FBI investigation of the investment by First United Fund of about \$100 million from the Sheet Metal Workers Union Local 38 and Teamsters Local 810 employee benefit plans in New York City,

Martin J. Schwimmer, a financial consultant to the two employee benefit plans was sentenced on February 14 to 10 years in prison and 5 years' probation for his conviction involving the embezzlement of over \$14 million from the plans. He was also fined \$1.6 million and ordered to pay \$10 million in back taxes. Under the forfeiture provisions of the Racketeer Influenced and Corrupt Organizations (RICO) statute he must also forfeit \$4.5 million to the government. Additionally, he has been barred from any relationship with employee benefit funds for 13 years after release from prison.

Schwimmer was found guilty by a federal jury on October 28, 1988, on 86 counts of criminal activity, including a massive RICO conspiracy. The RICO conspiracy included using First United Fund, once the country's largest money brokerage house, as a racketeering enterprise to embezzle from the benefit plans. Underlying the RICO conspiracy were 79 acts of solicitation of kickbacks related to the investment of the plans' money. The money was invested in long-term jumbo certificates of deposit issued by small banks and savings and loans across the country. Schwimmer was also convicted of offering illegal payments to officials of Local 810 and its benefit plans, conspiracy to obstruct justice, conspiracy to defraud the government by aiding in the filing of false federal income tax returns, and income tax evasion.

Mario Renda, president of First United, was sentenced February 28, 1989, to 4 years in prison and fined \$25,000 on a charge of racketeering conspiracy to which he had pled guilty in May 1988. He was also sentenced to 5 years' probation on a charge of corporate income tax evasion and fined \$100,000. This probation is dependent on his paying his personal taxes and the company's

corporate taxes totaling approximately \$3 million plus penalties and interest. Upon his release from prison, Renda is barred for 13 years from being a service provider to any employee benefit plan. Renda paid a forfeiture of \$4.25 million and entered into a judgment with the FDIC in the amount of \$9.9 million. The one count of racketeering conspiracy to which Renda pled guilty involved 82 acts of soliciting kickbacks related to the investment of the employee benefit plan money.

Joseph DeCarlo, vice president for First United, was also sentenced February 28. He was placed on probation for 5 years, ordered to give 500 hours of community service, and fined \$10,000. He had pled guilty in June 1987 to a 2-count information that he conspired to pay off a Local 810 official to influence the placement of investments of Local 810 employee benefit plans and that he caused the false filing of First United Fund's 1982 corporate tax return. *U.S. v. Mario Renda and Martin J. Schwimmer* (E.D. New York) *U.S. v. Joseph DeCarlo* (E.D. New York)

Teamsters Local 436 Welfare and Pension Funds

Five officials of Teamsters Local 436 and its welfare fund in Cleveland, Ohio, were indicted on December 5, 1988, in Cleveland on charges of racketeering involving the embezzlement of approximately \$259,000 from the welfare fund. The embezzled money was used to pay attorney fees in an unsuccessful defense of criminal charges from a prior embezzlement from the same fund.

The defendants in the multi-count indictment are Salvatore "Sam" T. Busacca, Pat Lanese, Gary Tiboni, Salvatore I. Busacca (a.k.a. Sam Busacca Jr.), and Michael Paventi. All are charged with one count of racketeering and one count of racketeering conspiracy. Busacca, Lanese, and Busacca Jr., are also charged with six counts of embezzlement from the local's welfare fund; Tiboni and Paventi are named in three counts and two counts, respectively.

The indictment charges that, during the summer of 1987, Sam T. Busacca, who was then president of Local 436 and chairman of the board of trustees for the funds, received over \$259,000 in unauthorized payments from the welfare fund for use as legal fees in his defense against an April 1986 indictment. Allegedly, he was assisted in the receipt and cover up of the \$259,000 by the other defendants.

Joseph Kalk, a former attorney for the fund, was indicted on December 6 on charges that he assisted Busacca and the others in their scheme. He is charged with one count each of falsifying a record required by the Employee Retirement Income Security Act (ERISA), making false statements, and obstruction of justice. Kalk is currently under separate indictment for making false statements to prevent the prosecution of Busacca and an associate for the embezzlement of over \$27,000.

Busacca was found guilty in August 1987 of charges including racketeering and is serving a 10-year prison sentence.

Lanese is currently vice president of Local 436 and office manager for the local's welfare and pension funds. Busacca Jr., son of Sam Busacca, is an accountant for the funds. Tiboni is the current president of the local and the chairman of the board of trustees for the funds. At the time of the alleged embezzlements, he was the local's secretary-treasurer and a trustee for the funds. Paventi is an elected trustee for the local and an appointed trustee to the funds. He is presently employed as a business agent for the funds.

To date, 15 convictions have resulted from the OLR investigation of corruption in Local 436 and its welfare and pension funds. *U.S. v. Salvatore Busacca, Sr., et al.* (N.D. Ohio) and *U.S. v. Joseph A. Kalk* (N.D. Ohio)

Timothy Smith, Benefit Plan Debarment

Timothy Smith, a benefit plan consultant, is the first person to be tried under the federal statute that prohibits persons convicted of certain crimes from serving as benefit plan fiduciaries. Smith was sentenced in Philadelphia on October 19, 1988, to 5 years in prison for income tax evasion and 1 year for holding a position from which he had been barred. The sentences will be served concurrently. In addition, Smith has been ordered to serve 5 years' probation and file income tax returns from 1981 through 1984. Smith is barred for 13 years upon release from prison from acting in a prohibited position to employee benefit plans.

Smith had been barred for 5 years beginning in 1982, following a 1981 conviction for embezzling from an employee benefit plan, providing false documents to the government, and failing to file income tax returns. After he was released from prison in March 1982, he acted as a consultant to several benefit plans and failed to report \$423,807 for the years 1981 through 1984, causing an underpayment to the IRS of \$153,975. *U.S. v. Timothy Smith* (D. Pennsylvania)

Teamsters Local 804 and Teamsters Local 808

John F. Long, former secretary-treasurer of Teamsters Local 804, and John S. Mahoney, Jr., secretary-treasurer of Teamsters Local 808 and trustee of the Local 808 pension and welfare funds were convicted on December 21, 1989, by a federal jury in New York City of racketeering, racketeering conspiracy, extortion, and perjury.

A May 1988 indictment had charged that Long and Mahoney together with Jesse David Hyman and Vincent Joseph Rotondo, who were not charged in the indictment but were identified, conducted and participated in the affairs of an enterprise through fraudulent and corrupt activity. Hyman is currently serving a 30-year prison sentence on a previous conviction. Rotondo was murdered in January 1987, but at the time relevant to the indictment was the underboss of the DeCavalcante organized crime family in New Jersey.

The defendants embezzled union and employee benefit funds, received payments from employers to avoid unionization of their employees, and extorted money from employers to avoid business disruptions, labor disputes, loss of business and reprisals by organized crime figures.

Long received approximately \$9,000 and Mahoney approximately \$40,000 to influence the Local 804 and 808 pension funds to invest \$150,000 and \$1.5 million, respectively, in Penvest Inc., an investment company. Long received kickback payments from Hyman, an associate of Penvest. Long influenced Mahoney to invest the Local 808 pension fund money in Penvest and later was paid by Hyman for convincing Mahoney not to withdraw the investment. Long and Mahoney were also convicted of perjury before a federal grand jury that questioned the Penvest investments.

Long also received from Hyman approximately \$2,000 for influencing an individual associated with Teamsters Local 277 to invest Local 277 pension funds with American Asset Management Company; approximately \$5,000 to permit Emgee Pharmaceutical, Inc., to avoid unionization; and approximately \$2,500 to protect Bottom Sportswear, Inc., from picketing and unionization by the International Ladies Garment Workers Union. Long extorted approximately \$80,000 from Flair Maintenance Corporation disguised as cash and salary payments to Long's wife, who never worked for the company.

The investigation leading to this conviction was conducted jointly by OLR and the FBI. *U.S. v. John F. Long and John S. Mahoney* (S.D. New York)

Northern Central Bank

Sidney D. Furst, III, a former vice president of the Northern Central Bank in Williamsport, Pennsylvania, was convicted on January 27, 1989, in federal district court in Scranton on charges including embezzlement of \$358,757 from employee benefit plans that are covered under ERISA.

Furst was found guilty on 8 of 25 counts that charged him with making false statements to employee benefit plans, theft of employee benefit funds, and making false bank entries. An August 1988 indictment had charged that Furst had diverted over \$500,000 from pension accounts to other accounts at the bank from February to September 1985. Furst, who was also head of the investment group of the bank's trust division, diverted proceeds from the sale of stock of pension and welfare fund accounts to unrelated accounts.

Furst is the second person to be convicted in this joint investigation by OLR and the FBI. In December 1987, Richard Neidig, a former employee benefit plan trust officer at the bank, pled guilty to one count of embezzlement of bank funds and was sentenced. *U.S. v. Sidney D. Furst, III* (M.D. Pennsylvania)

LABOR-MANAGEMENT RELATIONS

Teamsters Local 560

The head of the Genovese organized crime family in New York was named in a civil complaint filed October 13, 1989, by the U.S. Attorney in Newark, New Jersey. Vincent Gigante, who was recently identified in U.S. Senate hearings as the current head of the Genovese organized crime family, was charged with conspiracy to maintain control over Teamsters Local 560 of Union City through a pattern of racketeering. Also named in the complaint are New England Motor Freight of Elizabeth, New Jersey, and attorney Thomas DiBiasi of Nutley and his law firm of Citrino, Balsam and DiBiasi.

The complaint was filed under the civil provisions of the RICO statute and is the latest in a series of civil court actions aimed at freeing the local from organized crime control.

The complaint alleges that Gigante conspired with Anthony "Fat Tony" Salerno, Matthew "Matty-the-Horse" Ianniello, and others connected to the Genovese family to maintain control over Local 560. This was done in spite of the fact that the U.S. District Court in Newark had found it necessary to place Local 560 in trusteeship to free it from the crime family's control and to break the 26-year history of racketeer exploitation. The complaint seeks to prohibit Gigante from any further interference in the affairs of Local 560 or any other labor organization.

Regarding New England Motor Freight, the complaint alleges that it was operated as a racketeering enterprise by its chief executive officer, Myron Shevell. A long-standing "sweetheart" arrangement between Shevell and Anthony Provenzano and his associates allowed the company to use non-union drivers and dock men. Over a period of 10 years, the company was able to become non-union altogether. Provenzano headed the local until his convictions for labor-peace extortion. He died in December while serving a life sentence for murder. The complaint seeks to set aside the various agreements that resulted in the non-union work force and to restore the Local 560 bargaining unit to its position before the "sweetheart" arrangement in 1977.

The charges against DiBiasi and his law firm allege that they defrauded the beneficiaries of the Local 560 pre-paid legal services plan by various acts contrary to the agreement. This part of the complaint seeks to recover over \$1 million and to bar DiBiasi permanently from acting as a service provider to any union local or benefit plan.

This civil complaint was based on the same series of transactions and events that had previously resulted in a court order banning two former local officials, Michael Sciarra and Joseph Sheridan, from running for office in court-supervised elections held in December 1988. The injunction against Sciarra and Sheridan was the first of its kind under the RICO statute in which a corrupt union official is prohibited from holding office, notwithstanding the absence of a criminal conviction. Stanley Jaronko, another former Local 560 official, had earlier signed a consent judgment prohibiting him from ever participating in the affairs of any labor organization or employee benefit plan.

The October civil action seeks to address the other side of the same racketeering problem by seeking injunctive relief against the employer, the service provider, and

the organized crime boss who were responsible for corrupting the union officials and victimizing the union membership. *U.S. v. Vincent Gigante et al.* (D. New Jersey)

Teamsters Local 875

A current and a former official of Teamsters Local 875 in New York were convicted October 18, 1988, for racketeering and sentenced February 23, 1989. Richard Stolfi, the local's secretary-treasurer, was sentenced to 5 years in prison and Frank Casalino, former local business agent, to 4 years. Local 875 represented employees of the Wedtech Corporation in the Bronx.

Stolfi and Casalino were found guilty of conducting and conspiring to conduct the affairs of Local 875 and its welfare and benefit funds through a pattern of racketeering activity from 1980 to 1987. Along with RICO and RICO conspiracy, they were also convicted of soliciting and receiving kickbacks regarding employee benefit plans, soliciting and receiving illegal payments from an employer, extortion, and conspiring to solicit and receive kickbacks and illegal payments.

They received approximately \$360,000 from Wedtech officials, including \$235,000 for labor peace, \$100,000 for allowing the use of non-union labor on a Wedtech construction site, and \$25,000 for favorable terms in the 1983 collective bargaining agreement. Stolfi received a \$6,000 kickback in 1981 from false insurance claims filed on behalf of the welfare fund during a burglary. He also embezzled \$8,000 in 1982 from the welfare fund as a result of a dental equipment replacement scheme.

Under the RICO forfeiture provisions, the defendants will jointly forfeit approximately \$360,000; Stolfi will additionally forfeit \$14,000. Stolfi was also directed by the court to relinquish his union position. Both are also barred from holding union office for 13 years after release from prison.

Teamsters Local 875, located in Elmhurst, N.Y., had organized Wedtech workers in 1977, when the company was known as Welbilt, and became the sole collective bargaining agent for its production workers. From 1980 through September 1987, Casalino was the business agent assigned to handle Wedtech matters. *U.S. v. Richard Stolfi and Frank Casalino* (S.D. New York)

Roofers Local 30/30B

One former and two current officials of Roofers Local 30/30B of Philadelphia recently pled guilty in Montgomery County Court of Common Pleas in Pennsylvania to state charges of massive racketeering in the local.

Jack Kinkade, former president and business manager of the Roofers Local, pled guilty on March 14, 1989, to one count of extortion. The extortion included forcing a contractor to make a contribution of \$750 to a charity, forcing him to drop out of a roofing association in which he served as an officer and with whom the union had an agreement, and forcing him to fire some of his union employees.

Kinkade was president of the union from 1971 to 1981 when he succeeded John McCullough as the local's business manager after McCullough was murdered in 1980. He remained in this position until 1985 when he retired.

On March 15, 1989, Joseph Kinkade, a business agent with the local since 1978 and Jack Kinkade's brother, and Gary McBride, a business agent since 1981, pled guilty to racketeering. Joseph Kinkade's racketeering plea included 21 racketeering acts and McBride's 20. These crimes, outlined in the charges, included theft by extortion, criminal conspiracy, terroristic threats, criminal coercion, and criminal mischief. Except for the criminal conspiracy charge, these crimes covered an 8-year period from 1979 through 1987. The criminal conspiracy charge covered a 20-year period during which the Roofers Union controlled the roofing industry by violence in the three-state area of Pennsylvania, New Jersey and Delaware.

After entering their guilty pleas, Joseph Kinkade and McBride were sentenced to serve 18 to 36 months in prison and each fined \$3,000.

These court actions resulted from a 4-year investigation by OLR and the Pennsylvania Attorney General's Office, which resulted in state racketeering charges being brought against 14 past and present officials of Local 30/30B. This investigation and a separate FBI investigation resulted in the filing of a civil complaint under provisions of the RICO statute by the U.S. Attorney's Office against the Roofers Union. A federal court imposed a "decreeship" over the union on May 23,

1988. *Commonwealth of Pennsylvania v. Stephen Traitz et al.* and *U.S. v. Local 30/30B United State, Tile and Composition Roofers, Damp and Waterproof Workers Association et al.* (E.D. Pennsylvania)

INTERNAL UNION AFFAIRS

Teamsters Local 473

Two Local 473 Teamsters in Cleveland were indicted by a federal grand jury in Cleveland on November 10, 1988, for threatening and assaulting a Teamster union member employed by the *Cleveland Plain Dealer*.

Carmen Parise, secretary-treasurer and business manager of Local 473, was charged with one count each of extortion and of depriving a union member's rights by violence. Frank Costanzo, Jr., a member of Local 473, was charged with retaliation against a federal witness.

The indictment charges that Parise threatened Jerry Lee Jones, a Local 473 member, with economic and personal injury to stop him from expressing opinions about Local 473's affairs to other employees of the *Plain Dealer*. The indictment charges Costanzo threatened and assaulted Jones for having reported Parise's threats to federal law enforcement officers. *U.S. v. Carmen Parise and Frank Costanzo* (N.D. Ohio)

Teamsters Local 507 and Bakery Local 19

Harold Friedman, president of Cleveland Teamsters Local 507 and Bakery Local 19, and Anthony Hughes, recording secretary for Local 507 and business agent for Local 19, were convicted by a federal jury on January 13, 1989, on racketeering charges involving embezzlement of over \$700,000 from the two locals.

Friedman, who is also a vice president of the International Brotherhood of Teamsters, and Hughes were each convicted on one count of racketeering, one count of racketeering conspiracy, and one count of embezzlement of union funds. Friedman was also convicted on one count of making false statements in annual reports to the Department of Labor for Local 507. The defendants had been charged in a May 1986 indictment that had included Jackie Presser, who was secretary-treasurer of Local 507 and president of the International. Presser died in July 1988, 3 months before the trial began.

Friedman and Hughes were convicted of violating the RICO statute by conducting the affairs of the two locals through a pattern of racketeering activity consisting of multiple acts of embezzlement. The embezzlement was accomplished by maintaining three employees, who did not work, on the payrolls of the locals. The employees identified as "no shows" or "ghost employees" were Allen Friedman (Presser's uncle), Jack Nardi, and George Argie. They were named as co-conspirators but were not indicted. Additionally, Harold Friedman and Hughes were convicted of embezzling \$17,000 from Bakery Union Local 19 to pay Hughes a salary for which he performed no work. *U.S. v. Harold Friedman and Anthony Hughes* (N.D. Ohio)

Iron Workers Local 357

Three former officials of Iron Workers Local 357 in Springfield, Massachusetts, were sentenced to jail or probation in federal court in Boston for conspiring to embezzle, convert or misuse more than \$400,000 of union funds. This investigation by OLR involved the largest dollar amount in a labor racketeering case in New England history.

On March 7, 1989, Robert Edmund McNulty, former business agent for Local 357, was sentenced to 2 years in prison on his January 1989 guilty plea to one count of conspiracy to embezzle more than \$330,000 in union funds and one count of embezzling \$35,000 in union funds. James Kennedy, former president of Local 357, was sentenced to 2 years' probation on his January guilty plea to one count of conspiring to fail to keep and maintain records for trips in excess of \$87,000 taken on union business.

On March 10, 1989, Gerald Thomas Callahan, former financial secretary-treasurer for the local, was sentenced to serve 6 months of a 1-year prison sentence with 6 months suspended and 2 years' probation on his guilty plea to one count of conspiracy to fail to keep and maintain records for trips taken on union business. *U.S. v. Robert E. McNulty et al.* (D. Massachusetts)

International Brotherhood of Teamsters

An agreement between the government and the Executive Board of the International Brotherhood of Teamsters was approved on March 14, 1989, by Federal District Judge David N. Edelstein. This agreement was a result of a civil RICO complaint filed by the U.S.

Attorney's Office for the Southern District of New York in June 1988. The civil RICO complaint, which resulted from a joint investigation by OLR, the FBI, and the Department of Justice, alleged that union members were deprived of their rights through a pattern of racketeering by organized crime with the assistance of the board members.

Major provisions of the agreement include:

1. Direct election of the international officers by rank-and-file members by secret vote;
2. An independent administrator, with the same rights and powers as the IBT general president and/or general executive board;
3. An investigations officer, with the authority to investigate the operation of the IBT or any of its affiliates, to initiate disciplinary charges and to institute trusteeship proceedings; and
4. An elections officer to supervise the 1991 international elections and any special elections prior to 1991.

The three independent officers will be replaced by a three-member independent review board following the certification of the 1991 elections. The review board will investigate any allegations of corruption, including bribery, embezzlement, extortion, loan sharking, violations of the Landrum Griffin Act, Taft-Hartley and Hobbs Acts, and allegations of domination or control or influence by any organized crime group.

Nine of the defendants, including three IBT vice presidents, had signed consent judgments agreeing to remove themselves from any dealings with the IBT prior to the approval of the agreement. *U.S. v. The International Brotherhood of Teamsters* (S.D. New York)

OTHER CORRUPTION CASES

Wedtech Corporation

Former U.S. Congressman Mario Biaggi (D-NY) was sentenced on November 18, 1988, in Manhattan to 8 years in prison and fined \$242,750. Biaggi and six co-defendants had been convicted in August of charges including racketeering and extortion involving the Wedtech Corporation of the Bronx.

The case against Biaggi and several co-defendants involved illegal payments made by Wedtech officials to public officials to facilitate, receive or maintain government contracts. Department of Defense and U.S. Postal Service contracts accounted for 90 percent of Wedtech's gross revenues.

Also sentenced on November 18 were Stanley Simon, former Bronx Borough president, to 5 years in prison and fined \$70,350; John Mariotta, former president and chairman of the board of Wedtech, 8 years and fined \$291,550; Peter Neglia, former chief of staff and regional director of the Small Business Administration, 3 years and fined \$30,200; and Richard Biaggi, an attorney and the son of Mario Biaggi, 2 years and fined \$71,250.

Bernard Ehrlich, former Wedtech counsel and Mario Biaggi's former law partner, was sentenced on January 10, 1989, to 6 years in prison and fined \$222,000. *U.S. v. Stanley Simon et al.* (S.D. New York)

Asbestos Removal

Previous reports have described OLR's investigation of corruption in the asbestos removal and demolition industry in the New York City area.

To date, 25 individuals have been charged with bribing a U.S. Environmental Protection Agency inspector to overlook violations of federal asbestos removal procedures by their companies and to stay away from job sites where their companies were conducting asbestos removal. Investigative accomplishments during this reporting period include 3 indictments, 3 criminal informations, 15 convictions, and 1 acquittal.

The two most prominent convictions involve Harold Greenberg, president of Big Apple Wrecking in the Bronx, and Philip Schwab, owner of Cuyahoga Wrecking based in Long Island. Schwab owns several corporate entities throughout the country involved in construction, demolition or heavy equipment. Greenberg was sentenced to 2 years in prison and fined \$100,000. Schwab was sentenced to 3 1/2 years in prison and fined \$50,000.

Continuing investigation will focus on suspected racketeering violations by union officials. *U.S. v. Harold Greenberg*, *U.S. v. Marshall Katz et al.*, *U.S. v. Philip Schwab*, *U.S. v. Kreso Bezmalinovic*, *U.S. v. Seymour Breiterman*, *U.S. v. Salvatore Russo*, *U.S. v. Edward*

Brown, U.S. v. Jerome Brown, U.S. v. Mitchell Kurzban, U.S. v. Valery Kaminov, U.S. v. John B. Vittiglio, Jr., U.S. v. Bernard J. Tully, U.S. v. Richard Tully, U.S. v. Vincent Longo, U.S. v. Lanza L. Schwall, U.S. v. Anthony Grgas (E.D. New York)

Philip Clevenger

A telephone solicitor, who had been indicted by a federal grand jury in New York City on charges that he defrauded numerous national corporations by selling advertising space in non-existent publications, pled guilty on February 16, 1989, to having committed mail and wire fraud.

Using several aliases and passing himself off as an official of the International Brotherhood of Teamsters

and the AFL-CIO, Philip L. Clevenger of Huntington Beach, California, sold advertising space in spurious publications, *The International Speaks* and the *National Trade Movement*, that never published an issue. Clevenger received approximately \$100,000 from this scheme.

Among the victims of Clevenger's scheme were the 3M Corporation; Joseph Seagram and Son; Fruehauf Corporation; Bea Associates, Inc.; ICC Realty Advisors, Inc.; Pacific Bell; Pacific Telesis Group; Samsung Electronics America, Inc.; Equitable Life Assurance Society; New York Life Insurance Company; Schenly Industries; and Merrill Lynch, Pierce, Fenner and Smith, Inc.

Investigation leading to this conviction was conducted jointly by OLR and the U.S. Postal Inspection Service. *U.S. v. Philip L. Clevenger* (S.D. New York)

OFFICE OF AUDIT

During this reporting period, 376 audits of program activities, grants, and contracts were issued. Of these, 28 were performed by OIG auditors, 63 by CPA auditors under OIG contract, 4 by the Defense Contract Audit Agency (DCAA), 106 by State and local government auditors, and 175 by CPA firms hired by grantees.

The Office of Audit section of this semiannual report has five chapters. Chapter 1 contains information on audit activities of the Department's programs (immediately following). Chapter 2 centers attention on the Department's systems of financial management (page 57). Chapter 3 describes current OIG activities under the 1986 Program Fraud Civil Remedies Act (page 63). Chapter 4 (page 65) reports significant audit resolution. Money owed to the Department, audit schedules and tables, and a listing of audit reports issued and resolved is found in Chapter 5 (page 69) of this section.

Chapter 1

Agency Activities

EMPLOYMENT AND TRAINING ADMINISTRATION

The Employment and Training Administration (ETA) designs and oversees the administration of major programs dealing with employment and training, principally the Job Training Partnership Act, and other special emphasis projects designed to meet the needs of economically disadvantaged youth, dislocated workers, and the unemployed and underemployed. In fiscal year 1989, authorized staffing is 1,753 and ETA's budget is almost \$7 billion. Of that amount, \$2.5 billion is for State UI and ES operations, \$3.7 billion is for JTPA, and \$134 million is for Trade Readjustment Allowances. In addition, the UI Trust Fund totals \$13.7 billion.

During this reporting period, the OIG conducted significant audit activity in the Job Training Partnership Act (JTPA), Job Corps, and Unemployment Insurance (UI) programs.

JTPA Overview

Over the past 6 months, the OIG's focus on JTPA has been to follow up on audit issues set forth in the last semiannual report. Some members of the Congress and various congressional staff have expressed interest in the OIG's recommendations.

In September 1988, the Assistant Inspector General for Audit testified before a hearing of the House Committee on Education and Labor. The hearing was held so that GAO, DOL's OIG, and other independent research groups could testify on issues affecting JTPA.

OIG testimony at this hearing centered on the need to:

1. Enhance JTPA program targeting to better serve the most-in-need of the eligible population; and
2. Eliminate 20 CFR 629.38(e)(2) from JTPA regulations in the interest of preventing apparent violations of law by program operators and creating program accountability.

On the first issue, testimony cited an audit report which indicated that JTPA programs are not adequately serving the client population toward which the Act was directed: the most severely disadvantaged. Instead, 60 percent of the clients served were high school graduates. Also, 60 percent of the program's on-the-job training placements were into jobs where the employer would have hired individuals without the JTPA training. The cause of these deficiencies was attributed to limited and ineffective program performance standards which encouraged short turnaround, low cost training and placement interventions rather than longer term, real career-training interventions which require greater investment.

Testimony on the second issue was drawn from several audits performed at JTPA entities in a number of States. In attempting to assess compliance with program statutes, the OIG encountered heavy use of a contracting mechanism, unique to JTPA programs, which has been allowed in the JTPA regulations by ETA. The OIG's review of this contracting mechanism (fixed unit price, performance-based, contracting) found that the authorizing regulation, 20 CFR 629.38(e)(2), has no basis in the statute and, further, it allows program operators to violate two separate sections of the statute.

OIG recommended that the regulation be eliminated based on conclusions that:

1. The regulation has contributed to widespread circumvention of the statutory limitations on administrative expenditures imposed by Section 108 of JTPA. This apparent violation of Section 108 was reported previously by the OIG.
2. The regulation allows program operators to avoid recordkeeping requirements sufficient to permit tracing of funds to a level of expenditure adequate to ensure that the expenditure of funds was lawful, as required by Section 165 of JTPA. This lack of recordkeeping also seriously impairs the ability of the Congress and the Department to assess the economy and efficiency of programs under JTPA.

Since the hearing, OIG staff has been working with several congressional committees on how this complex problem impacts overall JTPA program accountability.

Job Corps

The Job Corps program is operated under JTPA and is designed to serve primarily impoverished and unemployed youth between ages 16 and 21. Comprehensive training in basic and vocational education, work experience, counseling and enrichment activities are provided at both Federal- and contractor-administered centers. After training, corpsmembers are provided placement assistance for up to 6 months.

The OIG is reviewing specific Job Corps centers, contractors, and program systems and providing technical assistance to Job Corps management as they implement new systems and procedures to correct problems identified in our earlier reports.

FINANCIAL REVIEWS OF 33 CENTERS

The OIG performed audit procedures at 33 Job Corps centers for program year 1986 (July 1, 1986-June 30, 1987) as part of its program-wide audit of Job Corps. To assist Job Corps in monitoring its individual centers, the OIG issued reports on each of the centers reviewed. The testing results cannot be projected to the total \$523 million cost of center operations. The 33 centers visited incurred costs of \$174 million. Approximately 3 percent of those centers' costs were tested and 6 percent of the costs incurred by those centers were questionable. There were a total of 219 audit findings, with \$400,321 in costs questioned or recommended for disallowance and numerous administrative findings.

Management's Response to Prior Audit Findings

The full scope audit of Job Corps produced two comprehensive reports, one covering the financial area and one covering program results. Concurrently, program abuse work, which resulted in several reports, was coordinated with the full-scope audit.

Job Corps management has taken immediate action to respond to audit findings which addressed all aspects of program operation. Only a few recommendations remain unresolved. The status of each recommendation is as follows.

Financial Audit

Program Accounting and Reporting

This report contained internal control findings concerning program accounting and reporting and the corpsmember allowance and allotment system. The compliance report noted that Job Corps could not demonstrate universal compliance with the 12 eligibility criteria due to the complexity of the screening system and inconsistent application of difficult to apply screening procedures.

The OIG found that the DOL and ETA accounting systems did not provide Job Corps with complete program information related to centers operated by the Departments of Agriculture and Interior. The agency agreed that the current systems do not routinely generate comprehensive "program level" statements and that such statements cannot be prepared except with considerable manual effort. However, they believed that the systems do provide them with essential accounting information. We continue to contend that the program accounting system needs to be improved. While "essential" information may be provided by the current systems, it is not complete.

Complete, timely information is critical to effective, efficient management. Overall financial information about assets, liabilities, commitments, and expenses affects decisions on program changes, planning, and operating methods. The Department and ETA are currently replacing their accounting systems. These new systems should provide full program accountability, and the OIG is working with the Department and ETA on these matters.

Corpsmember Allowance and Allotment System

Approximately \$1 million in corpsmember advances had not been recorded in Job Corps allowance and allotment accounting system, which is operated by the U.S. Army Finance and Accounting Center (USAFAC). Several OIG program abuse reviews also noted abuse in the corpsmember and allotment allowance system. The OIG recommended establishing a control system to ensure full center and USAFAC accountability. Job Corps fully concurred and is taking a number of steps to clarify and strengthen policies and procedures to account for corpsmember allowances and allotments at both the centers and USAFAC. They also are assessing their ADP needs for enhancement and modernization. Specific actions to be taken are as follows:

1. Develop a model system of internal controls for the corpsmember allowance and allotment system.
2. Revise the *Corpsmember Allowances and Allotments Handbook*.
3. Update the USAFAC and Office of Job Corps Pay (OJCP) policies and procedures manual to include all required procedures to process documents.
4. Develop new monitoring procedures and tools to ensure compliance with policies and procedures.
5. Issue Job Corps policy relating to corpsmember attendance, leave, and allowance records retention.
6. Provide training to Federal and center staff covering corpsmember leave, allowance, and allotment procedures.
7. Develop a long-term ADP plan for the corpsmember allowance and allotment system.

To date, drafts of the model system of internal control, revisions to the *Corpsmember Allowances and Allotments Handbook*, updates to the OJCP policy manual, and policy issuances relating to records retention have been circulated through Job Corps' internal review process. Comments resulting from this review process have been addressed and final issuance of these documents is contemplated shortly.

The development of training materials and a training session to present the policy revisions made in the corpsmember allowance and allotment system is ongoing, with training dates scheduled for fall 1989.

Work in the ADP area has proceeded in conjunction with the work discussed above. Reports summarizing short- and long-term ADP needs and recommendations for improvement and implementation should be issued in June 1989.

Corpsmember Eligibility

In the compliance report, severe problems with the eligibility system were noted. Of 1,683 corpsmember files reviewed, only 21 were error free. The screening system was too complex and difficult to apply. Job Corps agreed and committed resources to a complete review of the eligibility system, including simplifying

and clarifying administrative requirements. Job Corps will also develop a quality control system for the screeners, new monitoring procedures for their regional offices, and new tools (e.g., checklists and worksheets) to ensure accuracy. New policies and requirements are now in draft; they represent a significant step toward improving the eligibility system.

Program Results Audit

The internal control report noted problems related to reconciliation of Job Corps data bases, reported placements, placement contracting, placement criteria, and program reporting.

Reconciliation of Data Bases

We found differences between the Weekly Corpsmember Strength Report (WCSR) and the Job Corps Management Information System. Job Corps has instituted additional reviews to ensure the accuracy and consistency of the WCSR and plans other changes to the data processing operations to improve timeliness and accuracy of program data.

Reported Placements

In a sample of 974 reported placements for program year (PY) 1986, 25 percent could not be validated. Job Corps management has committed to reducing the error rate, improving placement reporting and monitoring systems, and is currently verifying data for PY 87 placements which will provide more detailed information on individual contractors. The OIG is providing technical assistance in survey design, statistical sampling, data processing, and analytical techniques. Job Corps management also is making significant revisions to placement policy and procedural requirements for contractors and regional monitoring staff.

Placement Contracting

Placement contracts included no monetary incentives for placements to meet program goals and to ensure complete reporting. Job Corps revised its model contract to include incentives that match program goals and encourage complete reporting. Job Corps also plans further review to increase accountability.

Placement Criteria

Minimum periods of employment were unspecified

with the result that only a few days in employment or school was counted as a valid placement. The OIG considers a placement of only a few days to be an insignificant accomplishment when the program reported spending over \$16,000 per corpsmember service year for PY 1986. The OIG also found numerous questionable self-employment placements; as a result, Job Corps plans stricter requirements for self-employment placements.

While Job Corps management agreed that post-placement retention information would be helpful to evaluate program efforts and enhance accountability, they contended that financial resources are lacking to gather this information routinely and that data collection costs would be prohibitive. However, the PY 90 budget request included funds for a post-placement evaluation study. This is a step in the right direction. A cost study also is needed to determine whether the costs are actually prohibitive. Many State-operated JTPA programs have placement retention requirements.

Program Reporting

Job Corps accomplishment reporting was giving an incomplete picture of the program because placement services are not completely reported: Job Corps was actually underrepresenting its services. Job Corps agreed and has devised a more complete reporting methodology. The OIG was requested to review the methodology prior to its implementation.

Corpsmember Accountability and Pay Systems

In program abuse surveys, the OIG noted weaknesses systemic to Job Corps' operations related to corpsmember accountability and pay systems. Centers were not held accountable for differences between their records and the information they reported to the Office of Job Corps Pay or the Job Corps regional offices. Complete and accurate records of corpsmember status were not always maintained. Center monitoring and followup on resolution of review findings was not effective in a number of areas and controls over allowance checks were inadequate. Centers either did not always report, or incorrectly reported, corpsmember status changes. This often led to improper payments.

The OIG completed an analysis of these findings related to the accountability and pay systems and recently provided Job Corps management with recommendations to improve the systems in the following areas:

1. Certification of corpsmember status.
2. Performance standards.
3. Retention of records.
4. Monitoring by the Office of Job Corps.
5. AWOL status of nonresident corpsmembers.
6. Control over the corpsmember allowance checks.
7. Reconciliation of attendance and pay records.
8. Classification of types of leave.

Management has concurred with our recommendations and is taking timely and aggressive action to implement changes.

PROGRAM ABUSE SURVEYS

Job Corps has been very responsive to the OIG's program abuse work. The OIG's Semiannual Report of September 1988 reported on significant program abuse at two centers operated by a Job Corps contractor. Job Corps instituted stricter regional office monitoring to ensure that corrective actions were fully implemented. In addition, the contracting officer is requiring the Job Corps contractor to repay \$111,482 as a result of improperly retaining AWOL corpsmembers as program participants.

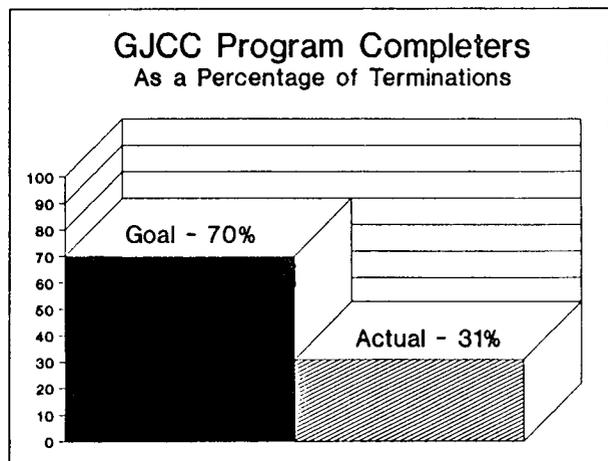
Gainesville Job Corps Center

In response to allegations received from Job Corps of improprieties in corpsmember accountability and problems in administering Tests of Adult Basic Education (TABEs) at the Gainesville Job Corps Center (GJCC), special program abuse surveys were performed.

Teledyne Economic Development Co. (TEDC) operates GJCC and six other Job Corps centers. The contract period is from October 1, 1984, to September 30, 1989. Total contract costs billed to the Department of Labor for the operation of GJCC as of January 31, 1989, were over \$16 million.

Corpsmember Accountability

TEDC failed to meet what the OIG believes is the most critical performance goal set forth in its contract. TEDC's contract includes a *competition target ratio* (percentage of corpsmembers completing their intended training) of 70 percent. However, according to GJCC's records, only 31 percent of the corpsmembers (317 of 1,025) who terminated from July 1, 1986, through September 30, 1988, completed their training. This is illustrated on the following chart.



The average cost per corpsmember completing training increases significantly when the corpsmember completion ratio is only 31 percent instead of the 70 percent contracted goal.

Serious violations of program regulations and management weaknesses were noted such as abusing the corpsmember leave system by granting corpsmembers excessive leave without pay and failing to terminate corpsmembers for excessive absences without leave. This condition was exacerbated by an ineffective corpsmember counseling program as well as corporate (coupled with Job Corps regional office) disregard of monitoring reports which indicated problems within the corpsmember leave system.

Because a high percentage of corpsmembers with excessive AWOL were not terminated from the program as required, 70 corpsmembers who approached the limitation for termination more than once or whose status was changed from AWOL to administrative leave were judgmentally selected for more detailed review. Only 14 percent of these corpsmembers (10 of 70) completed the Job Corps program, as compared to the center's overall completion rate of 31 percent. OIG

analysis of the corpsmembers' enrollments showed that the 70 corpsmembers spent about 51 percent of their total enrollment off-center and about 33 percent of their total enrollment in non-pay status.

The OIG also noted inadequate control over the corpsmember accountability system, inadequate reporting of corpsmember status, and inadequate corpsmember counseling. Finally, actions on disciplinary review board cases often were not timely or appropriate.

As a result, performance statistics were distorted, overpayments to some corpsmembers occurred, and a low percentage of corpsmembers completed the program. In addition, enrollment slots were unavailable that might have been used by other applicants who had the full capabilities and aspirations needed to complete and absorb the full benefit of the Job Corps program.

Tests of Adult Basic Education

The review of the administration of Tests of Adult Basic Education (TABEs) disclosed:

1. Incorrect examination dates were posted on Job Corps Corpsmember Profiles (29 percent),
2. TABEs were not posted to the Job Corps Corpsmember Profiles (19 percent),
3. Corpsmembers may not have been present on the day they were shown as taking TABEs (6 percent), and
4. Corpsmembers were not administered initial TABEs in a timely manner.

It is believed that these deficiencies were caused by clerical error and failure to follow prescribed test procedures.

Corrective Action by Contractor

In response to the identification of these problems, TEDC took immediate corrective action. Three key center managers have resigned. Center records were reviewed and AWOL corpsmembers were terminated, as required. The center's accountability committee was reactivated. In addition, TEDC plans to provide more training to counseling staff, redesign the corpsmember discipline system, redirect management responsibilities, and implement corporate validation procedures for on-board strength, weekly termination rate, and present-for-duty statistics.

Joliet Job Corps Center

Because of earlier problems identified at the Joliet Job Corps Center (see prior semiannual report), the OIG performed a complete financial and compliance audit of the center. The Joliet Center is located in southeast Illinois and has a maximum capacity of 380 corpsmembers. The Joliet Job Corps Center was operated by Res-Care, Inc., under two DOL contracts, from June 30, 1981, until October 31, 1988. Res-Care, Inc. no longer operates the Center.

The OIG audited the Job Corps Financial Report (ETA 2111) and Public Voucher for program year 1986 (July 1, 1986, through June 30, 1987). Claimed costs for the audit period totaled \$4,581,341.

Recommended for disallowance were costs totaling \$344,549 for what the OIG believes are various violations of contractual requirements. In addition, costs of \$90,159 were questioned primarily for lack of supporting documentation. Overall, a lack of internal accounting controls and administrative controls was found.

In the OIG's opinion, the Public Voucher and the Job Corps Financial Report did not present the Joliet Job Corps Center financial position nor the results of its operations.

Program Abuse

Potential program fraud, abuse or illegal acts in departmental programs or operations call for immediate reaction and response. During this reporting period, the OIG completed the following significant program abuse audit work in JTPA, Indian and Native American programs, and in ETA's grant and procurement management.

Kentucky JTPA

In response to a complaint that JTPA training funds were used to serve ineligible participants at the Toyota Motor Manufacturing plant in Scott County, Kentucky, an audit was initiated to examine participant eligibility. It was determined that \$2.6 million in JTPA funds were used to train 545 ineligible participants. Those hired met none of JTPA's eligibility criteria. Specifically, the participants were neither economically disadvantaged, dislocated workers who encountered barriers to employment, nor members of any other group designed to be served by JTPA.

Many of these participants were working full time when they applied and entered the program, and were members of households earning far in excess of the JTPA eligibility income criteria.

The audit also revealed that Kentucky's JTPA contracts with Toyota did not address the training priorities established for the funds. The funds were designed to provide job training in conjunction with State education agencies. For example, they were to be directed toward illiteracy among youth and adults, basic education for high school dropouts, and core training for disadvantaged youth who do not plan to pursue education beyond high school.

These ineligible participants were enrolled in the training program because of a misinterpretation and misapplication of the special provisions under JTPA, Section 123. This section establishes parameters for an 8 percent "State set-aside." Kentucky interpreted the language in these provisions as allowing 25 percent of the funds to be used for training individuals who are not JTPA-eligible. To use the State's terminology, Kentucky believed there was an "8 percent window in Section 123," consisting of 25 percent of the 80 percent funds through which *anyone* may be trained.

The OIG believes that individuals receiving training under the special provisions of Section 123 must meet at least one of JTPA's eligibility criteria. Examination showed that the participants enrolled by Kentucky in the Section 123, 8 percent training program at Toyota met none of these criteria.

Particularly disturbing about the program in Kentucky was that in early March 1988, ETA advised Kentucky that its interpretation of the regulations for serving ineligible participants was apparently not consistent with the Act. Yet, despite this advice, Kentucky continued to enroll and serve these ineligible participants. Kentucky's decision to use JTPA funds to serve ineligible participants has resulted in denying eligible participants the opportunity to receive training that the Act was intended to provide.

The OIG's final report to ETA recommended that \$2.6 million in JTPA funds already incurred by Kentucky from the start of the program through July 1988 be returned to the Department. Further, JTPA funds incurred after July 1988 for these and any other ineligible participants also should be recovered and returned to DOL.

Wayne County Private Industry Corporation

At the request of Wayne County, Michigan officials, the OIG conducted a limited review of the Wayne County Private Industry Corporation (WCPIC) and two of its subcontractors, United Community Service (UCS) and SER-METRO.

In a report to Wayne County, the OIG took exception to \$181,183 of invalid, inflated, or undocumented costs claimed for periodic benchmark payments during program years 1985 through 1987. The \$181,183 consisted of \$172,769 claimed by UCS and \$8,414 by SER-METRO.

These overstated claims initially were undetected by WCPIC because its monitoring system did not require on-site visits to on-the-job employers.

WCPIC agreed to reconcile benchmark payments periodically, require employers to submit each training contract and schedule on-site visits to training worksites.

United Community Services, Inc.

The OIG performed a special program abuse review of training and placement services provided by United Community Services, Inc. (UCS). UCS is a nonprofit JTPA service provider under contract with the Los Angeles Community Development Department (LACDD).

The review, which resulted in audit exceptions totaling \$28,920, indicated that UCS submitted claims for the alleged training and placing in unsubsidized employment of 30 JTPA participants who had not been trained. Costs recommended for disallowance were for 15 participants who told the OIG that they were never trained or employed through UCS' JTPA program.

UCS' Executive Director concurred with the OIG's findings and has agreed to make restitution to LACDD for the inappropriate claims.

Candelaria American Indian Council

ETA's Division of Indian and Native American Programs awarded JTPA funds to the Candelaria American Indian Council (CAIC) to provide various training and employment services to Native Americans in southern California.

A financial and compliance audit report for the period of July 1, 1986, through March 31, 1988, noted audit exceptions of \$38,381: \$34,526 recommended for disallowance and \$3,855 questioned. This review also identified deficiencies in CAIC's internal accounting and administrative controls. These deficiencies allowed CAIC employees to obtain interest-free loans in the form of salary advances.

In responding to the draft report, CAIC concurred with 7 of the 10 audit findings and agreed to refund the entire \$34,526 of costs recommended for disallowance and, in fact, has already refunded \$28,156 of this amount. In addition, CAIC has agreed to pay interest on the inappropriate staff salary advances. Finally, CAIC acknowledged the problems with its fiscal management and agreed to correct them. ETA has indicated that this grantee will be reviewed soon to determine the status of its corrective actions.

National Indian Business Council/National Urban Indian Council

From 1986 to the present, ETA's Division of Indian and Native American Programs entered into grant agreements with the National Indian Business Council (NIBC) and the National Urban Indian Council (NUIC) to provide various training and employment services to Native Americans.

ETA's compliance reviews identified serious financial management problems regarding both organizations. At the request of ETA, the OIG initiated financial and compliance audits of four of these grants: one to NIBC and three to NUIC. ETA review staff worked closely with the OIG to ensure that key areas were audited. In the prior semiannual reporting period, two limited scope audits of the space and equipment costs charged to the above grants by NIBC and NUIC, were issued which recommended disallowances totalling \$170,218.

The OIG recently issued the final report on the financial and compliance audit of NIBC which includes an adverse opinion on NIBC's financial report. The auditors uncovered what the OIG believes to be serious and *flagrant program abuse and conflicts of interest* by the NIBC president. The audit exceptions totalled \$168,984. The audit findings include:

1. \$89,877 in less-than-arms-length transactions and other program abuses;

2. \$56,368 in improper expenses and capital acquisitions;

3. \$21,692 in administrative costs in excess of regulatory limits; and

4. \$1,047 in miscellaneous adjustments.

Considering the prior limited scope review, audit exceptions exceeded \$243,000 and represented 31 percent of total expenses reported by NIBC.

A draft report on the financial and compliance audit of NUIC was issued in early April, shortly after the close of the current semiannual reporting period. The draft report identified audit exceptions in excess of \$675,000. Considering the prior limited scope audit of NUIC, audit exceptions exceeded \$780,000 and represented 37 percent of total expenses reported by NUIC.

Hudson Institute

In the previous Semiannual Report, ETA's award to the Hudson Institute of a noncompetitive grant to research and identify employment and training policy issues was discussed. This grant, to prepare a "Workforce 2000" report and related policy issue papers, was originally estimated to cost \$900,000. The grant was modified six times to expand the scope of work and totaled about \$2.1 million.

Recommendations were directed toward three DOL agencies.

Solicitor of Labor

The audit report recommended that the Solicitor of Labor determine and issue a report on whether the former Assistant Secretary for Employment and Training, during his tenure as a public official, violated any conduct standards in connection with the noncompetitive grant to the Hudson Institute.

On October 11, 1988, the Solicitor of Labor responded to the draft report stating that he would be responsive to the request. On April 20, 1989, the Solicitor advised that a report on "certain ethical concerns in connection with the noncompetitive grant to the Hudson Institute" will be forthcoming around the end of May 1989.

OASAM

The OIG also recommended a series of actions by the Assistant Secretary for Administration and Management to provide additional procedural guidance to ensure that departmental staff follows established policy in making maximum practical use of competitive procedures for awarding discretionary grants, and to ensure integrity in the award of DOL's discretionary grant funds.

The Assistant Secretary for Administration and Management concurred with or made constructive modifications to nearly all the OIG's recommendations. As a result, all the audit recommendations were resolved. The Assistant Secretary further stated that this concurrence was "... evidence of [OASAM's] strong commitment to an effective and fair procurement process."

As of the close of the current semiannual reporting period, the Assistant Secretary for Administration and Management's procurement staff was drafting the appropriate changes to departmental policies and procedures. The Assistant Secretary anticipates that the new policies and procedures will be placed into departmental clearance by June 30, 1989, and issued in final by September 30, 1989. As part of that effort, a task group of procurement officials was meeting to address the OIG's recommendations on sole source grant criteria, justifications thereof, and public disclosure of upcoming noncompetitive discretionary grants.

In addition, a number of corrective actions have already been taken. The Assistant Secretary issued a memorandum to the Department's Executive Staff and Procurement Officers reminding them that discretionary grants be competed to the maximum practical extent. Training has also been given to procurement staffs.

ETA

In late September 1988, ETA sent a monitoring team on-site to ensure that the Hudson Institute fully understood and complied with contractual terms during the remaining life of the grant. In addition, ETA recommended to OASAM the establishment of a task force to finalize procurement improvements.

Unemployment Insurance Program

The Social Security Act of 1935 authorized the Unemployment Insurance (UI) program which is a unique Federal-State partnership that is based upon Federal

law, but is implemented through individual State legislation.

This program is administered by the State Employment Security Agencies (SESAs). At the Federal level, the Unemployment Insurance Service (UIS) of ETA is charged with ensuring proper and efficient administration of the UI program.

During this period, the OIG initiated two major efforts focused on revenue operations in the UI program. First, the controls in State experience rating systems are being evaluated to ensure data validity. Second, UIS's development of a Quality Control (QC) Program is being monitored, emphasizing the design of the revenue system.

EXPERIENCE RATING

The UI program is financed through payroll taxes from subject employers on the taxable wages of their employees. Federal law promotes the use of experience rating for determining the tax rate of individual employers. The premise of experience rating is that employers with similar unemployment experience should pay similar rates.

The benefits of experience rating are that it promotes employment stability and equitable allocation of unemployment benefit costs.

In 1985, the OIG reported that the financing of UI benefits had shifted from a system based on individual employer responsibility to a largely socialized system -- all employers sharing the costs regardless of unemployment experience. In audits of 12 States, only half the costs were effectively charged to specific employers; the rest were socialized. The OIG recommended the following to improve the quality and reporting of experience rating:

1. Revise the State experience rating report.
2. Establish an index to measure the degree of experience rating.
3. Establish controls to ensure the validity of the State indexes.

ETA implemented the first two recommendations and requested additional information on the State systems and costs of implementing the third recommendation. This is the focus of current OIG work.

If a State has an experience rating system, the Secretary must certify that the State law governing such a system is in conformity with Federal law. Therefore, the Secretary must have valid experience rating information which depends upon the timeliness, accuracy and completeness of its supporting data. The key to reasonable assurance of valid experience rating information is the controls in a State's accounting system.

Completeness is a particularly important factor for experience rating. All transactions that affect revenue operations must first be recorded in the State systems. Once the universe is established, timeliness and accuracy of individual transactions and accounts can be examined.

The OIG surveyed the 53 SESAs to determine whether each prepares a summary report of financial transactions. In six States, more detailed work and examination of the systems and subsidiary information that support the summary reports are being performed.

Only 34 of the 53 SESAs prepare a summary financial report of their trust fund activity. Of the 34 SESAs preparing a summary financial report, 30 provided copies for OIG review. Only 21 of the 30 reports appeared adequate. Nine of the reports were missing accounts which should be included in any summary of trust fund activity. Therefore, only 40 percent, or 21 SESAs, are preparing an adequate summary report of their State UI trust fund activities. A trial balance is a critical control to ensure accountability for all transactions; 60 percent of the SESAs did not have this control.

A detailed evaluation of six State systems will be completed in the next reporting period and will allow a more complete assessment of the internal controls over State revenue operations and the cost to improve the State systems so they can fully account for their revenue operations.

UI QUALITY CONTROL PROGRAM

UIS is developing quality control systems for all critical SESA operations. The systems are designed to be diagnostic tools so Federal and State staff can identify errors and their causes and then correct and track their solutions. The cost of the program grew from approximately \$20 million in fiscal year 1987 to \$31.4 million in fiscal year 1988.

Benefit Quality Control

Strong quality control will be an important asset to the

effective and efficient management of the UI program. The benefit quality control program became mandatory in October 1987. SESA staff investigate "key weeks" of selected benefit payments. Payments are selected using statistical sampling guidelines given by UIS. All aspects of a claim that would affect payment eligibility are reviewed and personal contacts are made with claimants, employers, and others. The results are analyzed to determine appropriate program improvements and to produce management information on the UI program.

The OIG reviewed quality control operations in Maryland, Pennsylvania, and the District of Columbia and found that the benefit quality control systems had been implemented in accordance with Federal regulations in the three jurisdictions. Some potential problems related to the use of staff and computer resources, development of program improvement plans, reporting systems, and sampling methodology. At the time of the work, the program had been operational for a year and was being refined. The OIG will continue to monitor the program as it is refined.

The first release of data from the benefit quality control system is targeted for July 31, 1989. The data will be used to present information on the SESAs' total dollars paid, same size, percentage of proper and overpayments as well as underpayments.

Revenue Quality Control

UIS is currently designing a quality control program for revenue operations. The OIG is monitoring this system development. In December, UIS solicited comments on the system design. The work being done in experience rating has a direct relationship to this system. It is the OIG's belief that a summary financial report should establish the structure for the revenue quality control system. From this report, which would establish the universe of revenue transactions, various analyses could be performed and transactions sampled for detailed review. Without establishing the transaction universe, analyses and detailed reviews may be incomplete and ineffective. These views have been provided to UIS, and the OIG will continue to provide input as UIS designs the revenue quality control program.

Federal Equity in Real Property

Since inception of the employment security programs (ES/UI), the purchase of real properties for use in administering the program has been an allowable use of Federal funds. Most States have purchased property

with grant funds. Title to these properties has been vested in the respective States. However, the Federal Government, as a grant condition, has acquired equity in the properties to the extent that grant funds were used to purchase property or to amortize the original financing source.

SESAs account for the use of grant funds to acquire real property. No reporting of DOL equity in properties is required of States, except on an "as requested" basis by DOL.

The OIG is reviewing DOL equity in real properties in all States, Puerto Rico, and the District of Columbia in order to evaluate:

1. The adequacy of accounting for the Federal basis in SESAs' real properties;
2. The value of the Department's equity/basis in SESA real properties; and
3. Past dispositions of properties to determine if (a) the Department received fair value and (b) grant programs were properly benefiting from properties paid for with grant funds.

PENSION AND WELFARE BENEFITS ADMINISTRATION

The Pension and Welfare Benefits Administration (PWBA) administers certain provisions of the Employee Retirement Income Security Act of 1974 (ERISA) and the Federal Employees' Retirement System Act of 1986 (FERSA), including those provisions that pertain to the fiduciary responsibilities of such individuals as pension plan administrators, trustees, and other parties-in-interest. Under these delegations, PWBA is responsible for protecting the rights of approximately 65 million individuals covered by ERISA and about 1.3 million Federal employees currently enrolled under FERSA. Assets held by ERISA plan administrators and the Thrift Trust Fund under FERSA are estimated to be approximately \$2 trillion and growing. The agency also considers and grants exemptions from certain provisions, and develops and issues regulations dealing both with pension and welfare plans in private industry.

Followup Review of the Quality of Independent Public Accountant Audit Reports

As the result of a recommendation contained in a December 1987 OIG report titled, "PWPA Should Expand the Role of the Independent Public Accountant in ERISA Enforcement," the OIG continues its review of the quality of IPA reports and supporting workpapers for audits of pension and welfare benefit plans covered by ERISA.

The followup project is designed to assess the overall quality of the audits being performed by IPAs and to make recommendations which would lead to better protection for plan participants and beneficiaries. Specifically, a sample of 300 audit reports was selected for review to determine if ERISA requirements were met and if generally accepted auditing standards were followed.

To date, out of the sample of 300 audit reports selected for review, desk reviews have been completed on 247 and work paper reviews have been completed on 229.

It is anticipated that the report on the project's results will deal with several major issues. First, it appears DOL regulations, specifically 29 CFR 2520.103 (3) and (4), contribute to a lack of audit coverage by allowing auditors to omit from the scope of the audit assets held in trust in a Government-regulated industry such as banking, insurance, and savings and loan institutions. So far, more than 50 percent of the reviews were of this type. Integrity of fund assets may be questionable due, in part, to the performance of these reviews. Limited scope reviews relieve auditors from performing substantive audit steps. They require no testing of assets held in trust in a regulated industry (banks, insurance companies, etc.) and result in audit reports with disclaimed opinions. Current regulations and guidelines also may need to be revised to eliminate confusion and obtain consistent treatment of plans.

Second, the OIG is reviewing ways to improve the quality of plan audits. The review showed areas where audit standards are not being met. Finally, the OIG is trying to develop a method of targeting plans for detailed review by PWBA by using information presented in the IPA reports.

The results of OIG's quality control review to date have been shared with PWBA program officials.

EMPLOYMENT STANDARDS ADMINISTRATION

The Employment Standards Administration (ESA) coordinates a variety of programs protecting the basic rights of workers, including minimum wage and hour standards, various workers' compensation programs, and equal employment opportunity and affirmative action programs for employees of Government contractors. ESA includes the Office of Federal Contract Compliance Programs (OFCCP), the Wage and Hour Division, and the Office of Workers' Compensation Programs (OWCP).

Of ESA's \$242.9 million budget for fiscal year 1989, Wage and Hour uses the largest portion to enforce a wide variety of labor standards.

The OIG completed significant work during this semi-annual period in Wage and Hour and in OWCP's Black Lung program.

Wage and Hour

In work completed this period, it was found that the Wage and Hour Division is not fully collecting back wages owed to unlocated workers. The OIG followed up earlier audit work to determine whether the Wage and Hour Division had implemented the prior audit recommendation.

Although the agency issued a policy to implement the prior audit's recommendation, compliance was achieved in only 5 of the 10 Wage and Hour regional offices in fiscal year 1988.

It is estimated that in fiscal year 1988 alone, approximately \$3.6 million in legally collectible back wages were neither recovered nor deposited into the U.S. Treasury. Instead, those wages were retained by employers who had violated the Fair Labor Standards Act.

The Acting Assistant Secretary for Employment Standards concurred with the findings and recommendations and advised that steps are being taken to implement the recommendations.

Black Lung Program

ESA's Division of Coal Mine Workers' Compensation (DCMWC) administers the Federal Black Lung Program under the Black Lung Benefits Act, as amended. The Black Lung Benefits Revenue Act of 1977 established the Black Lung Disability Trust Fund (BLDTF) to shift fiscal responsibility for Black Lung benefit payments from the Federal Government to the coal industry.

The Act provides for monthly compensation and medical treatment benefits to coal miners who are totally disabled from pneumoconiosis arising from their employment in or around coal mines. The Act also provides for monthly payments to eligible surviving dependents. Benefit costs are paid by coal mine operators or by the BLDTF if no coal mine operator is liable for payment. For fiscal year 1989, Black Lung has a staffing level of 389 and a budget of \$29.8 million. The appropriation for the BLDTF for disabled coal miners' benefits totals \$633.4 million. Approximately 84,500 claimants are expected to receive monthly compensation benefits and an additional 47,500 miners are eligible to receive medical benefits.

BLACK LUNG RESPONSIBLE MINE OPERATORS' DEBT COLLECTION PRACTICES

In the last semiannual report, a special review performed of the DCMWC District Office in Johnstown, Pennsylvania was discussed. The special review disclosed that, contrary to ESA's directives, responsible mine operators (RMOs) were not billed \$271,503 in principal and interest owed the BLDTF.

The OIG expanded the review performed at the Johnstown District Office to include an analysis of 236 statistically selected case files from all district offices.

The problems identified in Johnstown existed, to some degree, in all district offices. Based on the statistical projection of errors identified in the 236 sample cases, as of March 1, 1988, DCMWC had failed to bill the RMOs for compensation benefits, interest, and medical expenses totaling a net of \$12,935,721. In addition, accounts receivable were understated by a net amount of \$9,586,992 due to DCMWC's failure to post all amounts due and collected from RMOs. Since that time, the Agency has made considerable progress in remedying these deficiencies.

In addition, the Agency has worked toward resolving the recommendations made in the Johnstown special review report. They are reviewing all RMO case files to ensure proper billing of compensation expenses and interest. As a result, collections have increased dramatically. The recent audit shows that more can be done in certain areas. Therefore, OIG is further recommending that DCMWC:

1. Review all RMO receivables to ensure medical expenses have been assessed.
2. Monitor RMO accounts receivable maintenance through the Accountability Review Program.
3. Evaluate the fiscal and accounting procedures to ensure they include adequate controls at both the national and district offices for timely and accurate accounts receivable maintenance.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

The Occupational Safety and Health Administration (OSHA) administers programs designed to assure the safety and health of workers at their worksites. This includes setting workplace regulations and standards for a safe and healthful working environment, enforcing compliance by inspecting places of employment, and providing occupational safety and health training and education. To administer the program for fiscal year 1989, OSHA has a staffing level of 2,441 and a \$244.5 million budget.

During this semiannual period, the OIG completed reviews of OSHA's monitoring of State programs, OSHA's employee discrimination complaint investigation program mandated by Section 11(c) of the OSH Act and Section 405 of the Surface Transportation Assistance Act of 1972, and California's State OSH Act program.

OSHA'S MONITORING OF STATE PROGRAMS

Section 18 of the OSH Act offers States the opportunity to develop and operate their own occupational safety and health programs under Federal evaluation and continuing guidance. OSHA funds up to 50 percent of a State program's operating costs in accordance with

the approved plan. At the time of the review, 25 States and jurisdictions were operating their own programs covering approximately 40 percent of the Nation's work force.

The report identified several areas where the OIG believes OSHA's State program monitoring system can be improved. To increase effectiveness, the OIG recommended that OSHA:

1. Reevaluate its monitoring policies and procedures and revise them as necessary to eliminate aspects that OSHA determines are not useful, and ensure that the revised policies and procedures are uniformly carried out for all State programs.
2. Strengthen internal audits of regional and area offices by developing more comprehensive procedures to review State monitoring activities.
3. Complement the State Plan Activities Measures (SPAM) report, OSHA's primary method to monitor States, with readily available Integrated Management Information System (IMIS) reports and make on-site reviews, on a cyclical or rotating basis, to evaluate management controls and verify a sample of the States' IMIS data.
4. Reevaluate SPAM performance measures and reports, in conjunction with the States, to ensure useful and meaningful data is captured for comparison with the Federal program.
5. Encourage non-IMIS States to participate in the IMIS to achieve uniform data collection, monitoring and evaluation.

OSHA'S Response and Corrective Actions To Date

OSHA has taken steps to improve its monitoring process. These include obtaining agreement from all non-IMIS States to participate in the IMIS, and requesting an opinion from the Solicitor's Office on whether the OSH Act allows sufficient flexibility to evaluate States' public sector programs by other means than direct comparison to their private sector programs.

Based on OSHA's actions, the recommendation to bring all States into the IMIS has been resolved. The OIG is continuing to work with OSHA to resolve the remaining recommendations.

OSHA'S EMPLOYEE DISCRIMINATION COMPLAINT INVESTIGATION PROGRAM

Section 11(c) of the Occupational Safety and Health Act of 1970 (OSH Act) and Section 405 of the Surface Transportation Assistance Act of 1972 (STAA) prohibit any person from discharging or discriminating in any manner against any employee because the employee exercised his or her rights under the Act. OSHA is responsible for investigating complaints of discrimination against employees who are protected under either section of the Acts.

The OIG reviewed program operations and internal controls at OSHA's National Office and in Regions IV and IX, which were selected because of their large caseloads.

Generally, OSHA's employee discrimination complaint investigation program was adequately controlled and carried out in accordance with agency policies and procedures with the following exceptions:

1. The 60- and 90-day legislated time frames for making determinations on complaints were not being met in over 50 percent of the OIG-reviewed cases in the two regions.
2. The manual management information and case tracking system allows only partial analysis of program results. Further, the automated system is not used for reporting purposes and has been virtually abandoned as a management tool.

OSHA's management has been aware for some time that investigations were not always being conducted in a timely manner and that the 11(c) reporting system needed improvement. To address these deficiencies, OSHA is taking two principal corrective actions:

1. A pilot reorganization project is being tested in Region V in which day-to-day 11(c)/405 program responsibility is being assigned to Area Directors. Under this project, Compliance Safety and Health Officers will be cross-trained to perform 11(c)/405 investigations in addition to the Investigations staff. Further, a task force is planning an organizational realignment of the 11(c)/405 field staff using input from the pilot project.
2. The 11(c)/405 portion of the IMIS is being revised to expand the type of information collected

and to decentralize its point of operation to the area office level.

OSHA's Response and Corrective Actions to Date

The Assistant Secretary stated that OSHA had recognized the problem areas noted in the report and that efforts to remedy these situations throughout the agency were under way.

The OIG acknowledges OSHA's progress in implementing changes to improve discrimination complaint investigations. While the OIG recognized that automation of the 11(c)/405 program data collection and reporting system is a complex process, the time frame continues to slip. More should be done to provide program managers the tools they need to track and report program results.

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT PROGRAM

The California Occupational Safety and Health Act (CAL/OSHA) program was reviewed at the request of Federal OSHA officials in San Francisco.

OSHA was concerned by the failure of California's Department of Industrial Relations (DIR) to promptly resolve prior audit findings and by a significant change in program operations which occurred in fiscal year 1987 when the State returned OSHA enforcement responsibilities for private employers to the Federal Government. The transfer of responsibility for private sector enforcement led to a 60 percent reduction in DIR program staffing.

The OIG's review of DIR accounting records showed that the agency had claimed questionable and unallowable expenditures from DOL and failed to report program income owed the Federal Government. These deficiencies were caused by weaknesses in administrative procedures and internal controls. As a result, \$553,630 in audit exceptions were identified in a report issued to DIR and OSHA as follows:

1. \$131,317 in staff salaries allocated to a grant without adequate justification;
2. \$113,928 in unreported program income owed DOL;
3. \$187,785 in unallowable costs associated with

DIR's failure to properly resolve prior audit findings; and

4. \$120,600 for inspections of certain classes of employers, the costs of which were required to be funded entirely by State monies pursuant to the terms of the grant agreement.

Because a portion of these costs represented State matching contributions, which are not recoverable by the Federal Government, the OIG recommended that OSHA recover \$396,209 -- the Federal share of expenditures and program income. Additionally, it was recommended that OSHA require DIR to improve procedures for allocating staff costs, reporting program income, resolving audit findings, and removing unallowable inspection costs from expenditure reports sent to DOL.

Departmental Management

Departmental management refers to those activities and functions of the Department which formalize and implement policies, procedures, systems, and standards to ensure efficient and effective operations of administrative and managerial programs. The Assistant Secretary for Administration and Management has oversight responsibility.

During this audit period, several reviews of departmental procurement activity and management of contracts and grants were completed.

PROCUREMENT OVERSIGHT

During fiscal year 1988, media attention was focused on abuses of certain Federal Government procurements of goods or services. Approximately \$5 billion is spent annually by the Department for goods and services (including ETA grants and contracts) to conduct and support its mission. In 1988, the OIG monitored and reviewed specific aspects of the procurement process.

Plans were made to target the following areas: (1) consultant and advisory assistance services; (2) contract and grant administration; (3) interagency agreements; (4) propriety of procurements; and (5) year-end spending.

Reviews have been completed or are near completion on the following: (1) consultant and advisory assistance services awards; (2) financial and compliance audits of

selected contracts and grants; (3) IRM/ADP acquisitions; (4) the Secretary's Year-End Priority Projects; and (5) fiscal year 1988 year-end spending. Following are details of the significant issues resulting from our work.

Consultant Service Awards and Accuracy of Consultant Reporting to the Federal Procurement Data System

In compliance with Public Law 97-258, the effectiveness of the Department's implementation and maintenance of management controls and improvement of the accuracy and completeness of information provided to the Federal Procurement Data System (FPDS) were evaluated.

The review indicated that the Department misclassified consultant and related services procurement transactions and that final evaluations of consulting and related services contracts have not always been conducted.

Misclassifications were caused by: (1) departmental delays in updating its policies to meet the January 1988 Office of Management and Budget Circular A-120 requirements; (2) unclear division of responsibilities between agencies and contracting officers; (3) the interpretation that program evaluations are outside A-120's scope; and (4) an ineffective computer edit check for non-competitive consultant purchase orders. A September 1985 OIG audit report noted that the Department experienced problems in correctly classifying consulting and related services awards. As a result of these ongoing misclassifications, the Department continues to report inaccurate data to the FPDS.

In response to the recommendations, the Assistant Secretary took the following immediate action to implement the OIG's recommendations:

1. Issued interim guidance to procurement officials on the revised OMB Circular A-120;
2. Clarified contracting officers' and program officials' roles and responsibilities;
3. Issued guidance on legislatively mandated studies;
4. Made plans to revise the edit check in APPS; and
5. Included in the interim guidance additional provisions on evaluating consultant and related services contracts.

ETA Contractor Uses Defective Cost/Pricing Data

A draft audit report on an ETA contractor recommended \$99,186 for disallowance and questioned an additional \$1,046. Specifically, defective cost and pricing data submitted by the contractor was used as the basis for negotiating a fixed fee price. Also, costs reimbursed to the contractor included unallowable travel costs and inadequate support for costs.

The audit was initiated after the OIG, in a related examination, discovered this contractor had retained excess cash drawdowns of \$93,575. The excess cash was returned to the Department subsequent to this audit.

A management letter will be issued to ETA discussing weaknesses in ETA's contract procurement and management functions which the OIG believes contributed to the abuse.

ETA did not follow the Department's requirements regarding review and certification of costs and pricing data submitted by the contractor. The OIG recommended that ETA review the circumstances of this procurement and determine if a systemic problem exists with ETA's methods and procedures for negotiation, award and subsequent modification of contracts.

Acquiring Goods and Services Using Interagency Agreements

The Department needs to improve its controls for using, approving, and administering interagency agreements. Information resources procured through interagency agreements comprised approximately 10 percent of the Department's estimated fiscal year 1989 IRM budget.

At least one agency appeared to be using interagency agreements to avoid full and open competition. Additionally, this agency was not submitting its IRM-related interagency agreements to the Directorate of Information Resources Management (DIRM) as required by departmental IRM acquisition procedures.

It was also noted that the Department's policies and procedures did not implement the Federal Acquisition Regulation which requires agency heads to determine whether interagency agreements are in the best interest of the Government. The Department's acquisition policy in DLMS-9, Chapter 400, states that interagency

agreements must be reviewed by DIRM's Office of Policy, Planning and Evaluation (OPPE) if substantial ADP activities are included.

At the direction of the Assistant Secretary for Administration and Management, DIRM/OPPE plans to review interagency agreement procedures at the end of fiscal year 1989. DIRM, in a February 1989 letter, reemphasized to agencies that interagency agreements are covered by the Department's acquisition policy.

Management of Information Resources Acquisitions Department-wide

Planning for and acquiring automatic data processing (ADP) resources is a critical management activity. The Department of Labor's information technology budget for fiscal year 1989 was estimated to be \$141,257,000.

Generally, the information resources acquisition process contained in departmental policies and procedures complies with all Federal strategic planning requirements and IRM acquisition regulations up through contract award.

However, some deviations in implementing and executing departmental policies and procedures for acquiring information resources were noted in hardware and software acquisition. Continuing work will be focused to ensure that departmental policies and procedures are implemented effectively.

The Secretary's Fiscal Year 1987 Year-End Priority Projects

The propriety of obligations totaling \$6,714,421 for 10 priority projects initiated by the Office of the Secretary during the last quarter of fiscal year 1987 was reviewed.

The review indicated that the Department did not adhere fully to appropriations laws and principles in allocating costs of for 5 of the 10 priority projects: Organization for Economic Cooperation and Development (OECD) Research Grant, Welfare Reform Grant, Workforce 2000 Office, Age Discrimination in Employment Act (ADEA) Research Grant, and Executive Computer Network (ECN).

As a result, the Department effected transfers of \$1,355,706 (60 percent of total obligations of \$2,247,320 for the five projects) between agencies without obtaining the statutory authorization required to shift funds between

appropriation accounts. Moreover, the Department obligated these funds under certain appropriations for purposes that were not authorized by the Congress. Additionally, obligations for the ECN project, which were allocated to and charged against various DOL appropriations, were substantially disproportionate to the benefits received by each agency.

DOL management held that the Department should operate as a unit rather than as independent agencies, and that the funding of the projects was equitable because the Department as a whole would ultimately benefit from the projects.

The issue at hand is the legal implication of pooling agencies' resources as a means of unifying departmental operations. The Congress provides specific appropriations to accomplish the unique purposes and missions of the individual agencies within the Department. In pooling the agencies' resources to accomplish objectives outside the specific activities authorized within the appropriations charged, the Department, in the OIG's opinion, has exercised discretionary authority in a manner which conflicts with the 1987 Department of Labor Appropriations Act and related statutes.

It was recommended that the Assistant Secretary for Administration and Management be directed to:

1. Develop procedures and controls for activities funded by more than one agency to ensure compliance with appropriations laws and principles and to prevent antideficiency violations.
2. Adjust fiscal year 1987 obligations to charge each priority project to only the appropriation(s) consistent with the purpose of the project. The charges should reflect an equitable relationship to benefits received.

3. If the necessary adjustments cannot be made, comply with 31 U.S.C. Section 1351 by reporting all relevant facts and a statement of actions taken to the President and the Congress.

The Secretary of Labor responded to the report on March 31, 1989, concurring with the OIG's conclusion relating to one project, but not fully concurring with conclusions on the remaining four projects. DOL management's basic position is that there is a valid connection between the missions of the agencies charged and the projects involved. However, the OIG believes other appropriations were available which were more consistent with the projects in question and, thus, should have been charged. This is in keeping with the *GAO Principles for Federal Appropriation Law*, Chapter 3, Section B (1)(3), which provides, as one test of a necessary expense, that the expenditure must not fall within the scope of some other appropriation.

Discussions are continuing with representatives of the Office of the Secretary to resolve this report.

Fiscal Year 1988 Year-End Spending Review

During this period, the OIG initiated a mandatory review of the Department's fiscal year 1988 procurement activities to identify abusive and wasteful year-end spending.

The OIG examined fourth quarter spending and DOL procurement activities at OASAM's national office, all 10 OASAM regional offices, and the Mine Safety and Health Administration.

Preliminary analysis of the Department's fourth quarter procurement activities indicate that DOL did not engage in any major wasteful or abusive spending in the fourth quarter of fiscal year 1988.

OFFICE OF AUDIT

Chapter 2 Audited Financial Statements

The Department of Labor has several critical financial management systems in various stages of design and development. These include a new departmental accounting General Ledger system and a new program financial system for ETA, the Department's largest agency. Annual Department and agency level financial statements compiled and audited by the OIG for fiscal years 1986, 1987, and 1988, and related audit projects, provide an important focus to assure the completeness and integrity of these essential systems.

The audits reveal that the Department's current financial management systems are not fully integrated, contain significant information gaps and internal control weaknesses, and, as a result, produce incomplete and unreliable reports. Informed decisionmaking, public accountability, and stewardship demand accurate and complete financial information.

Management's decision, made prior to the OIG's financial statement reports, to proceed with new systems' projects indicates its acknowledgement that accurate and complete financial data is important. However, top level management attention is needed to treat many audit-identified problems which have not yet been fully addressed: The next 6- to 18-month period is particularly critical.

For the long term, major financial statement and related audit projects will be continued to assist management in producing high quality information with both its new and existing systems. These projects include participation on the task force implementing the new departmental accounting system; an independent review of the acceptance testing of this new contractor-developed system; continued annual financial statement audits of the Department and selected program agencies; selected financial statement audits at the program level with related input (cost) versus program output analyses; and targeted reviews of specific financial areas.

The Department has Critical Financial Management Systems Projects Under Way

The Department has a fixed price contract with a national accounting firm to install software and provide services and maintenance for a new departmental General Ledger accounting system by October 1, 1989. The contract also provides for the deferred installation of software for a number of subsystems.

ETA also is proceeding with plans to replace its current multibillion dollar financial management system which accounts for program funds.

Audited Financial Statements Identify Gaps and Deficiencies in Existing Systems

In prior semiannual reports, the OIG discussed financial statement audits issued for the Department of Labor and selected major program agencies for fiscal years 1986 and 1987. Similar reports will be issued for fiscal year 1988. These audits included limited internal control reviews which, for most major departmental systems, were complemented with more comprehensive controls and risk evaluations (CARE) of key financial management systems. In some particularly troublesome areas, such as property and ETA's "M" accounts, in-depth reviews were targeted and completed.

Significant accounting or internal control gaps and deficiencies in such major areas as grants management, UI Trust Fund accounting, and general ledger controls and financial reporting have been highlighted in recent semiannual reports.

Grants management weaknesses in ETA's programs were demonstrated by the following conditions:

1. Transaction input errors amounting to \$10 million in a sample of 316 transactions.
2. An accrual system for \$1.6 billion in accrued grant and contract expenditures which is not adequately documented.
3. Recorded advances of \$1.8 billion which are not reconcilable to the Department's General Ledger and inadequately supported by detailed subsidiary records.
4. Reported costs or payments to contractors or grantees which exceed obligational authority by \$48 million (for six regions).
5. Control weaknesses resulting in questionable unliquidated obligations of \$142 million, representing 74 percent of the total \$191 million in unliquidated "M" account obligations (*i.e.*, obligations more than 3 years old).
6. Questionable late billings (\$294,000) and questionable obligations (\$32 million) under the defunct Comprehensive Employment and Training Act (CETA) program.
7. Excess cash drawdowns by grantees of \$152 million which are substantially overstated and refunds which are overdue for at least \$18 million in excess cash held by grantees.
8. Untimely grant closeout procedures and inadequate controls over files. (ETA was unable to locate 26 percent of the files in a sample of 42.)

Unemployment Insurance accounting control weaknesses include:

1. No controls in place (through required reports from States) to enable proper evaluation of Unemployment Trust Fund (UTF) receivables. Information is inadequate to establish a reasonable allowance for uncollectible accounts. For fiscal year 1987, reported receivables included \$1.3 billion in delinquent State taxes and \$649 million in benefit overpayments.
2. Inadequate controls to account for Federal Employees' Compensation Account billings and receipts. ETA has not accounted for \$300 million

drawn down by the States which exceeds the amounts ETA billed to other agencies.

3. No procedures in place to assure that Federal Unemployment Tax Act receipts of approximately \$6 billion (in fiscal year 1987) are adjusted from estimates to actual receipts, as required by Title IX of the Social Security Act.

General ledger accounting and financial reporting deficiencies include:

1. Capitalized property and related depreciation which are not recorded in the General Ledger. Also, problems with the full integration and integrity of property systems have not been fully corrected.
2. Full activities of the UTF which are not recorded in ETA's accounting systems, the Department's General Ledger, and on the Treasury Department's required Report of Financial Position (SF-220). The Department has relied exclusively on reports filed by the Treasury Department which do not include the following critical -- and required -- information:
 - a. Accrued program benefits payable.
 - b. Accrued unemployment insurance taxes.
 - c. Benefit overpayments receivable.
 - d. Delinquent taxes receivable.
 - e. Interest receivable from the States.
 - f. Interest received and held by DOL.
 - g. Accrued receivables for the Federal Employees' Compensation Act.
 - h. Accrued UTF reimbursement due DOL.

3. The General Ledger which does not account for DOL's liability for future program benefits for workers' compensation programs (Black Lung, Federal Employees' Compensation Act, and Longshore) of \$8.4 billion.

4. Accounts receivable for individual DOL agencies which are not always being entered into the General Ledger; frequently they do not include related allowances for doubtful accounts nor are they supported by subsidiary ledgers.

As a result of these accounting control deficiencies, the Department's Reports of Financial Condition submitted to the U.S. Department of Treasury cannot be relied upon to present fairly the financial position of the Department. As shown on page 61, there are substan-

tial differences between the audited Consolidated Statement of Financial Position and the amounts reported by the Department to the Department of Treasury for fiscal year 1987. Significant differences are reflected for each major account shown. The net effect on key totals is substantial. Note, for example, that total liabilities are understated by \$23 billion.

Financial statements or reports are merely summary-level outputs of what should be in the Department's and its agencies' accounting and financial management systems. An adequate departmental General Ledger accounting system should contain everything included in the audited column of the schedule shown on page xx. Required Treasury Department reports should be produced automatically from the General Ledger system. The Department's contract for a new accounting system addresses these necessary accounting and reporting needs. Assuring that the contract essentials are met requires management and oversight.

Further Management Actions are Needed

With a few important exceptions, management has agreed to take corrective action to address these problems and other significant deficiencies identified in our recent financial statements and systems audits. However, one point of critical concern is that none of the above problems has been fully corrected; thus, the audit report findings remain open, pending full implementation of the necessary corrective actions. Resolution relies heavily, and in some cases entirely, on management's assertions that new systems -- primarily the Department's new General Ledger system and ETA's planned new accounting system -- will cure the audit-identified problems.

This is a most uncomfortable reliance for a number of reasons.

First, no firm plan is in place to assure that ETA's new accounting subsystem, which includes 90 percent of the Department's funds, is fully integrated with the Department's new accounting system. Neither is a mechanism in place to assure that financial information under ETA's existing system can be effectively entered into the new system.

Second, the time frames for implementing the new departmental accounting system put tremendous pressures on the Department's acceptance testing strategies. According to management, the contractual modifications now being finalized, to convert the deliverables to the concept of "versions and releases," will

allow both parties additional time for essential actions.

Third, and most important, top level program and fiscal management must devote more attention to accurate and complete financial reporting. Among other actions, the following are essential to assuring the success of the various systems:

1. Clearly define internal and external roles and responsibilities vis-a-vis the Department's role and ETA's role with respect to the Unemployment Trust Fund, vis-a-vis the Treasury Department (management has agreed to work with the Treasury Department to accomplish this); and
2. Employ adequately qualified accounting personnel in fiscal management roles throughout the Department.

Financial Statements Unify OIG's Audit Approach

The financial statement audits of the Department, agencies, and programs for the past 3 years have increasingly convinced the OIG of their value as a mechanism to discipline underlying systems, a vehicle to ensure full and accurate program costing, and a unified, cost-effective audit approach.

DISCIPLINING MECHANISM FOR UNDERLYING SYSTEMS

It is clear that failure to focus attention on systems output (in the form of financial statements and reports) has contributed much to the current systems' gaps and deficiencies. Without the financial statements and their audits, many of these problems would not yet be identified.

VEHICLE TO ENSURE FULL AND ACCURATE PROGRAM COSTING

Financial statements consistently present all financial activity of the Department, agency, program, or project in accordance with established accounting practices. They assure full and comparable costing of all programs, activities, projects, and functions and full identification of all assets and liabilities. Absent such a framework, ad hoc attempts at cost or other financial analyses will be incomplete and inevitably doomed to duplication, omission, inconsistency, and consequent incomparability.

FINANCIAL STATEMENTS AS A COST-EFFECTIVE AUDIT APPROACH

The financial statements provide perspective on the myriad fiscal and programmatic laws and regulations which the Inspector General must, in any event, audit.

The financial statement audit approach fulfills the OIG's independent oversight responsibilities and complements management's role which are required by the Federal Managers' Financial Integrity Act (FMFIA), as implemented by OMB Circulars A-123 and A-127. However, the financial statement audit approach goes beyond FMFIA requirements. While the FMFIA recognized the importance of executive responsibility and stewardship, the OIG believes that the FMFIA alone does not assure sufficient and reliable financial data with which to make decisions. The FMFIA views internal controls and systems as ends in and of themselves and does not focus on the ultimate end-product of those systems --

the financial statements. Thus, the FMFIA provides no overall perspective for executive responsibility.

In order to achieve the statutory mandate of the IG Act "to promote economy, efficiency and effectiveness in the administration . . . of [DOL] programs and operations," the full costs of programs and operations must be known first. These costs cannot be determined without evaluating overall financial position and results of program operations -- which is done in a financial statement audit. Financial statement audits provide the basis for more extensive financial and compliance, economy and efficiency, and program results audits.

With important milestones approaching the new systems under design and development, the OIG will continue major financial statement and related audit projects to assist management in producing information of high quality from its new as well as existing systems.

U.S. Department of Labor
Consolidated Reconciliation of Agency-Submitted Treasury Report
to Audited Statement of Financial Position
September 30, 1987
(In Thousands)

ASSETS:

Funds with U.S. Treasury & cash	\$7,208,201	\$7,485,683	\$277,482
Accounts receivable, net of allowance	\$4,153,784	\$6,940,187	\$2,786,403
Loans receivable	0	\$3,079,996	\$3,079,996
Investments	\$27,948,799	\$27,948,375	(\$424)
Advances	\$328,019	\$802,415	\$474,396
Property, plant and equipment, net	\$332,620	\$263,262	(\$69,358)
Future financing sources	<u>0</u>	<u>\$9,192,125</u>	<u>\$9,192,125</u>
Total Assets	<u>\$39,971,423</u>	<u>\$55,712,043</u>	<u>\$15,740,620</u>

LIABILITIES:

Accounts payable	\$4,523,273	\$281,030	(\$4,242,243)
Accrued payroll and benefits	\$8,692	\$36,236	\$27,544
Accrued annual leave	\$51,882	\$51,488	(\$394)
Unearned revenue	0	\$10,772	\$10,772
Loans from U.S. Treasury	0	\$7,154,780	\$7,154,780
Liability for future workers' compensation benefits	0	\$8,378,346	\$8,378,346
Accrued unemployment benefits	0	\$11,323,326	\$11,323,326
Other Liabilities	<u>\$89,887</u>	<u>\$538,909</u>	<u>\$449,022</u>
Total Liabilities	<u>\$4,673,734</u>	<u>\$27,774,887</u>	<u>\$23,101,153</u>

EQUITY OF THE U.S. GOVERNMENT:

Invested capital	\$180,962	\$261,784	\$80,822
Management Fund balance	\$134,002	\$12,123	(\$121,879)
Unexpended appropriations:			
Unobligated balance	\$5,689,935	\$1,420,999	(\$4,268,936)
Undelivered Orders	0	\$4,475,441	\$4,475,441
Trust Fund balance-Federal	\$29,292,790	\$4,340,707	(\$24,952,083)
Trust Fund balance-State	<u>0</u>	<u>\$17,426,102</u>	<u>\$17,426,102</u>
Total Equity	<u>\$35,297,689</u>	<u>\$27,937,156</u>	<u>(\$7,360,533)</u>
TOTAL LIABILITIES AND EQUITY	<u>\$39,971,423</u>	<u>\$55,712,043</u>	<u>\$15,740,620</u>

DOL Highlights of OIG Activities

U.S. Department of Labor
Office of Inspector General

October 1, 1988 - March 31, 1989



Employers of "Ghost Workers" Convicted

The president and another official of both Teamsters Local 507 and Bakery Local 19 in Cleveland were convicted on racketeering charges involving embezzlement of over \$700,000. The embezzlement was accomplished by maintaining three individuals, who did not work for the locals, on the payrolls. The "ghost worker" investigation by OLR had included the president of the International Brotherhood of Teamsters, who died 3 months before trial began.

Department of Labor Ethics Handbook

The OIG has published a 40-page booklet that discusses major workplace ethical issues and focuses on employee integrity. This handbook deals with such potential problem areas as conflicts of interest, acceptance of gifts, misuses of federal property, disclosure of official information, political activities, and post-employment restrictions. It also contains chapters dealing specifically with reporting allegations to the OIG. To make the handbook useful, it has been annotated throughout with law and regulation citations. Contact the OIG for a copy.

The OIG Hotline is open 24 hours a day, 7 days a week to receive allegations of fraud, waste and abuse.

357-0227
(Washington Dialing Area)
(800) 424-5409
(Toll Free/Outside Washington Area)

Written complaints may be sent to:
OIG Hotline
U.S. Department of Labor
Room S5512 FPB
200 Constitution Avenue, N.W.
Washington, D.C. 20210

OFFICE OF LABOR RACKETEERING

Wedtech Scandal

Two current and former officials of Teamsters Local 875 in New York City were convicted on racketeering charges. The two union officers, whose local represented employees of the Wedtech Corporation, solicited and received kickbacks regarding benefit plans, solicited and received illegal payments from an employer, extorted money for labor peace, and conspired to solicit and receive kickbacks and illegal payments. The local's secretary-treasurer was sentenced to 5 years in prison, a former business agent to 4. Thirteen other defendants, including a U.S. Congressman and four officers of the corporation, were convicted in the investigation of racketeering and extortion involving Wedtech. The former congressman was sentenced to 8 years in prison and fined \$242,750.

IBT and Government Agree

An agreement between the federal government and the Executive Board of the International Brotherhood of Teamsters was approved by the federal district court in New York City. This agreement was a result of a civil RICO complaint filed by the U. S. Attorney's Office for the Southern District of New York in June 1988. The civil RICO complaint, which resulted from a joint investigation by OLR, the FBI, and the Department of Justice, alleged that union members were deprived of their rights through a pattern of racketeering by organized crime with the assistance of the board members. Major provisions of the agreement include direct election of the international officers by rank-and-file members by secret vote, an independent administrator, an investigations officer, and an elections officer to supervise the 1991 international elections and any special elections prior to 1991.

DIRECTORY

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Principal Field Offices

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BOSTON: Labor Racketeering (617) 647-8888

CHICAGO: Investigations (312) 353-0509
Audit (312) 353-2416
Labor Racketeering (312) 353-3164

CLEVELAND: Labor Racketeering (216) 522-7373

DALLAS: Investigations (214) 767-2925
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DETROIT: Labor Racketeering (313) 226-3100

KANSAS CITY: Labor Racketeering (816) 426-5991

MIAMI: Labor Racketeering (305) 526-2530

NEW YORK: Investigations (212) 337-2300
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Labor Racketeering (212) 337-2550

NEWARK: Labor Racketeering (201) 645-3976

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Labor Racketeering (215) 597-3947

SAN FRANCISCO: Investigations (415) 744-6665
Audit (415) 744-6730
Labor Racketeering (415) 744-7078

WASHINGTON, D.C.: Investigations (202) 376-8840
Audit (202) 376-8825

SELECTED STATISTICS

October 1, 1988 - March 31, 1989

AUDIT ACTIVITIES

Reports issued on DOL activities 376

Audit exceptions \$116.6million

Reports issued for other Federal agencies 7

Dollars resolved \$120.8million

Allowed \$74.2million

Disallowed \$35.8 million

FRAUD AND INTEGRITY ACTIVITIES

Cases opened 815

Cases closed 1,015

Cases referred for prosecution 322

Individuals or entities indicted 306

Successful criminal and civil prosecutions 401

Referrals for administrative action 68

Administrative actions 19

Fines, penalties, restitution and settlements \$2,323,200

Recoveries \$1,166,700

Cost efficiencies \$1,135,000

LABOR RACKETEERING INVESTIGATION ACTIVITIES

Cases opened 34

Cases closed 20

Individuals indicted 36

Individuals convicted 56

Fines \$3,243,850

Forfeitures \$9,502,010

Restitutions \$488,653

This *Highlights of OIG Activities* summarizes some of the accomplishments made during the reporting period of October 1, 1988 - March 31, 1989, which are reported in our Semiannual Report. Copies of the Semiannual Report may be obtained from:

U.S. Department of Labor
Office of Inspector General
Attn: ORMLA/DLACR
Room S-5506
200 Constitution Avenue, N.W.
Washington, D.C. 20210.

The Inspector General Act of 1978 established the Office of Inspector General (OIG) in the Department of Labor and in most major departments and agencies. The OIG is charged with preventing fraud, waste and abuse as well as with promoting economy, efficiency and effectiveness in DOL programs and operations.

OIG audits and investigations examine the efficiency, effectiveness and integrity of programs and operations. Audits may result in reports to management that often include recommendations for recovery of funds and program improvements. Investigations establish whether there are factual bases for complaints or suspicions of wrongdoing. When an investigation

establishes a factual basis, the investigative findings are referred to prosecutive authorities for criminal or civil action, or, sometimes, to DOL management for administrative action.

Along with its investigative and audit programs, the Labor Department's OIG also has an Office of Labor Racketeering (OLR), which strives, through criminal investigative efforts, to eliminate the influence of organized crime on employee benefit plans, labor-management relations and union affairs.

Through the services of the OIG Hotline, DOL personnel can discuss questions of potential impropriety in confidence. Serious inquiries may be directed to (202) 357-0227 in the Washington, D.C. area, or to (800) 424-5409 outside.

During this reporting period, through the efforts of its professional auditors and investigators, the OIG issued nearly 400 reports on DOL activities, referred 322 cases for prosecution, and obtained over 300 indictments. This resulted in greater than \$5 million in fines and saved the American taxpayer in excess of \$36 million. Their oversight efforts and first-hand familiarity with DOL programs made possible successes, such as those shown in the following narratives and chart.

OFFICE OF INVESTIGATIONS

Former Business Owner Does Time

The former president and owner of Lancaster Battery Company, Lancaster, Pennsylvania was sentenced to 2-1/2 years incarceration, 5 years probation and ordered to pay \$30,000 in fines. This is the first time in the 18-year history of OSHA that anyone has been sentenced on federal charges to imprisonment on work place safety violations. The investigation disclosed that falsified results of employees' blood tests and air sampling tests were submitted to OSHA. OIG use the full range of federal statutes available in developing evidence to support the criminal information charging felony violations.

Five Indicted for Embezzling Pension Funds

Five former officials and associates of Lundberg Industries were indicted by a federal grand jury for mail fraud, embezzlement, aiding and abetting, and conspiring to embezzle over \$9 million in pension funds. They were charged with stealing the retirement funds of over 900 active and retired employees of Lundberg Industries.

Manpower Administration Officials Sentenced

A federal jury convicted the former administrator, director of operations and a contractor to the Gary, Indiana Manpower Administration on racketeering and bribery charges involving the awarding of CETA funds. The director of operations was sentenced to 11 years in jail and the former administrator was sentenced to 16 years in jail.

Construction Officials Arrested

Five construction officials were arrested on bribery charges. The five officials were charged with allegedly paying \$18,000 in bribes to an OIG Special Agent, posing as a Wage and Hour Compliance Officer, in return for reducing the penalties their companies owed for underpayment to workers during the construction of a Housing and Urban Development (HUD) financed nursing home in Brookhaven, New York. This joint investigation with the Federal Bureau of Investigation, HUD-OIG and PIS also established that the contractors were falsely certifying to HUD that they were paying the proper federally required prevailing wage to their employees who were working on the project. Further prosecutive action is pending.

Mail Fraud Scam

A federal grand jury in Austin, Texas, returned a 3-count indictment charging an employee of the Texas Employment Commission with mail fraud and using a fictitious name. The indictment alleged that the defendant devised and operated a scheme to obtain unemployment insurance benefits by using his position to enter fraudulent claims in the names of legitimate workers. The defendant then caused benefit checks totaling \$4,200 to be mailed to an address he controlled.

Former Postal Employee Sentenced

A former letter carrier was sentenced to 6 months in prison, 5 years probation and ordered to make restitution of \$87,250. A joint investigation with the Postal Inspection Service established that, while collecting Federal Employee Compensation Act payments, the former letter carrier was working as arson investigator and radio station announcer.

Investigator's Improprieties

An investigator from DOL's Office of Labor Management Standards in Minneapolis, Minnesota pleaded guilty to contempt of court. The OLMS investigator was the case agent in a grand jury investigation relating to alleged criminal offenses by union officials of a local of the International Union of Operating Engineers. He pled guilty to the charge of making an unauthorized disclosure of matters occurring before the grand jury, without judicial authorization, and he was sentenced to pay a fine of \$1,000.

OFFICE OF AUDIT

JTPA Program Abuse

JTPA training funds were used to train ineligible participants at the Toyota Motor Manufacturing plant in Scott County, Kentucky, according to an OIG audit. OIG recommended that \$2.6 million in JTPA funds already incurred by the State at the time of the audit be recovered and that any other funds expended subsequent to the review for any ineligible participants should also be returned to the Department.

DINAP Program Abuse

Since 1986, ETA's Division of Indian and Native American Programs entered into agreements with the National Indian Business Council (NIBC) to provide various training and employment services to Native Americans. In a recently issued report, OIG uncovered what it believes to be flagrant program abuse and conflicts of interest by the NIBC president. Overall, audit exceptions exceeded \$243,000 or 31 percent of the total expenses reported by NIBC.

OFFICE OF AUDIT

Chapter 3 Program Fraud Civil Remedies Act

The Program Fraud Civil Remedies Act (PFCRA), Public Law 99-509, was enacted effective October 21, 1986. PFCRA's intent is to provide Federal agencies with administrative remedies for losses resulting from either false claims involving not more than \$150,000 or false written statements made in connection with a claim or a Federal benefit program or a federally financed contract or grant. PFCRA also provides due process protection to persons subject to these administrative proceedings.

The administrative remedies provided by the Act, which are in addition to any other remedy that may be prescribed by law, are:

1. Up to \$5,000 for each *false claim*, plus twice the amount of any false claim actually paid; and
2. Up to \$5,000 for each *false statement* accompanied by an express certification of the truthfulness and accuracy of the contents of the statement.

The Department of Labor issued Final Rules and Regulations implementing PFCRA in the Federal Register of December 22, 1987, as 29 CFR Part 22, Program Fraud Civil Remedies Act of 1986.

These regulations designate the following responsibilities:

1. Investigating Official: Office of Inspector General (OIG)
2. Reviewing Official: Solicitor of Labor (SOL)
3. Presiding Officer: Administrative Law Judge (ALJ)

The Department's implementing regulations state that because of the intangible costs of fraud, the expense of investigating such conduct, and the need to deter others who might be similarly tempted, *ordinarily, double damages and a significant civil penalty should be imposed.*

OIG began actions to implement PFCRA during fiscal year 1988. Particular emphasis was placed on identifying areas for consideration of PFCRA within the De-

partment in ESA's Wage and Hour Division and ETA's JTPA and Job Corps programs. Five cases (four Wage and Hour and one JTPA case) have been completed. The maximum potential penalties that can be imposed for the five cases total about \$1.4 million. Work has continued in the same areas during this reporting period.

Potential PFCRA Cases in Wage and Hour

Work continued during this reporting period to identify and investigate potential falsification of weekly payroll certifications regarding payment of prevailing wages required under the Davis-Bacon and Related Acts. Investigations of two cases were completed during this 6-month period and were submitted to the reviewing official. These two cases included information from a prior Wage and Hour compliance review and, in both cases, the employees were not paid prevailing wages for hours worked.

A subcontractor, working on a federally funded construction project, falsified certified payrolls and submitted the certified payrolls to the prime contractor, knowing that the payrolls were deliberately falsified to show that the employees had received pay at a substantially higher hourly rate than they were actually paid. The prime contractor, who had reason to know these payrolls were false, then submitted the falsely certified payrolls to the contracting agency.

Based on the Wage and Hour compliance review, hearings are in process before an ALJ concerning the back wages due the employees and debarment action against the subcontractor. The results of the OIG investigation are currently being considered by the reviewing official, as provided for under PFCRA. Penalties of \$460,000 could be imposed by an ALJ against all parties under PFCRA in this case (\$230,000 against the subcontractor and one employee, plus \$230,000 against the prime contractor and one employee).

The second case involved a subcontractor on a federally funded construction project in California. Certified payrolls showed the employees were paid prevailing wage rates substantially higher than the hourly rates actually paid to the employees. In addition, the payrolls certified that payments of fringe benefits, as required,

had been or would be made for the benefit of each employee. The OIG investigation indicated that this was not done. Further, the payrolls were certified that the full weekly wages earned had been paid when, in fact, periods of overtime worked were not shown on the certified payrolls nor were the employees paid at the required overtime rates.

Based on the Wage and Hour compliance review: the subcontractor has since made restitution of the back wages, including fringe benefits and overtime due the employees; and the subcontractor has been debarred from obtaining Government contracts for a period of 3 years.

In this case, a maximum penalty of \$375,000 could be imposed against the liable parties. The case is currently being considered by the reviewing official as prescribed by PFCRA.

Assessment of penalties in the above cases, coupled with appropriate and adequate public dissemination of the facts, should assist in deterring potential future violations of fair labor standards by employers.

Actions Taken by SOL to Implement PFCRA and Outlook for Prosecution

The OIG, as the investigating official, has submitted five PFCRA cases to the SOL, the designated reviewing official, as prescribed under PFCRA.

During this reporting period, the SOL has taken several actions to prepare for litigating cases under this statute. An attorney was hired during this period for the specific purpose of handling fraud matters. Internal analysis of the statute is under way and the results will be provided to the Department's trial attorneys and Regional Associate Solicitors to follow when analyzing and trying PFCRA cases.

The five cases have been assigned to the appropriate trial offices to be analyzed and, if warranted, submitted to the Attorney General for approval to institute legal proceedings before an ALJ. All five cases are under active review by the SOL's trial attorneys.

OFFICE OF AUDIT

Chapter 4 Audit Resolution

Audit Resolution Activity (\$ millions)				
<u>Period</u> <u>Ending</u>	<u>Audit Reports</u> <u>Resolved</u>	<u>Amount</u>		<u>Total</u> <u>Resolved</u>
		<u>Disallowed</u>	<u>Allowed</u>	
9/30/87	149	\$98.0	\$40.3	\$138.3
3/31/88	308	\$24.6	\$43.7	\$68.3
9/30/88	384	\$6.8	\$3.3	\$10.1
3/31/89	344	\$46.6	\$74.2	\$120.8

Detailed information on audit resolution activity for the period may be found in Chapter 5 of this section.

Significant Resolution Actions

MANAGEMENT COMMITMENTS TO RECOVER FUNDS

The following are examples of significant resolution actions taken by program officials which resulted in the disallowance of costs claimed by the Department's contractors and grantees:

Commonwealth of Puerto Rico Right to Employment Administration CETA Special Purpose Review Followup (Audit Report No. 02-84-136-03-345)

The OIG applied agreed-upon procedures to CETA grants awarded to the Puerto Rico Right to Employment Administration, covering the period July 1, 1974, through July 31, 1984. The followup review resulted in \$78,135,702 of questioned costs and \$562,186 of costs recommended for disallowance.

This followup review identified material financial weaknesses which contributed to the questioned costs and costs recommended for disallowance. Over the last 18 months, the OIG, ETA, and SOL reviewed extensive documentation submitted by the Right to Employment Administration in response to the final report. Upon

completion of this review, ETA disallowed \$17,147,675.

Puerto Rico Office of the Governor, Office of Youth Affairs (Audit Report No. 02-88-075-03-340)

The audit report questioned \$131,930 because the grantee did not submit adequate documentation to support the eligibility of participants in a JTPA-funded program.

The ETA Grant Officer subsequently disallowed the entire \$131,930 after the grantee was still unable to provide sufficient documentation to support these questioned costs.

Commonwealth of Massachusetts Balance of State CETA (Audit Report No. 02-88-198-03-345)

A financial audit of CETA grants awarded to Massachusetts Balance of State for April 1, 1974, to September 30, 1987, questioned \$1,354,848 and identified \$4,776,254 of unencumbered cash. ETA and the State have agreed to payment of \$336,397 in disallowed costs, which resulted from missing documentation, and the return of the unencumbered cash. The State submitted a down payment of \$22,858 to ETA for the \$5,112,651 debt and will make full payment of the remainder plus 6 percent interest by August 15, 1989.

**Missouri Department of Social Services
(Audit Report Number 05-88-075-03-345)**

ETA disallowed over \$3.4 million of costs associated with non-negotiated sole source procurements executed in violation of State and Federal procurement regulations.

In the report, the State Auditor of Missouri noted several instances of wasteful procurement practices including:

1. Conflicts of interest. A PIC Committee Chairperson responsible for opening bids and evaluating proposals also represented the organization that was awarded a \$1.1 million contract to become an SDA's major service provider.

2. Sole-source procurements. Over \$5.6 million in service contracts were awarded without solicitation of competitive bids and without evaluation of the reasonableness of price.

3. Subcontracts allowing excessive profits. A "not-for-profit" job search corporation was awarded over \$3.5 million in fixed unit price contracts resulting in profits exceeding 36 percent of revenue. The Attorney General found that the corporation unlawfully distributed over \$266,000 of the profits to its three owners in the form of bonuses and other compensation and sued for violation of the States' not-for-profit corporation laws. Had the Attorney General not intervened, the net profit would have exceeded \$1 million for the year. The corporation was subsequently dissolved.

4. Unnecessary levels of subcontracting. The above sub-contract originated with an educational institution which reserved \$50,000 of the original amount for "administrative overhead." The institution subcontracted over 70 percent of its JTPA funds in the above manner with the knowledge of State program officials.

**Pennsylvania Trade Readjustment Assistance
(Audit No. 04-88-051-03-330)**

ETA disallowed \$1,911,839 in Trade Readjustment Assistance (TRA) payments to individuals the OIG judged to be ineligible. The disallowance was based on statistical projection. The finding was against the Pennsylvania Department of Labor and Industry, Office of Employment Security.

The Pennsylvania Unemployment Compensation Board of Review issued a decision in April 1987 which, in essence, improperly defined when a claimant exhausted UI benefits for the purpose of qualifying for TRA benefits. The OIG determined that this action was contrary to the Trade Act of 1974 and its implementing regulations.

Technical Assistance Review to Identify High Risk Employers Who Potentially Underpaid State Unemployment Taxes (Audit No. 04-87-074-03-315)

The OIG completed technical assistance reviews in five States and developed computerized techniques to identify high risk employers for SESA field audits. By comparing OIG calculations with taxable wages reported by employers, potential underreported taxable wages of \$10.7 million were identified in the five States. Upon review, the States are sustaining these cost efficiencies and are interested in adopting the computerized programs offered by the OIG.

National Indian Business Council (NIBC) doing business as the Indian Center of Salt Lake and the United Tribes Service Center (Audit Report No. 18-88-002-03-355)

The OIG conducted a special purpose review of \$74,316 of specific space and equipment costs charged to grants awarded to NIBC for fiscal years 1986 and 1987. The audit cited exceptions totaling \$74,316 because NIBC's charges for rented space and equipment were the result of less-than-arms-length transactions. Because NIBC refused to give access to appropriate records, the OIG could not determine allowable depreciation or other costs. ETA disallowed the entire amount. (For more information on NIBC, see Chapter 1.)

National Urban Indian Council (NUIC) doing business as the Utah Indian Employment Resource Center, the Ohio Indian Job Training Partnership Agency, and the Maryland Indian Council (Audit Report No. 18-88-037-03-355)

The OIG conducted a special purpose review of \$111,302 of specific space and equipment costs which was awarded to NUIC for selected periods from 1983 to 1987. The audit cited exceptions totaling \$111,302 because NUIC's grant charges for rented space and equipment were the result of less-than-arms-length transactions. Because NUIC refused to give access to appropriate records, the OIG could not determine allowable depreciation or other costs. ETA disallowed the entire amount. (For more information on NUIC, see Chapter 1.)

Pico Union Neighborhood Council, Inc.
(Audit Report No. 18-88-004-03-340)

A special purpose review was conducted of \$62,050 in JTPA claims submitted by Pico Union Neighborhood Council, a California service provider. The audit cited exceptions totaling \$62,050 because the alleged participants were either never trained, never employed, or ineligible for services. ETA disallowed the entire amount.

Hudson Institute, Inc. (Audit Report No. 18-88-001-07-380)

The OIG audited \$811,869 of selected costs billed to the Hudson Institute grant for fiscal year 1987. The audit cited exceptions totaling \$423,602 because Hudson claimed inappropriate travel, per diem, consultant, and sales costs. Also, Hudson's overhead and general administrative costs had not yet been audited by DCAA. ETA disallowed \$410,373 and deferred decision on \$13,229. The deferred decision was in regard to grant income from sales of a book (*Workforce 2000*) which was developed and written under the grant. The OIG is currently reviewing all income and expenses relative to this book. We will discuss this review in our next semiannual report to the Congress. (For more information on Hudson Institute, see Chapter 1.)

Home Builders Institute (Audit No. 04-88-069-03-340)

ETA has disallowed \$678,553 which was identified in an audit of the Home Builders Institute, a Job Corps contractor. During the 15-month period covered by the audit, the contractor charged the Department for unsupported personnel costs and fringe benefits in excess of budgeted amounts and was unable to support other costs billed to the Department. The audit also identified charges for consultant services which were not approved by ETA.

Carolina Brown Lung Association
(Audit Nos. 04-83-406-10-101 and 04-89-005-10-101)

During this reporting period, the Occupational Safety and Health Administration (OSHA) issued a final determination on the Carolina Brown Lung Association, an OSHA grantee. The determination sustains disallowance of \$222,094 recommended by an audit completed for the OIG.

The audit established that there were no records to support nearly all the Association's expenditures.

**MANAGEMENT COMMITMENT TO REMEDY
ADMINISTRATIVE ACTIONS**

Non-monetary audit recommendations are important because they direct attention to improving internal controls and operating procedures. They also propose shifting program emphasis and policy direction and making legislative or regulatory changes. Corrective actions constitute reasonable remedies and include descriptions and timetables of specific actions taken, completion dates, and evidence to prove recommendations were implemented.

The following are examples of significant resolution actions taken by program officials to remedy administrative deficiencies:

"OWCP Should Evaluate Non-Federal Workers' Compensation Techniques to Assess Their Adaptability to FECA" (Audit Report No. 02-86-037-04-435)

The OIG's primary recommendation in this report focused on a comprehensive redesign of the FECA system, including redefinition of the roles of employees, employing agencies and the Office of Workers' Compensation Programs (OWCP), as well as the testing of a centralized intake system. Agency action has been delayed because a request for additional resources needed to implement the overall recommendation was not approved in the FY 1990 budget.

In the interim, ESA has taken initial steps to address some of the recommendations presented in our report, including:

1. A formal pilot study on the utilization of nurses to resolve problems in cases between 90-180 days;
2. An emphasis on traumatic low back injuries, including analyzing the FECA data base for characteristics of low back patients who have exceeded 45 days of disability, studying treatment approaches, and designing a study of early intervention in FECA low back disability claims;
3. An effort to improve communications with employing agencies by designating FECA staff to assist in solving problems; and
4. A review of a sample of cases to determine length of disability by condition.

OFFICE OF AUDIT

Chapter 5

Money Owed to the Department of Labor

Audit Schedules and Tables

Listing of Audit Reports Issued and Resolved

Money Owed the Department of Labor For the Period October 1, 1988 - March 31, 1989

Program Name	Beginning Balance		Debt Established During Period				Collections During Period		Adjustments Due to:			Ending Balance				
	(A) In Collection	(B) Under Appeal	(C) From Beginning Appeals	(D) From New Appeals	(E) Other (Never Appealed)	(F) New Appeals	(G) In Collection	(H) Under Appeal		(I) Write-Offs	(J) Appeals		(K) Audit Resolution	(L) In Collection	(M) Under Appeal	
								(1) Prior Period	(2) Current Period		(1) Prior Period	(2) Current Period				
ESA FECA	20,869,632	2,683,444			9,689,737	469,658	7,370,510			1,302,166			1,401,533	8,957,823	11,527,337	3,153,102
Black Lung Disability Trust Fund ²	65,056,000	103,492,000			18,670,899		19,742,907			2,761,951			6,113,701	9,146,625	45,961,715	103,492,000
ETA ³	54,181,699	56,011,413	4,932,588		8,229,662	995,040	1,094,484	1,075,106		961,181		3,257,028	1,999,744	51,471,907	7,484,229	47,741,731
CETA	326,532	4,615,389	441,474		464,939	6,910,275	394,877	63,668				358,067	22,618	377,927	15,788	10,662,455
JTPA	3,548,012	84,430,597	822,831		15,018		3,346,034	822,827					217,000			82,784,939
UI/SESA																
MSHA Assessments/Mine Operator Civil Penalties	9,116,643	1,412,087			8,941,988	126,199	6,993,197			876,403				7,661,411	2,527,620	1,538,286
OSHA ⁴ Civil Penalties From Business	7,792,577	35,688,595			8,400,845	8,777,407	14,896,339			427,117				5,401,172	5,748,337	44,466,002
BLS	116,799				259,017		297,052			29,300				49,464		14,952
OASAM ⁵	615,411				19,480									619,939		
Total	161,623,105	288,333,525	6,196,893	0	54,691,585	17,278,579	54,135,400	1,961,601	0	6,358,118	3,615,095	0	9,754,596	83,686,268	73,280,048	293,838,515

Explanations:

- ¹Figures provided by agencies; unaudited
- ²Black Lung: Agency cannot break out appeals from current period; it is possible that most of current debt collection, ending balance, is under appeal.
- ³ETA: Column (E) includes (D); column (G) includes (H)(2); Column (K) includes (J)(2). Of the total ETA delinquent money, an estimated \$40 million has been referred to the Department of Justice for collection and another \$3 million is in the referral process.
- ⁴OSHA: Agency does not know amount of debt established from appeals; also does not know adjustments from appeals--thus, debt established from beginning and new appeals + adjustments due to appeals appear to be greatly understated and ending balance under appeal appears to be greatly overstated.
- ⁵OASAM: Of ending balance, delinquent debt, \$5,023, is an inaccurate chargeback to be refunded from the Department of Treasury to DOL

Definitions:

Collections: Includes cash, offsets, property, repayment agreements; any amount more than 30 days overdue is delinquent
Under appeal: Formal process in which program recipient/auditee appeals program agency's determination; amounts are "contingent" receivables--not available for collection
Write-Offs: Result from agency administrative procedures to write off uncollectible receivables; a/k/a bad debt
Adjustments due to appeals: Adjustments of contingent receivables which result from ALJ/Judicial process (includes agency actions overturned & compromises)
Adjustments due to audit resolution: Adjustments of contingent receivables which result from reclassification of disallowed costs based on documentation submitted after audit resolution

**Summary of Audit Activity of DOL Programs
October 1, 1988 - March 31, 1989**

Agency	Reports Issued	DOL Grant/Contract Amount Audited	Amount of Questioned Costs	Amount Recommended Disallowance
OSEC	18	\$2,720,642	0	0
VETS	52	\$58,997,739	\$188	\$868,356
ETA	211	\$26,280,359,420	\$104,196,181	\$5,736,236
ESA	5	\$2,717,531,315	\$3,600,000	0
MSHA	18	\$2,524,771	\$5,298	0
OASAM	17	\$25,315,269,724	\$1,247,243	\$95,264
OSHA	24	\$20,419,073	\$366,358	\$422,313
BLS	23	\$23,289,372	0	0
PWBA	1	0	0	0
Other Agencies	7	0	0	0
Totals	376	\$54,989,116,056	\$109,415,268	\$7,122,169

Note: The Inspector General Act Amendments of 1988 (PL 100-504) Section 106(d) modifies labels and definitions used in this report as follows:

<u>Current (Through 3/31/89)</u>	<u>Modified (Effective 9/30/89)</u>
Cost/Amount Recommended for Disallowance	= Questioned Cost
Questioned Cost	= Unsupported Cost
Cost Efficiencies	= Recommendation that Funds Be Put to Better Use
Final Determination/ Audit Resolution	= Management Decision
Audit Closure	= Final Action

"Total DOL Dollars Audited" are overstated because, in some cases, expenditures were audited at more than one level as funds were passed down from Department to program agency to program office. For example, dollars audited for DOL's consolidated financial statements (12-88-009-07-001) include amounts shown for the ETA financial statements (12-88-013-03-001). In turn, dollars audited for the ETA financial statements encompass amounts shown for the Job Corps financial statements (12-87-023-03-370).

"Questioned Costs" include cost efficiencies.

**Summary of Audit Activity of ETA Programs
October 1, 1988 - March 31, 1989**

Agency	Reports Issued	DOL Grant/Contract Amount Audited	Amount of Questioned Costs	Amount Recommended Disallowance
ADMIN	2	\$22,280,359,000	0	0
OFAM	2	\$212,117,548	\$46,717,091	\$3,474
UIA	1	\$331,093,324	\$10,270	0
USES	2	\$54,876,892	0	0
SESA	18	\$2,143,131,099	\$48,408,967	0
OTAA	1	\$58,573,913	0	0
JTPA	29	\$883,524,532	\$7,694,844	\$2,897,043
CETA	4	\$59,145,987	\$334,666	\$1,862,527
DINAP	70	\$27,900,493	\$112,773	\$188,623
DOWP	8	\$87,976,279	\$63,286	0
DSFP	25	\$33,317,075	\$97,523	\$75,021
OJC	46	\$666,798,739	\$755,704	\$709,385
OSPPD	3	\$19,548,539	\$1,057	\$163
Totals	211	\$26,280,359,420	\$104,196,181	\$5,736,236

"Total DOL Dollars Audited" are overstated because, in some cases, expenditures were audited at more than one level as funds were passed down from Department to program agency to program office. For example, dollars audited for DOL's consolidated financial statements (12-88-009-07-001) include amounts shown for the ETA financial statements (12-88-013-03-001). In turn, dollars audited for the ETA financial statements encompass amounts shown for the Job Corps financial statements (12-87-023-03-370).

"Questioned Costs" include cost efficiencies.

**Summary of Audits Performed Under the Single Audit Act
October 1, 1988 - March 31, 1989**

Agency	Entities Audited	Reports Issued	DOL Grant/Contract Amount Audited	Amount of Questioned Costs	Amount Recommended Disallowance
OSEC	8	17	\$2,719,842	0	0
VETS	7	44	\$50,215,119	\$188	0
ETA	62	147	\$3,573,968,414	\$50,182,250	\$376,822
MSHA	1	18	\$2,524,771	\$5,298	0
OASAM	0	1	\$18,893	0	0
OSHA	6	20	\$20,419,073	\$235,041	0
BLS	0	23	\$23,289,372	0	0
Other Agencies	7	7	0	0	0
Totals	<u>91</u>	<u>277</u>	<u>\$3,673,155,484</u>	<u>\$50,422,777</u>	<u>\$376,822</u>

Note: DOL has cognizant responsibility for specific entities under the Single Audit Act. More than one audit report may have been transmitted or issued for an entity during this time period. Reports are transmitted or issued based on the type of funding and the agency/program responsible for resolution. During this period, DOL issued 125 reports on 91 entities for which DOL was cognizant; in addition, DOL issued 152 reports which included direct DOL funds for which DOL was not cognizant.

Audits by Non-Federal Auditors¹
Summary Results of IG Reviews of A-128 Reports
For the Period of Six Months Ended March 31, 1989

	Independent Public Accountant	State & Local Auditor	Grand Total
Statistical Table			
1. Report issued without change or with minor changes	76	15	91
a. Based on desk review			
b. Based on QCR			
Total without change or minor changes	76	15	91
2. Reports issued with major changes			
a. Based on desk review			0
b. Based on QCR			0
Total with major changes			0
3. Reports with significant inadequacies			
a. Based on desk review			0
b. Based on QCR			0
Total reports with significant inadequacies			0
4. Number of auditors referred to State Boards/AICPA			0
5. Number of auditors which other sanctions were taken			0
6. Costs questioned in reports issued with direct funded findings	\$45,888,243	\$4,534,534	\$50,422,777
7. Sustained questioned costs	\$2,210,986	\$4,309,304	\$6,520,290
8. Costs recommended for disallowance in reports issued with direct funded findings	\$75,550	\$301,272	\$376,822
9. Sustained recommended disallowances	\$83,109	\$10,092	\$93,201

¹The non-Federal audit information on this form pertains only to those non-Federal audits where the audit services were procured or obtained by the auditee organization and where the audits are subject to the reporting agency's quality review system.

**Summary of Audit Resolution Activity
October 1, 1988 - March 31, 1989**

Agency Program	October 1, 1988		Issued (Increases)		Resolved (Decreases)		March 31, 1989			
	Balance Unresolved	Reports	Reports	Dollars	Reports	Allowed	Disallowed	Balance Unresolved	Reports	Dollars
OSEC	\$31,600	3	18	0	18	\$30,000	0	3	3	\$1,600
VETS	\$2,194,018	9	52	\$868,544	44	\$5,265	\$3,563	17	17	\$3,053,734
ETA:										
ADMIN	0	1	2	0	1	0	0	2	2	0
OFAM	0	0	2	\$46,720,565	0	0	0	2	2	\$46,720,565
UIS	\$11,185,044	3	1	\$10,270	2	\$459,186	\$10,725,858	2	2	\$10,270
USES	0	0	2	0	0	0	0	2	2	0
SESA	\$28,799	15	18	\$48,408,967	16	\$404	\$28,395	17	17	\$48,408,967
OTAA	\$1,911,839	1	1	0	2	0	\$1,911,839	0	0	0
JTPA	\$18,968,553	22	29	\$10,591,887	34	\$10,812,498	\$3,238,435	17	17	\$15,509,507
CETA	\$90,336,975	8	4	\$2,197,193	12	\$62,640,245	\$29,893,923	0	0	0
OSIP	\$75,013	1	0	0	0	0	0	1	1	\$75,013
DINAP	\$235,596	30	70	\$301,396	75	\$31,611	\$203,985	25	25	\$301,396
DOWP	0	2	8	\$63,286	6	0	\$1,950	4	4	\$63,286
DSFP	\$5,456	6	25	\$172,544	19	0	\$5,456	12	12	\$172,544
OJC	\$265,062	7	46	\$1,465,089	17	\$119,963	\$145,099	36	36	\$1,442,615
OSPPD	\$410,373	1	3	\$1,220	3	0	\$411,593	1	1	0
ESA	0	4	5	\$3,600,000	6	0	0	3	3	\$3,600,000
MSHA	\$61,326	4	18	\$5,298	19	\$59,721	\$1,605	3	3	\$5,298
OASAM	\$12,893,834	7	17	\$1,342,507	13	0	\$35,703	11	11	\$14,200,638
OSHA	\$16,643	6	24	\$788,671	24	\$2,711	\$13,932	6	6	\$788,671
BLS	0	0	23	0	23	0	0	0	0	0
PWBA	0	1	1	0	2	0	0	0	0	0
Other Agencies	0	1	7	0	8	0	0	0	0	0
TOTALS	\$138,620,131	132	376	\$116,537,437	344	\$74,161,604	\$46,650,792	164	164	\$134,354,104

DOLLARS represents both questioned costs (costs that are inadequately documented or that require the grant officer's interpretation regarding allowability) and costs recommended for disallowance (costs that are in violation of law or regulatory requirements).

DISALLOWED COSTS include additional claim amounts of \$27,506 (ESA) & \$1,950 (DOWP) totaling \$29,456 in additional claims.

ADDITIONAL CLAIM AMOUNTS occur when the grant officer disallows an amount in addition to the finding amount.

Disallowed costs include \$10,761,561 in sustained COST EFFICIENCIES.

Balance Unresolved Dollars includes Questioned Costs which includes COST EFFICIENCIES of \$50,099,340.

AUDIT RESOLUTION occurs when the program agency and the audit organization agree on action to be taken on reported findings and recommendations. Thus, this table does not represent any activity subsequent to the final determination such as results of the appeals process, program agency debt collection efforts, or revision of prior determinations.

DIFFERENCES between the beginning balances in this schedule and the ending balances of the previous semiannual report result from adjustments during the reporting period.

**Status of Resolution Actions on Beginning Balance
of Unresolved Audits Over 6 Months**

Agency Program	October 1, 1988 Balance Unresolved		(Decreases)		March 31, 1989 Balance Unresolved	
	Reports	Dollars	Reports	Dollars	Reports	Dollars
OSEC	3	\$31,600	2	\$30,000	1	0
VETS	9	\$2,194,018	2	\$8,828	7	\$2,185,190
ETA:						
ADMIN	1	0	1	0	0	0
OFAM	0	0	0	0	0	0
UIS	3	\$11,185,044	3	\$11,185,044	1	0
SESA	15	\$28,799	14	\$28,799	2	0
OTAA	1	\$1,911,839	1	\$1,911,839	0	0
JTPA	22	\$18,968,553	19	\$14,050,933	3	\$4,506,708
CETA	8	\$90,336,975	8	\$90,336,975	0	0
OSTP	1	\$75,013	0	0	1	\$75,013
DINAP	30	\$235,596	27	\$235,596	4	0
DOWP	2	0	2	0	0	0
DSFP	6	\$5,456	6	\$5,456	0	0
OJC	7	\$265,062	8	\$265,062	0	0
OSPPD	1	\$410,373	1	\$410,373	0	0
ESA	4	0	4	0	1	0
MSHA	4	\$61,326	4	\$61,326	0	0
OASAM	7	\$12,893,834	5	\$33,371	3	\$12,860,463
OSHA	6	\$16,643	6	\$16,643	0	0
BLS	0	0	1	0	0	0
PWBA	1	0	1	0	0	0
Other Agencies	1	0	1	0	0	0
TOTALS	132	\$138,620,131	116	\$118,580,245	23	\$19,627,374

Note: Reflects resolution activity for assignments which are unresolved at the beginning of the period; includes only those assignments whose unresolved status is over 180 days.

Beginning Balance Unresolved includes cost efficiencies of \$10,759,229.

Sustained Cost Efficiencies (decreases) total \$10,761,561 for the period.

Ending Balance Unresolved includes \$15,073,838 under investigation/litigation.

**Unresolved Audits Over 6 Months
Precluded from Resolution
October 1, 1988 - March 31, 1989**

Under Investigation or Litigation:

VETS	ADMIN	17-87-047-02-001	ILLINOIS VETS DVOP FUNDS ¹	1	\$773,827
VETS	ADMIN	17-87-051-02-001	OHIO VETS DVOP FUNDS	1	\$627,755
VETS	ADMIN	17-87-052-02-001	FLORIDA VETS DVOP FUNDS	4	\$96,108
VETS	ADMIN	17-87-056-02-001	CALIFORNIA VETS DVOP FUNDS	3	\$256,496
VETS	ADMIN	17-87-057-02-001	WASHINGTON VETS DVOP FUNDS	4	\$237,304
VETS	VETSPM	17-88-003-02-210	MARYLAND VETS DVOP FUNDS	1	\$193,700
VETS	VETSPM	17-88-009-02-210	MINNESOTA VETS DVOP FUNDS	1	0
ETA	OSTP	05-81-301-03-350	CONSORTIUM VENTURE CORP ²	5	\$75,013
OASAM	OCD	05-83-065-07-742	CITY OF DETROIT	11	\$12,813,635

Pending Indirect Cost Negotiations:

OASAM	OPGM	04-88-070-07-735	HOME BUILDERS ³	8	\$46,828
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Awaiting Resolution:

ETA	UIS	03-83-203-03-315	UI EXPERIENCE RATING ⁴	1	0
ETA	SESA	04-87-030-03-325	SESA INVESTMENT OF UI FUNDS ⁵	3	0
ETA	JTPA	06-88-800-03-340	JTPA GRANT FUND PROTECTION ⁶	16	\$306,708
ETA	JTPA	09-88-548-03-340	SDA PROCUREMENT PRACTICES ⁶	3	\$4,200,000
ESA	OFCCP	04-86-079-04-410	EFFECTIVENESS & EFFICIENCY ⁷	25	0
OASAM	DIRM	19-87-049-07-720	AUTOMATED PURCHASE PMT SYS ⁸	1	0

TOTAL AUDIT EXCEPTIONS:				88	\$19,627,374
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¹As a result of discussion and consultation with ETA, the OIG requested that GAO's Office of General Counsel clarify State responsibilities under the DVOP statute, PL 96-466. Pending a decision, resolution is being held in abeyance.

²On March 17, 1989, a U.S. District Court found for the Government in this case. Determination is yet to be made for debt collection responsibilities.

³OMB Circular A-50 does not require resolution within 180 days.

⁴The OIG is currently working with several SESAs to assess the implementation costs for the recommendation. Also see Chapter 1 of this section.

⁵Resolution is pending passage of Governmentwide cash management legislation. Many of the recommendations will be implemented if the UI Trust Fund is included in such legislation.

⁶The Governors of Texas and Oregon have 180 days to issue a final decision on these audits. An additional 180 days is allowed for ETA and the OIG to determine the acceptability of the State level decisions.

⁷ESA provided a comprehensive, carefully thought-out response to this report and recently transmitted a detailed status report on actions taken to date. Based on the Agency's actions, many of the recommendations have been resolved.

⁸APPS processing changed substantially since the report was issued. Therefore, the OIG is working with OASAM to determine whether the modified process meets internal control objectives.

**Final Audit Reports Issued
October 1, 1988 - March 31, 1989**

Audit Report Number	Agency	Program	Date Sent to Program Agency	Name of Audit/Auditee
02-89-261-01-001	OSEC	ADMIN	07-FEB-89	REVIEW OF PETTY CASH FUND
02-88-229-02-210	VETS	VETSPM	26-OCT-88	MAINE DEPARTMENT OF LABOR A-128
02-88-227-03-325*	ETA	SESA	25-OCT-88	MAINE DEPARTMENT OF LABOR A-128
02-89-215-03-340*	ETA	JTPA	23-MAR-89	OEO, OFFICE OF THE GOVERNOR A-128
02-89-247-03-345	ETA	CETA	03-JAN-89	MASS GOVERNOR'S GRANT
02-89-214-03-355	ETA	DINAP	16-DEC-88	ABENAKI SELF HELP ASSN INC A-128
02-89-258-03-365	ETA	DSFP	17-FEB-89	CENTRAL VT COMM ACTION CNCL A-128
02-89-244-03-370	ETA	OJC	22-NOV-88	TRNG & DEV CORP
02-89-259-04-420	ESA	WHD	31-MAR-89	WAGE AND HOUR BACK WAGES COLLECTN
02-89-267-06-601	MSHA	GRTEES	22-MAR-89	NEW HAMPSHIRE DOL A-128
02-88-077-07-735	OASAM	OPGM	03-NOV-88	NATIONAL URBAN LEAGUE INC
02-88-079-07-735	OASAM	OPGM	13-FEB-89	VOLUNTEER YOUTH CORPS I/C
02-88-080-07-735	OASAM	OPGM	13-FEB-89	GOVERNOR'S OFFICE, OEO I/C
02-88-081-07-735	OASAM	OPGM	29-MAR-89	PUERTO RICO DOL & HUMAN RESOURCES
02-88-228-10-101	OSHA	OSHAG	25-OCT-88	MAINE DEPARTMENT OF LABOR A-128
02-89-266-10-101*	OSHA	OSHAG	22-MAR-89	NEW HAMPSHIRE DOL A-128
02-88-230-11-111	BLS	BLSG	26-OCT-88	MAINE DEPARTMENT OF LABOR A-128
03-89-008-03-360*	ETA	DOWP	15-FEB-89	NAT'L COUNCIL ON THE AGING A-128
03-88-024-03-370	ETA	OJC	25-JAN-89	JOB CORPS PROGRAM RESULTS STMENTS
03-88-060-03-370	ETA	OJC	14-FEB-89	JOB CORPS MGEEMENT ADVISORY LETTER
03-89-003-03-370	ETA	OJC	19-DEC-88	CASS CIVILIAN CONSERVATION CENTER
03-89-009-03-380*	ETA	SPPD	08-MAR-89	JOB OPPORTUNITIES FOR THE BLIND
03-89-033-04-001	ESA	ADMIN	15-FEB-89	FY 1987 ESA FINANCIAL STATEMENTS
03-89-036-04-432	ESA	DLHWC	31-MAR-89	FY 1988 DC WORKMEN'S COMP FIN STMTS
03-89-037-04-432	ESA	DLHWC	31-MAR-89	FY 1988 L/SHORE H/WRKRS COMP FIN STMTS
03-89-001-04-433	ESA	CMWC	02-NOV-88	FY 1987 BLACK LUNG DISABILITY T F
03-89-010-10-101*	OSHA	OSHAG	08-MAR-89	VIRGINIA DOL & INDUSTRY A-128
03-89-004-98-599*	OT AGY	NO/DOL	10-FEB-89	FRANKLIN COUNTY PENNSYLVANIA A-128

Final Audit Reports Issued
October 1, 1988 - March 31, 1989

Audit Report Number	Agency	Program	Date Sent to Program Agency	Name of Audit/Auditee
03-89-005-98-599*	OT AGY	NO/DOL	10-FEB-89	LUZERNE COUNTY A-128
03-89-006-98-599*	OT AGY	NO/DOL	14-FEB-89	WASHINGTON COUNTY PA. A-128
03-89-007-98-599*	OT AGY	NO/DOL	21-FEB-89	YORK COUNTY PENNSYLVANIA A-128
04-89-023-01-010	OSEC	ASP	12-DEC-88	NORTH CAROLINA OICC A-128
04-89-031-01-010	OSEC	ASP	21-DEC-88	KENTUCKY OICC A-128
04-89-041-01-010*	OSEC	ASP	19-JAN-89	ALABAMA OICC A-128
04-89-082-01-010	OSEC	ASP	14-FEB-89	GEORGIA OICC A-128
04-89-083-01-010*	OSEC	ASP	02-MAR-89	GEORGIA OICC A-128
04-89-089-01-010*	OSEC	ASP	22-FEB-89	SOUTH CAROLINA OICC A-128
04-89-096-01-010*	OSEC	ASP	27-FEB-89	KENTUCKY OICC A-128
04-89-097-01-010*	OSEC	ASP	28-FEB-89	GEORGIA OICC A-128
04-89-108-01-010	OSEC	ASP	09-MAR-89	MISSISSIPPI OICC A-128
04-89-109-01-010	OSEC	ASP	09-MAR-89	NORTH CAROLINA OICC A-128
04-89-112-01-010	OSEC	ASP	13-MAR-89	TENNESSEE OICC A-128
04-89-113-01-010	OSEC	ASP	13-MAR-89	TENNESSEE OICC A-128
04-89-124-02-201	VETS	CONTR	27-MAR-89	NASHVILLE-DAVIDSON CO TN A-128
04-89-012-02-210	VETS	VETSPM	28-NOV-88	MS EMPL SEC COMM A-128
04-89-022-02-210	VETS	VETSPM	12-DEC-88	NC EMPL SEC COMM A-128
04-89-027-02-210*	VETS	VETSPM	12-DEC-88	ESCAMBIA COUNTY, FL PIC A-128
04-89-036-02-210	VETS	VETSPM	21-DEC-88	KENTUCKY HUMAN RESOURCES A-128
04-89-039-02-210	VETS	VETSPM	03-JAN-89	BROWARD EMPL & TRNG ADMIN A-128
04-89-046-02-210	VETS	VETSPM	05-JAN-89	GEORGIA MTNS AREA PLANNING DEV A-128
04-89-053-02-210	VETS	VETSPM	04-JAN-89	FLORIDA DOL & EMPL SECURITY A-128
04-89-054-02-210	VETS	VETSPM	06-JAN-89	CITY OF JACKSONVILLE A-128
04-89-059-02-210	VETS	VETSPM	13-JAN-89	AL DEPT. OF INDUSTRIAL RELATIONS A-128
04-89-062-02-210	VETS	VETSPM	17-JAN-89	B'GHAM/JEFRSN CO JOB TRNG CNSRT A-128
04-89-063-02-210	VETS	VETSPM	19-JAN-89	BIRMINGHAM/JEFFERSON COUNTY A-128
04-89-068-02-210	VETS	VETSPM	24-JAN-89	CITY OF BIRMINGHAM, AL A-128
04-89-069-02-210	VETS	VETSPM	24-JAN-89	CITY OF BIRMINGHAM, AL A-128
04-89-073-02-210	VETS	VETSPM	01-FEB-89	BROWARD EMPL & TRAINING ADMIN A-128
04-89-075-02-210*	VETS	VETSPM	02-FEB-89	LEON COUNTY FLORIDA A-128
04-89-076-02-210*	VETS	VETSPM	07-FEB-89	ORANGE COUNTY FLORIDA A-128
04-89-077-02-210*	VETS	VETSPM	08-FEB-89	CITY OF LOUISVILLE A-128
04-89-081-02-210*	VETS	VETSPM	13-FEB-89	ESCAMBIA COUNTY FLORIDA PIC A-128
04-89-084-02-210	VETS	VETSPM	17-FEB-89	NE GEORGIA PLANNING & DEV COMM A-128
04-89-085-02-210	VETS	VETSPM	17-FEB-89	NE GEORGIA PLANNING & DEV COMM A-128
04-89-093-02-210	VETS	VETSPM	24-FEB-89	SOUTH GA PLANNING & DEV COMM A-128
04-89-100-02-210	VETS	VETSPM	28-FEB-89	GEORGIA DOL A-128
04-89-104-02-210	VETS	VETSPM	01-MAR-89	NORTHERN KY AREA DEV DIST A-128
04-89-106-02-210*	VETS	VETSPM	07-MAR-89	CITY OF SAVANNAH A-128
04-89-119-02-210*	VETS	VETSPM	21-MAR-89	GULF COAST BUSINESS SERVS CORP A-128

**Final Audit Reports Issued
October 1, 1988 - March 31, 1989**

Audit Report Number	Agency	Program	Date Sent to Program Agency	Name of Audit/Auditee
04-89-118-03-310	ETA	OFCMS	24-MAR-89	M ACCOUNT SURVEY
04-89-007-03-325	ETA	SESA	28-NOV-88	MISSISSIPPI EMP SECURITY COMM A-128
04-89-013-03-325	ETA	SESA	28-NOV-88	MS OICC A-128
04-89-020-03-325	ETA	SESA	12-DEC-88	NC EMPLOYMENT SECURITY COMM A-128
04-89-033-03-325	ETA	SESA	21-DEC-88	KENTUCKY HUMAN RESOURCES A-128
04-89-049-03-325	ETA	SESA	04-JAN-89	FLORIDA DOL & EMPL SECURITY A-128
04-89-057-03-325*	ETA	SESA	13-JAN-89	AL INDUSTRIAL RELATIONS A-128
04-89-099-03-325	ETA	SESA	28-FEB-89	GEORGIA DOL A-128
04-89-103-03-330	ETA	OTAA	17-FEB-89	TRADE READJUSTMENT ALLOWANCES
04-89-008-03-340	ETA	JTPA	28-NOV-88	MS JOB DEV & TRAINING A-128
04-89-018-03-340	ETA	JTPA	12-DEC-88	NC HUMAN RES-OLDER WRKRS A-128
04-89-026-03-340	ETA	JTPA	12-DEC-88	NC NATURAL RES/COMM DEV A-128
04-89-028-03-340*	ETA	JTPA	13-DEC-88	SC GOVERNOR'S OFFICE A-128
04-89-032-03-340	ETA	JTPA	21-DEC-88	KENTUCKY CORRECTIONS A-128
04-89-034-03-340	ETA	JTPA	21-DEC-88	KENTUCKY HUMAN RESOURCES A-128
04-89-040-03-340	ETA	JTPA	19-JAN-89	ALABAMA EC/COMMUNITY AFFAIRS A-128
04-89-050-03-340	ETA	JTPA	04-JAN-89	FL DOL & EMPLOYMENT SECURITY A-128
04-89-055-03-340	ETA	JTPA	06-JAN-89	CITY OF JACKSONVILLE FLORIDA A-128
04-89-094-03-340	ETA	JTPA	10-FEB-89	CMMWLTH OF KY'S USE OF SEC. 123 FUNDS
04-89-098-03-340*	ETA	JTPA	28-FEB-89	GEORGIA DOL A-128
04-89-002-03-355	ETA	DINAP	14-NOV-88	POARCH BAND OF CREEK INDIANS A-128
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04-89-105-11-111	BLS	BLSG	07-MAR-89	NC DEPT OF COMMERCE A-128
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05-89-021-03-325*	ETA	SESA	27-JAN-89	MISSOURI A-128
05-89-030-03-325*	ETA	SESA	09-FEB-89	ILLINOIS DEPT OF EMPL SECURITY A-128
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05-88-126-03-355	ETA	DINAP	13-OCT-88	RED LAKE TRIBAL COUNCIL A-128
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05-89-033-03-365*	ETA	DSFP	14-FEB-89	ILLINOIS MIGRANT COUNCIL A-128
05-89-036-03-365*	ETA	DSFP	16-MAR-89	MINNESOTA MIGRANT COUNCIL A-128
05-89-037-03-365*	ETA	DSFP	16-MAR-89	ILLINOIS MIGRANT COUNCIL A-128
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05-89-053-03-370	ETA	OJC	31-MAR-89	CORPSMEMBER WELFARE FUND
05-88-019-03-380	ETA	SPPD	27-FEB-89	HUDSON INSTITUTE
05-89-006-06-601	MSHA	GRTEES	05-DEC-88	HUTCHINSON COMMUNITY COLLEGE A-128
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05-89-029-10-105	OSHA	EN/PRG	30-JAN-89	OSHA MONITORING OF STATE PROGRAMS
05-88-106-11-111	BLS	BLSG	07-OCT-88	OH BUREAU OF EMPLOY'T SVCS 84 A-128
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06-89-117-01-010	OSEC	ASP	19-JAN-89	SOUTH DAKOTA DEPT OF LABOR A-128
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06-89-113-03-325	ETA	SESA	19-JAN-89	SOUTH DAKOTA DEPT OF LABOR A-128
06-89-122-03-325	ETA	SESA	09-FEB-89	MONTANA A-128
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06-88-806-03-340	ETA	JTPA	02-FEB-89	SERVICE PROVIDER CONTRACTS (RPT. III)
06-89-102-03-340*	ETA	JTPA	30-NOV-88	TX DEPT OF COMMUNITY AFFAIRS A-128
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06-89-101-03-355*	ETA	DINAP	31-OCT-88	TIGUA INDIAN EMPL & TRNG A-128
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06-89-105-11-111	BLS	BLSG	09-NOV-88	NEW MEXICO DOL A-128
06-89-115-11-111	BLS	BLSG	19-JAN-89	SOUTH DAKOTA DEPT OF LABOR A-128
06-89-121-11-111	BLS	BLSG	23-JAN-89	WYOMING DOL & STATISTICS A-128
06-89-124-11-111	BLS	BLSG	09-FEB-89	MONTANA A-128
09-89-564-01-010	OSEC	ASP	09-MAR-89	ALASKA DEPARTMENT OF LABOR A-128
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09-89-534-03-360	ETA	DOWP	24-MAR-89	NEVADA JOB TRAINING OFFICE A-128
09-89-544-03-365*	ETA	DSFP	09-MAR-89	CA HUMAN DEVELOPMENT CORP A-128
09-89-527-06-601	MSHA	GRTEES	23-FEB-89	OREGON A-128
09-89-536-06-601	MSHA	GRTEES	24-MAR-89	NEVADA INDUSTRIAL RELATIONS A-128
09-89-559-06-601*	MSHA	GRTEES	06-MAR-89	IDAHO DOL & INDUSTRIAL SERVICES A-128
09-89-003-10-101	OSHA	OSHAG	30-MAR-89	CAL/OSHA SPECIAL PURPOSE REVIEW
09-89-516-10-101	OSHA	OSHAG	23-FEB-89	OREGON A-128
09-89-535-10-101	OSHA	OSHAG	24-MAR-89	NEVADA INDUSTRIAL RELATIONS A-128
09-89-549-10-101	OSHA	OSHAG	13-MAR-89	HI DOL/INDUSTRIAL RELATIONS A-128
09-89-553-10-101	OSHA	OSHAG	13-MAR-89	HI DOL/INDUSTRIAL RELATIONS A-128
09-89-561-10-101	OSHA	OSHAG	09-MAR-89	ALASKA DEPT OF LABOR A-128
09-89-515-11-111	BLS	BLSG	23-FEB-89	OREGON A-128
09-89-531-11-111	BLS	BLSG	24-MAR-89	NEVADA EMPL SEC DEPT A-128
09-89-552-11-111	BLS	BLSG	13-MAR-89	HI DOL/INDUSTRIAL RELATIONS A-128
09-89-562-11-111	BLS	BLSG	09-MAR-89	ALASKA DEPT OF LABOR A-128
12-88-013-03-001	ETA	ADMIN	31-MAR-89	FY 87 FINANCIAL STATEMENT AUDIT
12-88-017-03-001	ETA	ADMIN	31-MAR-89	FY 87 ETA MANAGEMENT ADVISORY
12-87-023-03-370	ETA	OJC	31-MAR-89	FY 1987 JOB CORPS FIN STMTS AUDIT
12-88-018-03-370	ETA	OJC	01-OCT-88	FY 1987 JOB CORPS FIN STMT COMPILATION
12-88-020-03-370	ETA	OJC	09-DEC-88	GARY JOB CORPS CENTER
12-88-021-03-370	ETA	OJC	09-DEC-88	INLAND JOB CORPS CENTER
12-88-022-03-370	ETA	OJC	09-DEC-88	EXCELSIOR SPRINGS JOB CORPS CENTER
12-88-023-03-370	ETA	OJC	06-JAN-89	ST. LOUIS JOB CORPS CENTER
12-88-024-03-370	ETA	OJC	08-DEC-88	ALBUQUERQUE JOB CORPS CENTER
12-88-025-03-370	ETA	OJC	06-JAN-89	BOXELDER JOB CORPS CENTER
12-88-026-03-370	ETA	OJC	06-JAN-89	FRENCHBURG JOB CORPS CENTER
12-88-027-03-370	ETA	OJC	01-FEB-89	SOUTH BRONX JOB CORPS CENTER
12-88-028-03-370	ETA	OJC	06-JAN-89	RED ROCK JOB CORPS CENTER
12-88-029-03-370	ETA	OJC	06-JAN-89	GUTHRIE JOB CORPS CENTER
12-88-030-03-370	ETA	OJC	25-JAN-89	HARPERS FERRY JOB CORPS CENTER
12-88-031-03-370	ETA	OJC	06-JAN-89	POTOMAC JOB CORPS CENTER
12-88-032-03-370	ETA	OJC	09-JAN-89	IROQUOIS JOB CORPS CENTER
12-88-033-03-370	ETA	OJC	09-DEC-88	KITTRELL JOB CORPS CENTER
12-88-034-03-370	ETA	OJC	02-FEB-89	L B JOHNSON JOB CORPS CENTER
12-88-035-03-370	ETA	OJC	08-DEC-88	CHESAPEAKE JOB CORPS CENTER
12-88-036-03-370	ETA	OJC	09-DEC-88	CLEARFIELD JOB CORPS CENTER
12-88-037-03-370	ETA	OJC	09-JAN-89	WEBER BASIN JOB CORPS CENTER
12-88-038-03-370	ETA	OJC	09-JAN-89	COLUMBIA BASIN JOB CORPS CENTER
12-88-039-03-370	ETA	OJC	08-DEC-88	BRUNSWICK JOB CORPS CENTER
12-88-040-03-370	ETA	OJC	09-JAN-89	JACOBS CREEK JOB CORPS CENTER

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Audit Report Number	Agency	Program	Date Sent to Program Agency	Name of Audit/Auditee
12-88-041-03-370	ETA	OJC	09-JAN-89	WOODSTOCK JOB CORPS CENTER
12-88-042-03-370	ETA	OJC	09-DEC-88	EDISON JOB CORPS CENTER
12-88-043-03-370	ETA	OJC	31-JAN-89	GATEWAY JOB CORPS CENTER
12-88-044-03-370	ETA	OJC	06-JAN-89	ANGELL JOB CORPS CENTER
12-88-045-03-370	ETA	OJC	08-DEC-88	SAN DIEGO JOB CORPS CENTER
12-88-046-03-370	ETA	OJC	08-DEC-88	EARL CLEMENTS JOB CORPS CENTER
12-88-047-03-370	ETA	OJC	08-DEC-88	ATTERBURY JOB CORPS CENTER
12-88-049-03-370	ETA	OJC	08-DEC-88	ATLANTA JOB CORPS CENTER
12-88-050-03-370	ETA	OJC	24-JAN-89	SAN JOSE JOB CORPS CENTER
12-88-051-03-370	ETA	OJC	09-DEC-88	LOS ANGELES JOB CORPS CENTER
12-88-054-03-370	ETA	OJC	31-MAR-89	JOB CORPS ELIGIBILITY REQUIREMENTS
12-89-004-03-370	ETA	OJC	31-MAR-89	SUM. RPT ON SCREENING CONTRACTORS
12-88-009-07-001	OASAM	ADMIN	31-MAR-89	FY 1987 DOL CONSOLIDATED FIN STMTS
13-87-001-03-380	ETA	SPPD	06-OCT-88	NATIONAL ALLIANCE OF BUSINESS
13-89-001-07-735	OASAM	OPGM	25-OCT-88	E.H. WHITE CO
13-89-002-07-735	OASAM	OPGM	25-OCT-88	NATIONAL GOVERNOR'S ASSOCIATION
13-89-003-07-735	OASAM	OPGM	25-OCT-88	E.H. WHITE CO
13-89-004-07-735	OASAM	OPGM	25-OCT-88	NATIONAL GOVERNOR'S ASSOCIATION
17-87-053-02-001	VETS	ADMIN	31-OCT-88	INDIANA VETS DVOP FUNDS FY 82
17-87-055-02-001	VETS	ADMIN	19-OCT-88	MISSOURI VETS DVOP FUNDS FY 82
17-88-001-02-210	VETS	VETSPM	26-OCT-88	MICHIGAN VETS DVOP FUNDS FY 82
17-88-002-02-210	VETS	VETSPM	30-NOV-88	WISCONSIN VETS DVOP FUNDS FY 82
17-88-005-02-210	VETS	VETSPM	26-OCT-88	TEXAS VETS DVOP FUNDS FY 82
17-88-006-02-210	VETS	VETSPM	21-DEC-88	IOWA VETS DVOP FUNDS FY 82
17-88-008-02-210	VETS	VETSPM	21-DEC-88	NEBRASKA VETS DVOP FUNDS FY 82
17-88-013-02-210	VETS	VETSPM	21-DEC-88	NEBRASKA VETS DVOP FUNDS FY 82
17-88-004-07-001	OASAM	ADMIN	01-NOV-88	DEPARTMENTAL PROPERTY INVENTORY
17-88-012-07-753	OASAM	OPMS	12-DEC-88	DOL SERVICING PERSONNEL
18-89-004-03-340	ETA	JTPA	29-MAR-89	UNITED COMMUNITY SERVICES, INC.
18-88-014-03-355	ETA	DINAP	03-MAR-89	CANDELARIA AMERICAN INDIAN COUNCIL
18-88-028-03-355	ETA	DINAP	31-MAR-89	REGION VII AMERICAN INDIAN COUNCIL
18-89-010-03-355	ETA	DINAP	31-MAR-89	NATIONAL INDIAN BUSINESS COUNCIL
18-89-001-03-370	ETA	OJC	31-MAR-89	JOB CORPS CORPSMEMBERS' SYSTEMS
18-89-002-03-370	ETA	OJC	24-MAR-89	INLAND EMPIRE JOB CORPS CENTER
18-89-003-03-370	ETA	OJC	31-MAR-89	GAINESVILLE JOB CORPS CENTER (GJCC)
18-89-007-03-370	ETA	OJC	31-MAR-89	CORPSMEMBERS LEARNING GAINS--GJCC

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Audit Report Number	Agency	Program	Date Sent to Program Agency	Name of Audit/Auditee
19-88-008-07-001	OASAM	ADMIN	23-NOV-88	INTERAGENCY AGREEMENT CONTROLS
19-88-010-07-720	OASAM	DIRM	12-OCT-88	OASAM INFO COLLECTN/CLEAR. PROCESS
19-88-011-12-001	PWBA	ADMIN	12-OCT-88	PWBA INFO COLLECTN/CLEAR. PROCESS

*DOL has cognizant responsibility for specific entities under the Single Audit Act. Reports listed above indicate those entities for which DOL has cognizance. More than one audit report may have been issued or transmitted based on the type of funding and the agency/program responsible for resolution. For example, DOL has cognizance for New Hampshire DOL. Most of the funds audited were OSHA funds, thus the "lead" report is asterisked and is the one used to count the total number of entities audited during the period. However, a report was also issued on MSHA funds and transmitted for determination and resolution. Thus one entity was audited but two reports were issued to various programs on their funds.

OFFICE OF RESOURCE MANAGEMENT AND LEGISLATIVE ASSESSMENT

The Office of Resource Management and Legislative Assessment (ORMLA) supports the OIG by fulfilling several responsibilities mandated by the Inspector General Act of 1978, including legislative and regulatory review, reporting to the Congress, representing the OIG on various committees and initiatives of the President's Council on Integrity and Efficiency (PCIE), conducting a DOL awareness and integrity program, and performing ADP and other support activities to achieve the mission of the OIG. This section discusses the significant concerns and achievements of the previous 6 months.

LEGISLATIVE AND REGULATORY ASSESSMENT

Section 4(a) of the Inspector General Act of 1978 requires the Inspector General to review existing and proposed regulations and to make recommendations in the semiannual report concerning the impact on the economy and efficiency on the administration of the Department's programs and on the prevention of fraud and abuse.

In carrying out our responsibilities under Section 4(a), ORMLA reviewed and cleared or provided comments on 158 legislative and regulatory items during this reporting period. The following measures have been under consideration by the 101st Congress and are of special interest to the OIG.

Whistleblower Protection Act of 1989 (S.20 and companion measure H.R.25)

The OIG supported passage of the Whistleblower Protection Act of 1989. S.20 incorporates long overdue reforms that will strengthen existing protections afforded to Federal Government whistleblowers. Currently, many Federal employees are reluctant to volunteer information that can assist in controlling and identifying fraud, waste, and abuse. This bill will provide Federal workers with protection from employer retaliation.

Important features of this bill are that it establishes a simple and equitable standard for whistleblowers in proving their case against retaliation by their agencies; it allows whistleblowers to appeal their own cases to the Merit Systems Protection Board if the Special Counsel fails or refuses to do so; it strengthens the independence

of the Office of Special Counsel and directs the office to work on behalf of the whistleblower; and it increases procedural protections for whistleblowers and for a continuing vigilance of confidentiality.

The President signed this bill into law on April 10, 1989.

Job Training Partnership Act Amendment (H.R.900)

As a result of problems surfaced in previous OIG reports, the Congress has become concerned about the need to establish additional fiscal controls for the administration of the Job Training Partnership Act (JTPA). The Chairman of the Subcommittee on Employment Opportunities has drafted a bill that would address this concern. This measure stipulates that any recipient, subrecipient, or service provider receiving funds under JTPA shall not engage in any conflict of interest, actual or apparent. Furthermore, no employee, officer, or agent of such recipient, subrecipient, or service provider shall participate in the selection, or in the award or administration of a contract supported by Federal funds if such conflict would be involved.

This bill would require the Secretary to outline which activities create a presumption of the appearance of improper conduct and to promulgate regulations providing for penalties, sanctions, or other appropriate disciplinary actions for violations. Additionally, it encourages that procurement transactions be conducted in full and open competition and it instructs the Secretary to outline examples of situations considered to be restrictive of competition.

The OIG strongly supports passage of H.R.900 and believes that its additional fiscal controls would enhance the administration of JTPA.

Worker Protection Act (H.R.64)

This bill would give the National Labor Relations Board (NLRB) authority to revoke the exclusive bargaining status of any labor organization directly engaging in or encouraging the use of violence.

Other important features would include: prohibiting the board from ordering an employer to reinstate a worker involved in union violence; requiring the Board to seek a court injunction against a union which regularly uses violence, thus putting union violence on an equal level with other serious unfair labor practices such as secondary boycotts; amending the National Labor Relations Act by making it illegal for a union to "interfere with," as well as "restrain, or coerce" workers' obligations to employees; and requiring a labor organization to compensate a worker who suffers lost wages as a result of union violence--the bill specifies that the compensation must be equal to at least three times the value of those lost wages.

Although the National Labor Relations Act has decreed union violence as an illegitimate and unfair method of communicating dissent, the bill's sponsor believes that workers' rights to organize have been abridged by union violence. Passage of H.R.64 would address this problem.

OTHER CONCERNS

Transfer of Legal Counsel to the OIG

In an effort to obtain the services of independent legal counsel, the Inspector General has attempted to transfer the OIG legal support function from the Office of the Solicitor to the OIG. Since 1978, the Office of the Solicitor has been supplying legal support to the OIG. Recently, the OIG has encountered instances of interference from the Solicitor's Office with the independent role of the OIG within the Department. Therefore, at this time the OIG believes that it is necessary to establish its own counsel.

All of the other Federal agencies which have Inspectors General have independent counsel or memoranda of understanding with their agency which accomplish the

same objective. The Inspector General Act of 1978 authorizes the Inspector General to hire and employ staff--including attorneys--necessary to carry out his duties. The Inspector General believes that independence in this area, free from the politics and pressures of the Department, is essential for the proper functioning of the OIG. Further, the legislative history of the Inspector General Act clearly supports this contention.

Law Enforcement Authority for OIG Special Agents

We believe that the Department of Labor needs to take a strong position in support of full law enforcement authority for its criminal investigators. Full law enforcement authority for OIG special agents and investigators includes the authority to carry firearms, make arrests, execute search warrants and administer oaths to witnesses.

The OIG special agents in its Office of Labor Racketeering (OLR) are charged with investigating serious allegations of labor racketeering and organized criminal activity in the union movement. The special agents in the Office of Investigations (OI) have statutory responsibility for conducting criminal investigations relating to programs and operations of the Department. It is imperative that both have full law enforcement authority. The potential for violence is inherent in investigations undertaken by our agents. In addition, law enforcement authority for OI investigators would help to ensure the protection of witnesses, enhance employee safety, and provide the critical traditional law enforcement tools necessary for this organization to be more effective, economical, and efficient.

Currently, all special agents in OLR on a one-year renewal trial basis and some investigators in OI on a case-by-case basis, are deputized through the U.S. Marshal Service. This piecemeal deputization process has proved to be cumbersome, inefficient, expensive, and inordinately burdensome. Recognizing the need for a more permanent solution, the Senate Governmental Affairs Committee has explored the issue of statutory law enforcement authority for OLR. The Department has chosen to ignore the immediacy of the problem. We hope that the Congress will prove to be on the vanguard of this issue and press for its immediate consideration.

COMMUNICATIONS, AWARENESS, AND PREVENTION ACTIVITIES

The Department of Labor Ethics Handbook



Recognizing the need for a readable, concise, and comprehensive reference document which would address issues of employee conduct that are frequently a source of some confusion and misunderstanding to Government employees, the OIG issued *An Ethics Handbook for*

Department of Labor Employees.

This 40-page booklet discusses major workplace ethical issues and focuses on employee integrity. It deals with such potential problem areas as conflicts of interest, acceptance of gifts, misuse of Federal property, disclosure of official information, political activities, and post-employment restrictions. It also contains chapters dealing specifically with reporting allegations. To make the handbook particularly useful to employees, it has been annotated throughout with law and regulation citations in the margins corresponding to the text. It also contains a bibliography of major ethics and conduct sources.

After publication of the handbook, several other Government agencies requested permission to use the content and format for their own agencies.

SUPPORT INITIATIVES

Automated Audit Tracking System

As a result of new reporting requirements resulting from the passage of The Inspector General Act Amendments of 1988, the OIG has updated and improved its electronic audit tracking system. The Audit Information and Reporting System (AIRS) facilitates new statutory reporting requirements regarding the issuance of audit reports and the resolution and implementation of audit recommendations by keeping track of the status of all of the hundreds of audits performed by the OIG and its contractors throughout every step of the audit process. AIRS also provides enhanced capabilities for reporting on single audits. Additionally, AIRS facilitates resource management by providing management pertinent planning and budget information by tracking the time and effort involved in completing audits.

ABBREVIATIONS USED IN THIS REPORT

The OIG offices are:

IG	Inspector General
02	New York
03	Philadelphia
04	Atlanta
05	Chicago
06	Dallas
09	San Francisco
12	Office of Financial Management Audits
17	Office of Performance Audits
18	Office of Program Fraud Audits
19	Office of Information Resource Management Audits
OA	Office of Audit
OI	Office of Investigations
OLR	Office of Labor Racketeering
ORMLA	Office of Resource Management and Legislative Assessment

The Agencies are:

BLS	Bureau of Labor Statistics
ESA	Employment Standards Administration
ETA	Employment and Training Administration
MSHA	Mine Safety and Health Administration
OASAM	Office of the Assistant Secretary for Administration and Management
OIG	Office of Inspector General
OLMS	Office of Labor-Management Standards
OSEC	Office of the Secretary
OSHA	Occupational Safety and Health Administration
PWBA	Pension and Welfare Benefits Administration
SOL	Office of the Solicitor
VETS	Veterans Employment and Training Service
DOD	Department of Defense
DOL	Department of Labor
EPA	Environmental Protection Agency
FBI	Federal Bureau of Investigations
GAO	General Accounting Office
IRS	Internal Revenue Service
OMB	Office of Management and Budget

The types of programs are:

ADMIN	Agency administration
ADP	Automatic Data Processing
BAT	Bureau of Apprenticeship and Training
BL	Black Lung
BLDTF	Black Lung Disability Trust Fund
BLSG	Bureau of Labor Statistics Grantees
CCCA	Comprehensive Crime Control Act
CETA	Comprehensive Employment and Training Act
CMSH	Coal Mine Safety and Health
COMP	Comptroller
DCMWC	Division of Coal Mine Workers' Compensation
DFEC	Division of Federal Employees' Compensation
DINAP	Division of Indian and Native American Programs
DIRM	Directorate of Information Resources Management
DLHWC	Division of Longshore and Harbor Workers' Compensation
DPGM	Directorate of Procurement and Grant Management
DSFP	Division of Seasonal Farmworker Programs
DOWP	Division of Older Worker Programs
ERISA	Employee Retirement Income Security Act
FECA	Federal Employees' Compensation Act

FLSA	Fair Labor Standards Act
GRTEES	Grantees
ILA	International Longshoremen's Association
IRM	Information Resources Management
JTPA	Job Training Partnership Act
LMRDA	Labor Management Reporting and Disclosure Act
LSHWCA	Longshore and Harbor Workers' Compensation Act
OJC	Office of Job Corps
OPS	Office of Procurement Services
OSPPD	Office of Strategic Planning and Policy Development
OTAGY	Agency other than DOL
OWCP	Office of Workers' Compensation Programs
PCIE	President's Council on Integrity and Efficiency
PWBP	Pension and Welfare Benefits Program
RICO	Racketeer Influenced and Corrupt Organizations Statute
SESA	State Employment Security Agency
TRA	Trade Readjustment Allowances
UIS	Unemployment Insurance Service
USES	United States Employment Service
WH	Wage Hour Division

Miscellaneous:

AICPA	American Institute of Certified Public Accountants
CARE	Controls and Risk Evaluation (GAO Audit Methodology)
CPA	Certified Public Accountant
DTR	Diversified Transportation Resources
FMFIA	Federal Managers' Financial Integrity Act
GAAP	Generally Accepted Accounting Principles
GMA	Gary Manpower Administration
HERE	Hotel Employees and Restaurant Employees
IBT	International Brotherhood of Teamsters
IPA	Independent Public Accountant
PFCRA	Program Fraud Civil Remedies Act (of 1986)
SCAT	Smart Card Applications and Technologies
SDA	Service Delivery Area (under JTPA)
UTI	United Terminals, Inc.

Copies of this report may be obtained
from the U.S. Department of Labor
Office of Inspector General
Room S-5506
200 Constitution Avenue N.W.
Washington, D.C. 20210

**DEPARTMENT OF LABOR
OIG HOTLINE**

357-0227 (Washington Dialing Area)

(800) 424-5409 (Toll Free—outside Washington Area)

The OIG Hotline is open 24 hours a day, 7 days a week to receive allegations of fraud, waste, and abuse. An operator is normally on duty on work days between 8:15 AM and 4:45 PM, Eastern Time. An answering machine handles calls at other times. Federal employees may reach the Hotline through FTS. The toll-free number is available for those residing outside the Washington Dialing Area who wish to report these allegations. Written complaints may be sent to:

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