



# Semiannual Report to Congress

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





# A Message from the Deputy Inspector General

I am pleased to submit this *Semiannual Report to Congress*, which highlights the most significant activities and accomplishments of the U.S. Department of Labor (DOL), Office of Inspector General (OIG), for the six-month period ending March 31, 2013. Our audits and investigations continue to assess the effectiveness, efficiency, economy, and integrity of DOL's programs and operations. We also continue to investigate the influence of labor racketeering and/or organized crime with respect to internal union affairs, employee benefit plans, and labor-management relations.

During this reporting period, we issued 28 audit and other reports that, among other things, recommended that \$42.1 million in funds be put to better use. We also questioned approximately \$9.3 million in costs relating to DOL programs. Among our many significant findings, we reported that:

- The impact of the Department's \$500 million Green Jobs Workforce Investment Act Job Training Program was limited in terms of reported employment outcomes. For instance, job retention goals were lower than planned and the program trained workers who were already employed;
- The Employment and Training Administration (ETA) needs to enhance its performance evaluation process for discretionary job training grantees and use results to award and monitor future grant investments;
- Job Corps centers allowed \$32.9 million in maintenance funds to expire or approach expiration while at the same time experiencing budget overruns. As a result, by not repairing maintenance deficiencies in a timely manner, Job Corps exposed students, staff, and visitors to safety and health hazards; and
- The Mine Safety and Health Administration (MSHA) made significant progress implementing recommendations from its internal review following the Upper Big Branch Mine disaster. However, another audit found that MSHA still needs to do more to improve its oversight of coal mine roof control plans.

Our investigative work also yielded impressive results, with a total of 293 indictments, 262 convictions, and \$38.4 million in monetary accomplishments. Some of our most significant investigative results are as follows:

- The sentencing of a La Cosa Nostra family member in Philadelphia to serve four and a half years in prison for his role in a racketeering conspiracy involving illegal gambling and theft from an employee benefit plan;
- The sentencing of a New York construction company vice-president to serve nine months' home confinement and three years' supervised release, and to pay over \$1.8 million in forfeiture for stealing benefit plan contributions.
- The conviction of the former president of California's Service Employees International Union (SEIU) Local 6434 for the embezzlement of thousands of union dollars;
- The sentencing of a former mine superintendent to serve 21 months in prison for his role in allowing and concealing multiple safety and health violations at the Upper Big Branch mine in West Virginia; and
- The sentencing of a former chiropractic clinic owner in Illinois to serve six and a half years in prison and ordered to pay over \$2 million in restitution for his role in a health care fraud scheme that included union-sponsored benefit plans.

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

  
Daniel R. Petrole  
Deputy Inspector General



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## Selected Statistics

Investigative recoveries, cost-efficiencies, restitutions, fines and penalties, forfeitures, and civil monetary action <sup>1</sup> .....	\$38.4 million
Investigative cases opened.....	316
Investigative cases closed.....	254
Investigative cases referred for prosecution .....	237
Investigative cases referred for administrative/civil action .....	107
Indictments .....	293
Convictions .....	262
Debarments.....	20
Audit and other reports issued .....	28
Total questioned costs.....	\$9.3 million
Funds recommended for better use.....	\$42.1 million
Outstanding questioned costs resolved during this period.....	\$31.3 million
Allowed <sup>2</sup> .....	\$12.2 million
Disallowed <sup>3</sup> .....	\$19.1 million

- 1 These accomplishments do not include results from cases that involved the participation of multiple agencies, as follows:
- Criminal fines and forfeiture in the amount of \$698.5 million from Abbott Laboratories to resolve its criminal and civil liability arising from the company's unlawful promotion of the prescription drug Depakote, which caused fraudulent claims to be submitted to Federal health care programs such as the Federal workers' compensation programs. This case was reported in our *Semiannual Report* for the period April 1–September 31, 2012; Volume 68. *United States v. Abbott Laboratories*
  - Criminal forfeiture and civil fines in the amount of \$11.3 million obtained from Victory Pharma, Inc., to resolve Federal, civil, and criminal liability arising from the illegal marketing of its pharmaceutical products Naprelan, Xodol, Fexmid, and Dolgic, which caused false claims to be submitted to Federal health care programs, including the Federal workers' compensation program. This case is reported on page 24 of this report. *United States v. Victory Pharma, Inc*
- 2 *Allowed* means a questioned cost that DOL has not sustained.
- 3 *Disallowed* means a questioned cost that DOL has sustained or has agreed should not be charged to the government.

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# Significant Concerns

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*The OIG works with the Department and Congress to provide information and recommendations that will be useful in their management or oversight of the Department. The OIG has identified areas that we consider particularly vulnerable to mismanagement, error, fraud, waste, or abuse. These issues form the basis of our annual Top Management Challenges (TMC) report required under the Reports Consolidation Act of 2000. The TMC report can be found in its entirety at [www.oig.dol.gov/topchallenges.htm](http://www.oig.dol.gov/topchallenges.htm). The following significant concerns are based on the TMC Report and audit findings this reporting period.*

## Protecting the Safety and Health of Workers

The OIG remains concerned with the effectiveness of Departmental programs in protecting the safety and health of our nation's workers. With more than seven million workplaces/entities under the oversight of the Occupational Safety and Health Administration (OSHA), we are concerned with its ability to best target its resources, and measure the impact of its policies and programs and those of the 27 states authorized by OSHA to operate their own safety and health programs. OSHA carries out its enforcement responsibilities through a combination of self-initiated and complaint investigations but can reach only a fraction of the entities it regulates. Consequently, OSHA must strive to target the most egregious and persistent violators and protect the most vulnerable worker populations.

## Protecting the Safety and Health of Miners

Similarly, the OIG is concerned with the ability of the Mine Safety and Health Administration (MSHA) to effectively manage its resources to meet statutory mine inspection requirements while successfully accomplishing other essential functions to help ensure that every miner returns home safely at the end of each day. Our audits have shown that MSHA remains challenged to maintain a cadre of experienced and properly trained enforcement staff to

meet its statutory enforcement obligations. MSHA also faces challenges in establishing a successful accountability program, and to some degree, deficiencies continue to recur. We are also concerned that MSHA has not completed action on all of our recommendations related to the review and approval of roof control plans. For example, a recent audit found that MSHA Districts still operated under incomplete Roof Control Plan Standard Operating Procedures; District managers did not always document the rationale for their roof control plan decisions; and enforcement personnel did not always document their roof control plan monitoring activities. It has been five years since we recommended that such criteria and guidance be developed and implemented as part of our audit of MSHA following the Crandall Canyon mine tragedy. In addition, as scientific knowledge and mining practices change, MSHA must promote the development and use of new technologies and ensure that its standards and regulations keep pace.

## Improving Performance Accountability of Workforce Investment Act Grants

Another area of concern for the OIG is the Department's ability to ensure that the Workforce Investment Act (WIA) grant programs are successful in training and placing workers in suitable employment to reduce chronic unemployment, underemployment, and reliance on social payments by the population it serves. Our

audit work over several decades has documented the difficulties encountered by the Department in obtaining quality employment and training providers; ensuring that performance expectations are clear to grantees and sub-grantees; demonstrating that training provided to workers who already have jobs was really needed by those workers to retain their current jobs or advance their careers; ensuring that credentials obtained as a result of training have value and contribute to participants' employability; obtaining accurate and reliable data by which to measure and assess the success of grantees and states in meeting the program's goals; providing active oversight of the grant making and grant execution process; disseminating proven strategies and programs for replication; and, most critically, ensuring that training provided by grantees leads to placement in training-related jobs paying a living wage.

### Ensuring the Effectiveness of the Job Corps Program

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

### Reducing Improper Payments

The Department's ability to identify and reduce the rate of improper payments in the Unemployment Insurance (UI), Federal Employees' Compensation Act (FECA) and WIA programs continues to be a concern for the OIG. In the UI program, our audits have found that the Department lacked effective controls over the detection of improper payments, and that the Department's estimate of recoverable payments may be understated. In addition, OIG investigations continue to uncover fraud committed by individual UI recipients who do not report or underreport earnings, as well as fraud related to fictitious employer schemes. Similarly, we remain concerned with the Department's ability to identify the full extent of improper payments in the WIA and FECA programs. As highlighted in past OIG audits, the estimation method used for the FECA program does not appear to provide a reasonable estimate of improper payments. In addition, OIG investigations continue to identify high amounts of FECA compensation and medical fraud, which appears to surpass the Department's improper payments estimates. To assist the Department and the OIG in identifying and reducing improper payments, the OIG recommends statutory authority for DOL and OIG to access the National Directory of New Hires data, Social Security Administration wage records, and state UI wage records. For the WIA program, we have noted that data are not readily available to allow the Department to directly sample grant payments to develop a statistically valid estimate of improper payments. In the WIA program, the Department has attempted to identify the full extent of improper payments by including estimates from other sources, but it should continue to consider other sampling methods in order to provide a more complete estimate of improper payments. Further, the Department needs to provide full disclosure in the Agency Financial Report regarding the limitations of the data used to estimate WIA overpayments.

### **Maintaining the Integrity of Foreign Labor Certification Programs**

Another area of concern is the Department's ability to provide U.S. businesses access to foreign workers to meet their workforce needs while protecting the jobs and wages of U.S. workers. Our audits have found that statutory limits on the Department's authority, and uncertainty regarding the process for including individuals or entities debarred on the government-wide excluded parties lists are some of the issues that have negatively impacted the H-1B program. For the H-2B program, we have found that DOL regulations have hampered the Department's ability to provide adequate protections for U.S. workers because the system is based on a model where employers merely assert, but do not demonstrate, that they have performed an adequate test of the U.S. labor market before hiring foreign workers in lieu of U.S. workers. The Department issued a new Final Rule in early 2012, which included comprehensive reforms for the H-2B program, some of which may address deficiencies we have identified over the years. However, the rule is under legal challenge and therefore has not been implemented. Until such time as a final decision is reached on the implementation of the Final Rule, the OIG believes that the agency must do more to ensure the integrity of the program. OIG investigations also continue to uncover complex schemes involving fraudulent documents filed with DOL Foreign Labor Certification programs by those seeking temporary visas for foreign workers.

### **Ensuring the Security of Employee Benefit Plan Assets**

The Employee Benefits Security Administration's (EBSA) limited enforcement authority and resources present challenges to achieving its mission of administering and enforcing the Employee Retirement Income Security Act (ERISA) requirements for an estimated 5.3 million employee benefit plans covering approximately 141 million participants and beneficiaries. These

challenges are heightened by the many changes that have taken place in the employee benefit plan community since ERISA was enacted in 1974, such as the shift from defined benefit retirement plans to defined contribution retirement plans, the large increase in the types and complexity of investment products available to pension plans, and the new health care law. In addition, uncertainty about the effectiveness of EBSA enforcement programs on ERISA compliance makes it difficult for EBSA to direct its limited resources effectively among its regional offices to the enforcement areas where they would do the most good. Further, a recent audit found that \$3.3 trillion in assets were allowed to be excluded from plan audits due to ERISA's limited scope exemption. The limited scope audit exemption increases the risk of loss to plan participants and beneficiaries. Under limited scope audits, financial institutions holding excluded assets need only certify that their asset lists are complete and accurate; they are not required to certify the current value of those assets. The proper valuation of plan assets is critical to the financial soundness of pension plans, particularly since many plans have shifted assets into more complex, hard-to-value investments, such as limited partnerships, private equity funds, real estate, and hedge funds as a means to increase investment return.

### **Securing Information Technology Systems and Protecting Related Information Assets**

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

### **Ensuring the Effectiveness of Veterans' Employment and Training Programs**

Providing meaningful employment and training services to military veterans and members transitioning to civilian employment remains a challenge for the Department. Our audits have found that the Department needs to do a better job of accurately assessing the veterans' needs and documenting intensive service activities. The inability to accurately assess veterans' needs undermines the ability of Veterans' Employment and Training Service to ensure that it was providing a high-quality program that helps veterans successfully transition from military to civilian employment.

### **Improving Procurement Integrity**

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

# Employment and Training Programs



# Employment and Training Grants

*The Department's Employment and Training Administration (ETA) administers numerous grant programs pursuant to the Workforce Investment Act (WIA). WIA adult employment and training services are provided through formula grants to states and territories, or through competitive grants to service providers to design and operate programs for disadvantaged, often unemployed persons. ETA awards grants to states to provide reemployment services and retraining assistance to individuals dislocated from their employment. Youth programs are funded through grant awards that support program activities and services to prepare low-income youth for academic and employment success, including summer jobs. In addition, ETA administers the Senior Community Service Employment Program (SCSEP), which was authorized by the Older Americans Act to provide subsidized, service-based training for low-income persons aged 55 or older who are unemployed and have poor employment prospects. ETA also received funding as part of the American Recovery and Reinvestment Act (Recovery Act) of 2009.*

### Recovery Act: Green Jobs Program Reports Limited Success in Meeting Employment and Retention Goals as of June 30, 2012

The Recovery Act provided \$500 million for research, labor exchange, and job training projects to prepare workers for careers in energy efficiency and renewable energy. The main focus of the Green Jobs training program was to prepare individuals for jobs in green industry sectors.

The Chairman of the House Oversight and Government Reform Committee requested an audit as follow up to our September 2011 report on the Green Jobs program. In the previous audit, we reported that grantees might not be able to meet their planned expenditures or goals for placing participants before grant periods expired. ETA subsequently extended the period of performance for the majority of grantees — some up to 12 months — to allow them additional time to expend funds and assist participants with training and employment.

To assess the impact of the Green Jobs program and to provide an update on our previous work, we conducted a performance audit to determine who was served, what training participants received, and what their reported

entered employment and retention outcomes were. We analyzed reported performance outcomes and expenditures for 97 training grants awarded totaling \$435.4 million based on grantee data as of June 30, 2012, and reviewed a statistical sample of 8 grant awards totaling \$40.1 million for 9,510 participants served.

Our audit found that the impact of the Recovery Act Green Jobs training program was limited in terms of reported employment outcomes. Grantees reported that 11,613 (49 percent) of participants who obtained jobs retained employment for at least 6 months; however, this number represented only 16 percent of the planned retention goal of 71,017 as of June 30, 2012. Nearly half of the grants were still active as of June 30, 2012, and their periods of performance had been extended to as late as July 2013.

Our audit also found that 42,322 participants (52 percent) who completed training were incumbent workers, meaning they were already employed when they entered the program. Grantees were authorized to train incumbent workers who needed training to secure full-time employment, advance their careers, or retain their current jobs. However, for the 81 incumbent workers we

identified in our sample, we found no evidence that they needed green job training for any of these purposes.

ETA guidance issued in December 2010 emphasized the importance of providing training that leads to credentials, and each grant encouraged prospective grantees to ensure that skills training would lead to awarding of “industry-recognized” credentials. We found that grantees reported “credentials” ranging from a certificate of completion for a one-day training course to a bachelor’s degree, and that there was limited information regarding the value of most credentials received. The range of credential types and their relationships to the participant securing employment will make it challenging for ETA to evaluate the value of these certifications in assessing the success of this or any job training program.

We identified several possible reasons for low employment results, including the nature of incumbent workers, inaccurate reporting and record keeping by grantees, and grantee-specific challenges, such as their difficulty in tracking retention because contact with the participant frequently ended once they entered employment. ETA officials also cited a slow recovery in the construction industry and that grantees served many incumbent workers that retained jobs but did not obtain new positions.

We recommended that ETA develop and use lessons learned from the Recovery Act Green Jobs training program for future discretionary grant programs, including to evaluate the criteria for ETA-approved “credentials” to ensure that they add value to participants’ career development and job prospects, and improve the quality of grantee-reported performance data. ETA stated it expected reported performance outcomes will increase by the time the grants end and final outcome data are collected. ETA indicated that the audit report did not fully capture the results of the program as of June 30, 2012, but agreed to consider the recommendations to improve grant program performance. (Report No. 18-13-001-03-390, October 25, 2012)

### **Recovery Act: In General, Grantees Properly Used Recovery Act SCSEP Funds to Train and Place Participants**

The Recovery Act provided an additional \$120 million for SCSEP grantees to supplement their program year (PY) 2009 funding. Although the Recovery Act did not contain requirements for how the funds were to be spent, ETA guidance stated that it expected grantees to use the extra resources to expand the number of SCSEP participants assigned to community service work, especially in the growth industries emphasized in the Recovery Act such as green jobs, energy efficiency, and environmental services. We conducted a performance audit of SCSEP Recovery Act funds to determine the extent to which ETA ensured that grantees administered and awarded these funds properly, eligible participants were trained and continued employment, and employers who participated in the On-the-Job Experience were properly reimbursed.

Our audit found that ETA generally had sufficient controls to ensure grantees administered and awarded Recovery Act SCSEP funds to eligible participants. Only 2 of the 350 participants we reviewed did not meet the program’s eligibility criteria. While we found evidence that grantees trained 306 of the 350 participants reviewed, the remaining 44 case files had no evidence of training, 40 of which were from the same grantee — the Commonwealth of Puerto Rico. This grantee, who spent \$325,303 on training, said its staff was not aware of the requirement to document training in the participants’ files. In addition, Individual Employment Plans (IEPs), which include employment goals and timelines for achieving them, were not available for 108 participants. Without IEPs there was no assurance that participants received the training that could assist them in obtaining unsubsidized employment.

Furthermore, while ETA reported in its PY 2009 Final Recovery Act Nationwide Roll-Up Report a placement rate of 47.6 percent, we calculated a placement rate of 10.7 percent. This is because ETA excluded from its calculation

16,808 participants who transferred to the regular SCSEP program by June 30, 2010, after Recovery Act funding ended. This approach was not an accurate representation of the Recovery Act's placement performance for the temporary funding period of February 17, 2009, through June 30, 2010. Moreover, we found that grantees did not provide reliable information related to the On-the-Job Experience. Therefore, we could not perform testing to determine the extent to which employers who participated in the program were properly and accurately reimbursed.

We made six recommendations to ETA to collect questioned costs and implement internal controls that will improve maintenance of documentation and ensure timely monitoring and accurate reporting. ETA agreed with all but one recommendation, to develop a process to report and measure placement when funding is temporary. We continue to believe the recommendation is valid and that it would result in improved reporting accuracy. (Report No. 18-13-002-03-360, November 7, 2012)

### **ETA Needs to Enhance Its Performance Evaluation Process for Discretionary Grantees at Closeout and Use Results for Future Grant Investments**

ETA's mission is to contribute to the efficient functioning of the U.S. labor market by providing high-quality job training, employment, labor market information, and income maintenance services operated primarily through state and local workforce development systems. ETA drives this strategic development of the workforce primarily by the investment of Federal resources through grants. Recent OIG and Government Accountability Office performance audits of ETA discretionary grants identified weaknesses in grantees' meeting performance goals and in the accuracy of financial and performance data.

We conducted a performance audit to determine if ETA followed Federal and agency guidelines when closing grants, including analyzing final performance results for

use in awarding future grants. Our audit found that ETA complied with Federal and agency guidelines regarding timely submissions of grantee reports and certification of grant expenditures. However, the basis used in determining acceptable performance was not defined, documented, or consistently applied.

We reviewed reported performance results for 38 statistically sampled discretionary grants totaling \$839 million that were closed between April 1, 2010, and March 31, 2011. Our sample included 16 SCSEP grants and 22 grants from various other grant programs, such as Community-Based Job Training, High-Growth Job Training Initiative, and National Emergency Grants. For the sampled non-SCSEP grants, we noted that 82 percent (18 of 22) did not meet all the goals contained in their grant agreements. These grantees' level of performance ranged from meeting all but one of their grant goals to meeting none. Despite this wide variance in performance, ETA Federal project officers certified all 22 grantees' performance as acceptable at grant closeout. As ETA had not defined an overall acceptable measure of performance, the performance certifications completed by Federal project officers were subjective and cannot be relied on. In contrast, the SCSEP has regulations in place for determining acceptable performance, and all 16 grants in our sample met all of their performance goals.

Moreover, ETA did not demonstrate that it used grantee final performance results to improve future grant investments. We found that ETA did not follow its own rules requiring the evaluation of grantee performance and, as a result, did not capture relevant information for the design of future grants. ETA acknowledged this weakness and began including past performance criteria in its 2012 solicitations for grant applications.

We made two recommendations to ETA: to develop criteria for determining acceptable performance for discretionary grant programs where it is lacking, and to implement a process that captures grantee performance

results for use in future grant investments. In its response, ETA expressed concern that we limited the definition of success in grant implementation to the number of grants that met all of their individual goals. Moreover, ETA did not address the need to develop criteria for determining acceptable performance, or for implementing a process that captures grantee performance results for use in future grant investments. (Report No. 02-13-201-03-390, December 20, 2012)

### **District of Columbia Department of Employment Services Did Not Have Adequate Controls for the Financial Management of Funds for Grants Awarded by ETA; \$9 Million in Expenditures Questioned**

ETA requested an audit of workforce grants awarded to the District of Columbia, Department of Employment Services (DC DOES), after ETA's fiscal monitoring review identified significant problems with the grants' financial administration. Over the past three fiscal years, DC DOES received an average of \$25 million annually from ETA for various workforce investment programs.

Our audit encompassed 49 grants totaling \$89 million for the period of October 1, 2008, through December 31, 2011. Our objective was to determine whether DC DOES had sufficient controls and processes in place to ensure costs claimed for ETA grants were supported by the general ledger and were reasonable, allocable, and allowable as set forth in Federal cost principles.

Our audit found that DC DOES improperly charged about \$5 million in nonpersonnel services costs to ETA grants based on estimated budgets rather than actual costs incurred. Additionally, DC DOES could not provide adequate supporting documentation for journal vouchers that increased costs charged to grants by almost \$3 million,

and improperly charged almost \$1 million in labor costs by using predetermined estimates instead of actual hours worked.

These overcharges occurred because DC DOES either did not follow the policies and procedures established by the DC Office of the Chief Financial Officer, or the policies and procedures were not adequate to ensure that costs claimed were properly supported and complied with ETA and Federal requirements. In total, we questioned approximately \$9 million in expenditures that DC DOES improperly charged to ETA grants.

We made a total of eight recommendations, including that ETA require DC DOES to either comply with established policies and procedures related to its financial administration of ETA grants or, where inadequate or lacking, to improve, develop, and implement applicable policies and procedures. We also recommended that ETA recover the costs questioned in our audit. Both ETA and DC DOES agreed with the recommendations and stated that they have either initiated or completed corrective actions to address all eight recommendations. (Report No. 03-13-001-03-315, March 28, 2013)

# Job Corps

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

### Job Corps Needs to Improve Timeliness of and Accountability for Maintenance Repairs at Its Centers

The Office of Job Corps maintains 125 centers nationwide, comprising 99 percent of DOL's real property. These centers are used by approximately 60,000 students and 16,000 staff each year. During program years 2009–2011, Job Corps received an average of \$108.3 million per year in appropriations to pay for new center construction, existing center rehabilitation, land acquisitions, and maintenance needed to keep its centers in acceptable condition. We conducted a performance audit to determine to what extent Job Corps' management of center maintenance ensured repairs were performed in a timely manner, safety and health risks were minimized, and allocated funds were spent effectively and efficiently.

Our audit found that Job Corps did not always ensure the timely repair of critical and funded maintenance deficiencies at its centers, which exposed students, staff, and visitors to potential safety and health hazards. During fiscal years (FY) 2009–2011, Job Corps determined that 1,405 critical maintenance deficiencies involving life, safety, health, and environmental issues, as well as building code violations, needed repairs. We found 57 percent (807 of 1,405) of these deficiencies were either not repaired or took more than one year to repair — 202 were still outstanding at the end of FY 2011, and 605 that had been repaired required an average of 2.4 years to complete.

These delays occurred despite Job Corps' directive in May 2007 for repairs to be completed within one year of receipt of the directive to ensure the safety and well-being of students and to reduce the risk of higher remedial costs. Furthermore, DOL reported in its annual financial reports for FY 2009–2011 that Job Corps was committed to the timely repair of life, safety, and health hazards at its centers; and critical maintenance deficiencies were to be funded and performed in the year identified.

We also found \$32.9 million in unused maintenance funds that were expired or were approaching expiration because Job Corps did not effectively manage these funds. Job Corps had allowed \$9 million to expire and could not provide the information needed to determine the expiration dates for \$23.9 million. These funds should have been spent to perform intended repairs or used to repair other maintenance deficiencies within their three-year period of availability, especially given the budget overruns the program has recently been experiencing.

These conditions occurred because Job Corps did not have an effective process to ensure maintenance issues were addressed appropriately and timely, and did not place sufficient emphasis on tracking and monitoring the status of obligated funds. We estimated \$42.1 million would be put to better use if Job Corps improved these processes.

We made four recommendations to ETA, including to require Job Corps to improve its management processes for identifying, tracking, repairing, and funding repairs

for maintenance deficiencies; to identify and timely use or return to the U.S. Treasury unused funds obligated for center repairs; and to determine and accurately report its total deferred maintenance costs and repairs. ETA did not

completely agree with our conclusions but did not provide any new information for our consideration. ETA said it has either taken or plans to take corrective actions to address all four recommendations. (Report No. 26-13-002-03-370, December 7, 2012)

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# Foreign Labor Certification Program

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*The Employment and Training Administration (ETA) administers a number of foreign labor certification (FLC) programs that allow U.S. employers to employ foreign workers to meet American worker shortages. The H-1B visa specialty workers program requires employers that intend to employ foreign specialty-occupation workers on a temporary basis to file labor condition applications with ETA stating that appropriate wage rates will be paid and that workplace guidelines will be followed. The H-2B program establishes a means for U.S. nonagricultural employers to bring foreign workers into the United States to meet temporary worker shortages. The Permanent Foreign Labor Certification program allows an employer to hire a foreign worker to work permanently in the United States.*

## Ohio IT Company Owner Pleads Guilty to Foreign Labor Scheme

Ravindra Telluri, a former information technology (IT) company owner, was sentenced on January 23, 2013, to nine months of home detention with electronic monitoring and five years' probation, and ordered to perform 40 hours of community service. As part of his plea, Telluri previously paid \$1 million to the U.S. government for proceeds earned for his participation in a conspiracy to hire undocumented workers. In addition, Telluri, a lawful permanent resident of the United States and citizen of India, withdrew his application to obtain U.S. citizenship by naturalization and agreed not to engage in the business of hiring or recruiting foreign workers during the term of his probation.

Telluri engaged in a conspiracy with two co-conspirators residing in India to recruit and hire citizens of India to come to the United States as temporary specialty occupation workers in the IT field. He filed false Labor Condition Applications with DOL and I-129 petitions for H-1B

nonimmigrant workers with the United States Citizenship and Immigration Services (USCIS). In the petitions, he stated he had jobs for the nonimmigrant workers, when in fact there were no jobs for these workers.

This was a joint investigation with Immigration and Customs Enforcement (ICE) and USCIS. *United States v. Ravindra Telluri* (N.D. Ohio)

## Paralegal at Connecticut Immigration Law Firm Pleads Guilty to Federal Document Fraud Charge

Fernando Goncalves, a former paralegal for a law office in Stamford, Connecticut, was sentenced on February 13, 2013, to more than seven months in prison (time already served) for filing fraudulent visa applications on behalf of foreign nationals. Goncalves had previously pled guilty to one count of document fraud.

## Employment and Training Programs

Goncalves submitted I-485 forms, also known as Applications to Register Permanent Residence or Adjust Status forms, for clients who were ineligible to adjust their immigration status. In support of the false I-485 forms, Goncalves submitted forged ETA-750 Labor Certification applications, false receipts from the Connecticut DOL, and

other forged and false documentation. Goncalves was paid more than \$7,000 by each foreign national for whom he submitted the false documentation.

This was a joint investigation with ICE. *United States v. Fernando Goncalves* (D. Connecticut)

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## Workforce Investment Act

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

### Former Acting Director of Cook County Job Training Program Sentenced for Falsifying WIA Documents

Brendolyn Hart-Glover, the former acting director of a WIA-funded Employment Training office, was sentenced on March 19, 2013, to two years' probation, of which six months will be served in home confinement, and was ordered to pay a \$3,000 fine. Hart-Glover devised a scheme to falsify documents related to a state review of the county's Summer Youth Program, a WIA-funded program.

Hart-Glover served as the acting director of President's Office of Employment Training (POET), which received Federal WIA grants through the Illinois Department of Commerce and Economic Opportunity (DCEO). In October 2009, DCEO identified problems with hundreds of participant files and noted that approximately 70 files were missing. DCEO informed POET that it would not

reimburse approximately \$1.4 million in questioned costs unless POET provided the documentation necessary for reimbursement. DCEO allowed POET an additional month to provide the required documentation. During that time, Hart-Glover instructed her employees to reproduce or re-create the files that were needed to maintain the funding, even when the actual documentation could not be found. POET sent DCEO the re-created files and documents along with a letter stating that 56 of the approximately 70 missing files had been located. In reality, however, POET employees had re-created the files by forging, altering, and backdating documents. The other employees involved in the scheme entered into pretrial diversion agreements.

This was a joint investigation with the Federal Bureau of Investigation and United States Postal Inspection Service. *United States v. Brendolyn Hart-Glover et al.* (N.D. Illinois)

# Worker Safety, Health, and Workplace Rights



## Mine Safety and Health Administration

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

### **MSHA Making Progress to Implement the Upper Big Branch Internal Review Recommendations and Undertaking Actions on the Independent Panel Report**

In response to concerns raised by the Chairman of the House Committee on Education and the Workforce, we conducted a performance audit to assess MSHA's progress in implementing recommendations from two review reports that focused on MSHA's actions at the Upper Big Branch Mine—South (UBB). In April 2010, the deadliest U.S. coal mine disaster in nearly 40 years occurred when 29 miners were killed and 2 were seriously injured as a result of a massive coal dust explosion at UBB. Soon thereafter, MSHA's Assistant Secretary initiated an internal review of MSHA's actions at UBB, which focused primarily on MSHA enforcement and plan approval activities during the 18 months preceding the explosion. In addition, the Secretary of Labor requested that the National Institute for Occupational Safety and Health provide an independent analysis (Independent Panel) of MSHA's internal review for UBB. The resultant Internal Review report contained 100 recommendations, and the Independent Panel's report, which was intended to complement the Internal Review report, contained 4 recommendations.

Our audit found that MSHA has made significant progress in implementing the recommendations in the Internal Review report, having implemented more than half of them in the nine and a half months since the report's issuance. Even before the report was published, MSHA took actions on issues it identified as highest risk,

including issuing temporary rules on coal dust, dividing District 4 (where the disaster occurred) into two separate districts to enhance enforcement, and introducing impact inspections to leverage MSHA's authority at mines that merit increased attention and enforcement. Following its initial response to the report, MSHA put an aggressive implementation schedule in place, planning to implement all 100 recommendations by December 31, 2013. Given our review of MSHA's progress, nothing came to our attention indicating that it would not meet its schedule. However, while MSHA adopted a risk- and expediency-based approach to implementing the recommendations, we found it had no formal prioritization mechanism.

Regarding the Independent Panel's review, we found that MSHA has been somewhat slow to engage the Independent Panel to clarify the meaning and underlying intent of the report's recommendations. Of the panel's four recommendations, MSHA is adopting two and partially adopting the other two. The Independent Panel report acknowledged that one recommendation was outside the scope of its charge. Regardless, MSHA believed six of the eight goals underlying the recommendation had merit, and it has either taken or plans to take some action on them. MSHA disagreed with the panel's recommendation that it appoint an independent monitor to ensure corrective actions associated with the internal review recommendations are effectively implemented. However, MSHA has put in place a number of alternative measures to hold itself accountable for the implementation of the corrective actions.

We made two recommendations to MSHA: to build a process into its internal review framework to rank and prioritize recommendations, and to continue work on those recommendations that do not currently have anticipated due dates to ensure they are being diligently pursued. MSHA expressed concerns regarding its ability to set due dates for actions it cannot fully control, but agreed with the findings and recommendations. (Report No. 05-13-003-06-001, March 31, 2013)

### **MSHA Has Improved Its Roof Control Plan Review and Monitoring Process but Could Do More**

As follow-up to our 2008 audit report, we conducted a performance audit to determine whether MSHA's actions have improved its coal mine roof control plan review, approval, and oversight processes. The previous audit was initiated after a roof collapsed at the Crandall Canyon Mine in Emery County, Utah, resulting in the deaths of six miners and three rescue workers. The audit focused specifically on the roof control plan at the Crandall Canyon Mine; and the report found that MSHA needed to improve its operating procedures, especially those related to documenting the results of roof control inspections. Our follow-up work covered 6 of the 12 coal mining District Offices (Districts), and included a review of 176 roof control plans that MSHA reviewed during fiscal years (FY) 2011 and 2012.

Our audit found that MSHA's corrective actions have improved its processes related to roof control plans. Actions MSHA has taken include more frequent performance of roof control plan reviews, issuance of policy regarding nonrescue activities and personnel on site during active rescue operations, and establishment of a Memorandum of Understanding with the Bureau of Land Management to ensure information on mine conditions is shared.

Despite MSHA's efforts, the agency still needs to do more. Specifically, we found that: Districts still operated under incomplete Roof Control Plan Standard Operating Procedures (SOPs); District managers did not always document the rationale for their roof control plan decisions; and enforcement personnel did not always document their roof control plan monitoring activities.

Although MSHA has issued numerous bulletins and other guidance since 2008 that addressed roof control issues and policies, the agency did not likewise update its Program Policy Manual to incorporate these changes. As a result, Districts did not have access to a centralized repository from which to accurately update their roof control plan SOPs. Furthermore, each District developed its own SOPs for reviewing mine operators' roof control plans, but MSHA Headquarters did not review or approve these SOPs. Without Headquarters oversight, the various Districts' SOPs were often inconsistent with MSHA policies, did not include all 20 controls in the Manual, and relied on outdated criteria.

In June 2008, MSHA issued a memorandum to all District Managers explaining the importance of justifying the rationale for their roof control plan decisions, and it supplemented the transmittal sheets already being used for this purpose with forms and checklists. Despite MSHA's efforts, our review of 176 roof control plan decisions found that 31 had incomplete or missing transmittal sheets or checklists.

In June 2008, MSHA issued another memorandum to reinforce documentation elements for enforcement personnel as part of their inspections and investigations. However, MSHA did not update its General Coal Mine Inspection Procedures and Inspection Tracking System handbook to include requirements set forth in the memorandum, and the Districts did not update their SOPs. Of the 123 inspection notes we reviewed, two-thirds did not contain documentation specified in the MSHA memorandum.

We made three recommendations to MSHA regarding improvements in the areas of developing policies and procedures, implementing SOPs, and providing training. In its response, MSHA cited numerous statistics that it believed reflected a dramatic improvement in miner safety as a result of actions it has taken since the 2008 report. MSHA agreed with the recommendations and said it recently overhauled its centralized directives functions. MSHA said it would also clarify its guidance regarding documentation of inspections and investigations, and would provide training to individuals involved in the roof control plan review and approval process. However, MSHA disagreed that controls must be included in district SOPs because it is a major undertaking of time and limited resources. Based on our interpretation of MSHA's policy, we continue to believe that it mandates certain controls be included in all District SOPs. (Report No. 05-13-002-06-001, March 29, 2013)

### **Analysis of MSHA's Metal/Nonmetal Inspection Activity Does Not Show Excessive Enforcement in South Dakota**

Senator John Thune of South Dakota requested an audit after receiving complaints from 17 South Dakota metal/nonmetal (MNM) surface mine operators and contractors (complainants) that alleged MSHA's inspections had resulted in inappropriate citations and excessive monetary penalties. We conducted a performance audit to determine if MSHA regulations were effectively and consistently applied throughout the mining industry, but particularly in South Dakota.

We analyzed data for FY 2006 through 2011, and developed two metrics — violations per inspection hour and proposed penalties per violation — to illustrate how MSHA was performing its enforcement activities. Violations per inspection hour established a common base for large and small mines and for mines that were open for varying lengths of time. Proposed penalties per violation illustrated differences in the average amounts of penalties

assessed against four groups of mines in our analysis: the complainants' mines, mines in South Dakota, those in the Rocky Mountain District (which encompasses South Dakota), and all MNM mines nationwide.

Overall, we did not find any significant differences between the complainant mines, South Dakota, and MNM mines around the country. We found that both of the metrics we used increased for all MNM mines in FY 2009. We determined this to be directly attributable to the implementation of the Mine Improvement and New Emergency Response Act of 2006, which mandated much higher inspection levels.

We made no recommendations as a result of this audit, and MSHA did not provide a written response to the draft report. (Report No. 05-13-001-06-001, January 15, 2013)

### **Upper Big Branch Mine Superintendent Sentenced for Conspiracy**

Gary May, former UBB Mine superintendent, was sentenced on January 17, 2013, to 21 months in prison, three years' supervised release, and a \$20,000 fine for his role in allowing and concealing multiple safety and health violations at UBB.

May admitted that he gave advance notice of MSHA inspections to other UBB employees. Consequently, May authorized and caused the concealment of health and safety violations when he knew inspections were imminent, including changing or adjusting the ventilation systems to conceal possible violations. He also ordered examination record books to be falsified, omitting hazardous conditions that would have otherwise been reviewed by MSHA, and told miners to rewire the methane gas detector on a piece of mine equipment so the equipment could run illegally. Other violations May concealed included poor airflow in the mine; piles of loose and combustible coal; and inadequate supplies of rock dust, which prevent mine explosions.

This is a joint investigation with the Federal Bureau of Investigation (FBI) with the assistance of MSHA. *United States v. Gary May* (S.D. West Virginia)

### Former President of Massey's Green Valley Resource Group Pleads Guilty to Conspiracy

David Hughart, former President of Massey's Green Valley Resource Group, pled guilty on February 28, 2013, to one count of conspiracy and one count of violating mandatory health or safety standards.

Hughart admitted conspiring to impede and obstruct MSHA's enforcement of mine safety and health laws. Hughart gave advance warning of MSHA inspection activities, knowing that such warning would help to conceal and cover up any violations that would result in citations or orders by MSHA.

This is a joint investigation with FBI with the assistance of MSHA. *United States v. David Hughart* (S.D. West Virginia)

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## Occupational Safety and Health Administration

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

### New York Building Inspector Sentenced for Selling Fraudulent OSHA Certifications

Michael Dinardo, a former Occupational Safety and Health Administration (OSHA)-certified New York City buildings inspector, was sentenced on December 7, 2012, to two years in prison and three years' supervised release for his role in an OSHA certification fraud scheme.

Dinardo had been authorized by OSHA to administer outreach training, which New York City workers are required to complete before starting public construction projects. After learning that Dinardo might have been fraudulently selling outreach training cards, undercover investigators posed as construction workers and met with him on several occasions. Dinardo sold the undercover investigators 45 OSHA outreach training cards without

requiring them to complete the required student training. As a result, Dinardo potentially put the public at risk by subjecting them to work performed by untrained construction workers. In addition, he also sold them two unauthorized Hazardous Waste Operations and Emergency Response Standard (HAZWOPER) certifications. These fraudulent certifications allowed unqualified individuals to handle hazardous substances in the public domain, potentially jeopardizing the public's safety. In exchange for selling the fraudulent certifications to those in the construction industry, Dinardo received tens of thousands of dollars in illegal payments.

This was a joint investigation with the New York City Department of Investigations and OSHA. *United States v. Michael Dinardo* (S.D. New York)

### Louisiana Woman Pleads Guilty After Posing as an OSHA Trainer

Connie Knight pled guilty on January 24, 2013, to false personation of a Federal employee, possession of a false United States identification document, and production of false United States identification documents, after portraying herself as an OSHA employee for personal gain.

In the wake of the BP oil spill, Knight created fraudulent credentials to represent herself as a certified OSHA instructor. Knight produced and issued fraudulent OSHA certificates, which were required to assist with the BP oil cleanup. After the spill, many fisheries in the gulf were closed, causing many working in that industry to seek employment as oil spill cleanup personnel. Knight enticed over 1,000 individuals, predominately from the Southeast Asian fishing communities in southern Louisiana, to sign up for her fraudulent training courses. Knight charged each individual between \$150 to \$300 cash and fraudulently guaranteed that they would obtain employment with the BP cleanup efforts.

This was a joint investigation with the U.S. Environmental Protection Agency – Criminal Investigation Division, with the assistance of OSHA. *United States v. Connie Knight* (E.D. Louisiana)

### New York Man Pleads Guilty to Selling OSHA Certifications for Profit

Yegnessh Barot pled guilty on January 17, 2013, to making false statements and selling a fraudulent OSHA certification to an undercover investigator.

Many construction sites in New York City require that a site-safety manager be present on a project when work is being performed. A site safety manager designation can be obtained by possessing the requisite professional educational degree or supervisory construction experience, or by earning an OSHA 30-hour card, which requires the completion of a 30-hour OSHA-designated class on advanced construction site safety. Barot had access to OSHA 30-hour certification cards through a co-conspirator, who was an authorized OSHA safety instructor. Barot and his now-deceased co-conspirator sold a blank OSHA 30-hour card to an undercover agent for \$500, knowing that the proper training had not been completed. In so doing, Barot potentially jeopardized the safety of workers and the general public.

This was a joint investigation with the Port Authority of New York and New Jersey-OIG. *United States v. Yegnessh Barot* (E.D. New York)

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## Wage and Hour Programs

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*The Wage and Hour Division (WHD) is responsible for enforcing labor laws, such as those that cover minimum wage and overtime pay, child labor, record keeping, family and medical leave, and migrant workers, among others. Additionally, WHD administers and enforces the prevailing wage requirements of the Davis-Bacon Act and other statutes applicable to Federal contracts for construction and the provision of goods and services. The Davis-Bacon Act and related acts require the payment of prevailing wage rates and fringe benefits on Federally financed or assisted construction.*

### West Virginia Man Sentenced for Requiring Kickbacks from Public Works Employees

Alfred Williams, former operator of Williams Mechanical, Inc., was sentenced on October 25, 2012, to two years in prison followed by three years' supervised release and to pay restitution in the amount of \$285,384. Williams previously pled guilty to receiving kickbacks from public works employees.

As the former operator of Williams Mechanical, Inc., Alfred Williams routinely required at least one-third of his employees to return cash to him from their paychecks as a condition of their continued employment with his company, violating the Davis-Bacon Act. At the time of Williams' illegal scheme, Williams Mechanical performed work as a plumbing subcontractor for numerous public work projects that were financed with government funds. From the late 1990s until 2009, Williams received between \$600 and \$1,000 cash each week from the employees.

This was a joint investigation with West Virginia DOL. *United States v. Alfred Williams* (S.D. West Virginia)



# Worker and Retiree Benefit Programs



## Office of Workers' Compensation Programs

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

### **Federal Employees' Compensation Act Program**

*The FECA program provides workers' compensation coverage to approximately 2.8 million Federal, postal, and certain other employees for work-related injuries and illnesses. Benefits include wage loss and survivor benefits, medical benefits, vocational rehabilitation benefits, and survivors benefits for covered employees' employment-related deaths. In Fiscal Year (FY) 2012, the FECA program made more than \$2.1 billion in wage loss and survivor compensation payments to claimants and processed approximately 20,000 initial wage loss claims. At the end of FY 2012, nearly 50,000 claimants were receiving regular monthly wage loss compensation payments.*

### **California Pharmaceutical Company to Pay \$11 Million for Kickback Scheme**

Victory Pharma, Inc., a specialty pharmaceutical company headquartered in San Diego, entered into a deferred prosecution agreement. Victory Pharma agreed to pay \$11,420,743 to resolve Federal, civil, and criminal liability arising from the illegal marketing of its pharmaceutical products Naprelan, Xodol, Fexmid, and Dolgic.

Victory Pharma engaged in a kickback scheme to promote its products by reimbursing its sales representatives for incentives they used to improperly influence doctors and other healthcare professionals to write prescriptions for Victory Pharma drugs. The incentives provided to doctors included tickets to professional and collegiate sporting events, concerts, and plays; spa expenses; golf and ski outings; dinners at expensive restaurants; and numerous other events. Victory Pharma further sought to promote its products by encouraging its sales representatives to "shadow" doctors in their offices with the intent of

improperly influencing doctors in writing prescriptions. This scheme caused the submission of false claims for these drugs to Medicare, FECA, EEOICPA, and other Federal health insurance programs.

This was a joint investigation with United States Postal Service (USPS)-OIG, Federal Bureau of Investigation, U.S. Department of Health and Human Services (HHS)-OIG, Office of Personal Management (OPM)-OIG, and Defense Criminal Investigative Service. *United States v. Victory Pharma* (S.D. California)

### **Florida Men Sentenced After Defrauding OWCP of Over \$1.1 Million**

Lamar Pringle was sentenced on January 11, 2013, to eight years and five months in prison, three years' supervised release, and ordered to pay more than \$960,000 in restitution for his role in defrauding OWCP. His co-conspirator, Raymond Alexander, was sentenced on December 12, 2012, to two and a half years in prison,

three years' supervised release, and ordered to pay more than \$140,000 in restitution for his role in this scheme. Alexander was also ordered to surrender eight bank accounts, totaling approximately \$270,000.

Between July 2008 and May 2009, Pringle and Alexander used stolen identities of legitimate medical providers, as well as nonexistent providers, to submit fraudulent claims to OWCP for services that were not rendered. As a result, payments in excess of \$1.1 million were made by OWCP on these fraudulent claims and deposited into numerous bank accounts controlled by the defendants. *United States v. Lamar Pringle and Raymond Alexander* (N.D. Florida)

### Former Air Force Employee Sentenced for Fraudulently Collecting FECA Benefits

Nicholas Blasioli, a former Air Force employee and semi-professional bowler, was sentenced on February 20, 2012, to two years' supervised probation, and ordered to pay \$57,571 in restitution for his role in this scheme.

Nicholas Blasioli was a semiprofessional bowler who continued to participate in multiple games in three bowling leagues on a weekly basis while collecting FECA benefits for an injury sustained to his right shoulder and arm. Blasioli did not advise his doctor of any improvement to his medical condition and continued to report that he was experiencing recurrent pain in his shoulder and arm. Blasioli caused inaccurate medical reports to be prepared by his physician, which were submitted to OWCP, asserting that his injury made him unable to work. Blasioli was observed at a bowling alley in Tampa, Florida, using his right arm to swing his bowling ball during several games, an activity he performed well beyond his documented medical limitations. As a result of this investigation, Blasioli's benefits were terminated, saving an estimated \$225,430 in future FECA payments. *United States v. Nicholas Blasioli* (M.D. Florida)

### Oklahoma Postal Worker Convicted for Submitting False Travel Vouchers to OWCP

Vickie Moore, a former postal worker, was sentenced on December 13, 2012, to nine months in prison, three years' supervised release, and ordered to pay over \$51,000 in restitution to OWCP.

In December 2007, Moore sustained an injury while performing her duties as a postal worker, and was subsequently approved by OWCP to receive compensation benefits. From November 2008 until January 2012, Moore submitted fraudulent claims to OWCP for vehicle mileage reimbursement for travel related to the treatment of her injury. The investigation revealed that the trips were not substantiated by billed dates of services or medical appointment records. Moore received over \$51,000 in mileage reimbursements from OWCP to which she was not entitled.

This was a joint investigation with United States Postal Inspection Service (USPIS). *United States v. Vickie Moore* (N.D. Oklahoma)

### Maryland Woman Convicted of Making False Statements to Obtain Federal Disability Benefits

Darlene Altwater, a former postal carrier, was sentenced on March 27, 2013, to five months in prison, followed by five months of home detention, and three years of supervised release, after being charged with two counts of making false statements to receive FECA benefits. After an on-the-job injury, Altwater began receiving Federal employees' compensation. From January 2005 through December 2011, Altwater owned and operated a salon, day spa, and fitness center in two different locations in Maryland. Altwater filed forms with the OWCP in 2009 and 2010 claiming that she was not employed or self-employed

and had no earnings. However, Altvater reported to her salon on a regular basis and performed physical activities and earned revenue from the businesses. As a result, she received over \$50,000 in benefits to which she was not entitled.

This was a joint investigation with USPS-OIG. *United States v. Darlene Altvater* (D. Maryland)

### **New York Doctor's Medical License Revoked for Health Care Fraud**

Dr. Leonard Langman had his medical license revoked on November 5, 2012, after being sentenced for his role in a health care fraud scheme.

Dr. Langman was found to be billing for services not rendered, double billing, and inflating bills he submitted to Medicare, OWCP, the New York State Workers' Compensation Board, the New York State Insurance Fund, and various private insurers. Langman's clients included participants in programs administered by OWCP. Previously, Langman pled guilty and was sentenced to 10 months' imprisonment. Pursuant to the plea agreement, Dr. Langman agreed to forfeit \$905,788.

This was a joint investigation with USPS-OIG, HHS-OIG, OPM-OIG, and the New York State Workers' Compensation Board. *United States v. Leonard Langman* (E.D. New York)

### **Three Plead Guilty to Defrauding OWCP in California**

Dr. Arnold Nerenberg, psychologist and owner of Mental Health Services, pled guilty on March 6, 2013, to one count of mail fraud. Cetric Fletcher, a former postal employee, pled guilty on March 11, 2013, to two counts of submitting false statements or reports to OWCP in order to obtain Federal Employees' Compensation. Lois Washington, a former postal employee, pled guilty on March 6, 2013, to one count of mail fraud.

Dr. Nerenberg overbilled OWCP and the Federal Employees Health Benefits Plan for the treatment of more than 40 USPS employees for stress by submitting several claims for treatments not performed. As a result of the scheme, from April 2003 to June 2008, Dr. Nerenberg was overpaid between \$120,000 and \$400,000.

Washington and Fletcher submitted fraudulent mileage reimbursement claims to OWCP for travel allegedly related to their treatments with Dr. Nerenberg. Dr. Nerenberg allegedly provided his patients with his billing records, which included dates of service when the patients were not treated, so the patients could submit mileage reimbursement claims to OWCP. Washington submitted reimbursement claims and received between \$27,000 and \$99,000 in reimbursements to which she was not entitled. Fletcher received \$4,769 in reimbursements for travel expenses to which he was not entitled.

This was a joint investigation with USPS-OIG, Immigration and Customs Enforcement, and OPM-OIG. *United States v. Arnold Nerenberg et al.* (C.D. California)

### **Oklahoma Postal Worker Pleads Guilty After Submitting False OWCP Claims**

Glenn Johnson, a former postal worker, pled guilty on January 10, 2013, to theft of public money.

Between December 1999 and December 2007, Johnson filed and was approved for seven separate OWCP claims for injuries suffered while performing duties as a postal worker. From 2008 through 2011, he submitted over 200 false claims to OWCP for vehicle mileage reimbursement for travel related to his medical treatment. As a result of the scheme, Johnson received over \$36,000 in mileage reimbursements from OWCP to which he was not entitled.

*United States v. Glenn Johnson* (N.D. Oklahoma)

### Texas Postal Worker Convicted for Falsifying Travel Records

Mytasha Henry, a former postal worker, pled guilty on November 16, 2012, for her role in defrauding OWCP.

From August 2007 to March 2012, Henry filed Medical Travel Refund Requests with OWCP, claiming mileage and toll fee reimbursements for physician and rehabilitation appointments she did not attend. Henry claimed that she attended two to three appointments daily for rehabilitation treatment between six and seven days a

week, including holidays. Although the medical facilities had free parking and were accessible without using toll roads, Henry claimed parking and toll fees on her Medical Travel Refund Requests. Additionally, during this time she actually had only 19 appointments with the physician or rehabilitation specialist pertaining to her on-the-job injury. As a result of the scheme, OWCP issued payments to Henry totaling \$162,391, when Henry should have been paid only \$123.

This was a joint investigation with USPS-OIG. *United States v. Mytasha Henry* (S.D. Texas)

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## Unemployment Insurance Programs

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*Enacted more than 80 years ago as a Federal–state partnership, the Unemployment Insurance (UI) program is the Department’s largest income-maintenance program. This multibillion-dollar program assists individuals who are unemployed due to lack of suitable work. While the framework of the program is determined by Federal law, the benefits for individuals are dependent on state law and are administered by State Workforce Agencies (SWAs) in 53 jurisdictions covering the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, under the oversight of the Employment and Training Administration (ETA).*

### Georgia Department of Labor Missed Opportunities to Detect and Recover Unemployment Insurance (UI) Overpayments

We conducted a performance audit to determine whether the Georgia Department of Labor (GDOL) had adequate controls and systems in place to detect and recover UI benefit overpayments. The UI program is funded by both state and Federal funds, but it is administered at the state level, with State Workforce Agencies (SWAs) responsible for designing controls to detect and recover UI benefit overpayments. GDOL is one of 53 SWAs, paying UI benefits totaling \$8 billion for the period October 1, 2008, through March 31, 2011.

Our audit found that GDOL missed opportunities to detect and recover overpayments. The National Directory of New Hires (NDNH) has been available since 2008 for SWAs to cross-match new hires to identify potential UI overpayments. The NDNH database contains new-hire reports it receives directly from Federal civilian and military employers, as well as new-hire reports that private employers submit to their State Directory of New Hires (SDNH) database. We found that GDOL did not begin cross-matching until December 2011, and when it did so, GDOL conducted cross-matching with SDNH only. GDOL officials stated that an increased UI program workload and computer programming requirements to process Federally funded UI programs resulted in their decision to allocate limited resources to ensure claimants received benefits instead of implementing NDNH. Because NDNH would

have provided GDOL access to a wider universe of new-hire information than SDNH, by delaying its implementation, GDOL missed opportunities to maximize the detection of overpayments caused by unreported earnings.

We also found that ETA could neither ensure GDOL's reported overpayment data were accurate, nor measure the effectiveness of GDOL's recovery activities. For FYs 2010 through 2012, GDOL did not conduct or submit to ETA all data validation results as required and, therefore, did not ensure the accuracy of the data it used to report its overpayment activities. In addition, ETA did not define an acceptable performance level for measuring UI overpayment recovery activities, limiting its ability to appropriately assess GDOL's recovery activities. Performance measurements provide a key control for ETA to measure how well SWAs are recovering overpayments. Without establishing an acceptable level of performance, ETA provided GDOL with neither a level of expectation regarding its performance in overpayment recoveries nor any incentive to improve its current recovery rates.

We made five recommendations to ETA directed at improving ETA's monitoring of overpayment recovery efforts and GDOL's detection and recovery of UI benefit overpayments. ETA generally agreed with the recommendations and stated that the agency has either initiated or completed corrective actions to address all five recommendations. (Report No. 04-13-001-03-315, March 15, 2013)

### **Maryland Marketing Director and Former Employee Sentenced for Unemployment Benefits Scheme**

Amiee Arora, a former marketing director, was sentenced on January 29, 2013, to nine years in prison, three years' supervised release, and ordered to pay over \$200,000 in restitution for his role in an unemployment insurance fraud scheme, and a separate credit card fraud scheme. Additionally, Vivek Jain, Arora's co-conspirator and former

employee, was sentenced to over one year in prison, four years' supervised release, and ordered to pay over \$140,000 in restitution. Arora and Jain had previously pled guilty to conspiracy to commit access device fraud and aggravated identity theft.

From February 2010 until February 2011, Arora and Jain used the customer identities they obtained from the marketing company operated by Arora, Top of the Line Marketing, Inc., and a telecommunications company formerly owned by Jain, AV Wireless, to fraudulently apply for UI benefits through the Maryland Department of Labor, Licensing, and Regulation (DLLR). Once the fraudulent benefits were approved, Arora and Jain changed the mailing addresses of the debit cards and redirected them to mailboxes that they rented. As a result of the scheme, Arora and Jain obtained more than 45 unauthorized debit cards, enabling them to collect more than \$340,000 in fraudulent unemployment benefits.

This was a joint investigation with United States Postal Inspection Service with the assistance of the Maryland DLLR-Division of Unemployment Insurance. *United States v. Amiee Arora and Vivek Jain* (D. Maryland)

### **Three Sentenced in Maryland Fictitious Employer Scheme**

Kevin Bernard Smith was sentenced on December 11, 2012, to over five years in prison and three years' supervised release for his leading role in a scheme to fraudulently obtain unemployment benefits from the State of Maryland. Additionally, Sheila Willis was sentenced on January 9, 2013, to three years in prison for her role in the scheme. Willis's daughter, Shekia Edwards, was sentenced on January 15, 2013, to eight months of home detention and 36 months' supervised release. Smith, Willis, and Edwards were each also ordered to pay over \$88,000 in restitution, jointly and severally.

From January 2010 through May 2012, Smith, Willis, and Edwards conducted a fictitious employer scheme that enabled them to fraudulently obtain more than \$400,000 in UI benefits from the State of Maryland. The defendants created fictitious companies and nonexistent employees using stolen Social Security numbers, names, and birth dates. They then filed fraudulent UI claims with the Maryland DLLR under the names of the nonexistent employees. Once the claims were approved, the defendants requested and received prepaid debit cards at addresses to which they had access and used the cards to withdrawal UI funds.

Smith, who had previously pled guilty to conspiracy to commit access device fraud and aggravated identity theft, coordinated much of the scheme while incarcerated in Baltimore, MD. *United States v. Kevin Smith et al.* (D. Maryland)

### **Former Texas Workforce Commission Employee Sentenced for Recruiting Family and Friends in UI Scheme**

Sylvia Hawkins, a former Texas Workforce Commission (TWC) employee, was sentenced on January 14, 2013, to five years' supervised release and ordered to perform 200 hours' community service for her role in a scheme to defraud the TWC of more than \$61,000 in fraudulent unemployment insurance benefits. On the same day, Hawkins and her co-conspirators Johnny Gonzalez, Yvonne Rivette, Norma Saenz, Mark Gonzalez, and Mary Jane Gonzalez each pled guilty to one count of mail fraud for their roles in the scheme. Johnny Gonzalez was sentenced to one year in prison and three years' supervised release. Yvonne Rivette, Norma Saenz, Mark Gonzalez, and Mary Jane Gonzalez were each sentenced to five years' supervised release. Sylvia Hawkins, Yvonne Rivette, and Norma Saenz were each ordered to pay more than \$61,000 in restitution, jointly and severally, to the TWC; and Mark Gonzalez and Mary Jane Gonzalez were ordered to pay more than \$19,000 of that amount, jointly and severally.

Hawkins used her knowledge of the TWC UI system to instruct her family members and friends to successfully file for fraudulent UI benefits to which they were otherwise ineligible. They created fictitious last employers by using the names and addresses of family members. The claimants, whom Hawkins aided, had left their previous employers under circumstances that would have disqualified them from receiving unemployment benefits. By creating a fictitious last employer who would not object to the UI claim, the co-conspirators were able to collect over \$61,000 in fraudulent UI claims.

This was a joint investigation with the TWC. *United States v. Hawkins et al.* (W.D. Texas)

### **Michigan Landscapers Convicted in Labor Abuse and Unemployment Insurance Fraud Scheme**

Kevin Johnson and his mother, Sara Johnson, owners of a commercial landscaping company, were sentenced on March 27, 2013, to four years and three years in prison, respectively. They were also ordered to pay more than \$315,000 in restitution, jointly and severally, to the Michigan Unemployment Insurance Agency (UIA) for their role in a scheme to defraud the agency.

From 2006 through 2010, the Johnsons would lay off their landscaping workers and pressure them to file for unemployment insurance benefits. They would then require the employees to work in the winter, driving plow trucks and performing other manual labor, for no money other than the UI benefits they were receiving. Sara Johnson ensured the workers' compliance with this scheme by threatening to call UIA and report them as "refusing" to work, which would effectively end their UI benefits. Additionally, the Johnsons both demanded and received kickbacks from the workers receiving UI benefits. Kevin Johnson also made personal trips to the UIA, posing as a laid-off laborer, in an attempt to receive UI benefits for himself. He falsely claimed that he had been laid off on 54 different certifications.

As a result of this fraud scheme, UIA paid more than \$315,000 in fraudulent UI payments to Kevin and Sara Johnson's employees. In addition, Kevin Johnson received more than \$24,000 in fraudulent UI payments as a result of his own falsified claims.

This was a joint investigation with UIA. *United States v. Kevin Johnson and Sara Johnson* (W.D. Michigan)

### Louisiana Manager Sentenced for Stealing Identity to Obtain UI Benefits

Wayne Leeper, a former operations manager at a dental supply company, was sentenced on January 31, 2013, to four years in prison, three years' supervised release, and ordered to pay over \$96,000 in restitution for his role in a UI fraud scheme.

As a result of his former position, Leeper had access to the personally identifiable information of employees and used that information to apply for UI benefits in his co-workers' names. As part of this scheme, he would add fictitious information about the applicants' place of employment and address to file the UI claims with the Louisiana Workforce Commission (LWC). Leeper also used information of unsuspecting family and friends to create UI claims. Once the claims were approved, Leeper would have the prepaid debit cards containing the UI funds sent to addresses he controlled. Leeper fraudulently received approximately \$100,000 in UI benefits from LWC.

This was a joint investigation with USPIS and LWC, with the assistance of the U.S. Secret Service and the St. Charles Parish Sheriff's Office. *United States v. Wayne Leeper* (M.D. Louisiana)

### Illinois Woman Sentenced in Unemployment Insurance Fraud Scheme

Sylvia Delgado, a tax and translation service business owner, was sentenced on October 24, 2012, to one year

in prison and ordered to pay over \$393,000 in restitution to the Illinois Department of Employment Security.

Delgado assisted Spanish speakers, most of whom heard about her through word of mouth, with filling out applications for unemployment insurance benefits. From December 2009 until November 2011, Delgado fraudulently applied for UI benefits on behalf of more than 125 undocumented foreign workers, knowing that they were not authorized to work in the United States and therefore ineligible for benefits under Illinois law. Delgado charged her clients between \$150 and \$200 for each UI application and an additional \$20 to \$25 for each biweekly certification submitted in furtherance of the scheme.

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

### 30 Chicago-Area Defendants Allegedly Obtained Over \$833,000 in Fraudulent Unemployment Insurance Benefits

Thirty Chicago-area defendants were charged separately in January 2013 with fraudulently obtaining thousands of dollars each in unemployment benefits from the Illinois Department of Employment Security (IDES). Allegedly, the defendants, acting independently, lied about their eligibility for benefits by either falsely claiming to be unemployed or underreporting their income, and each fraudulently obtained benefits ranging from approximately \$20,000 to \$38,000. Altogether, the charges alleged that IDES was defrauded out of more than \$833,000.

Twenty-seven of the defendants were charged with felony theft of Federal funds, and three were charged with misdemeanor theft counts. Seven of the 30 have pled guilty thus far. *United States v. Burrell et al.* (N.D. Illinois)

# Labor Racketeering



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# Labor Racketeering

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*The OIG at DOL has a unique programmatic responsibility to investigate labor racketeering and/or organized crime influence involving unions, employee benefit plans, and labor-management relations. The Inspector General Act of 1978 transferred responsibility for labor racketeering and organized crime–related investigations from the Department to the OIG. In doing so, Congress recognized the need to place the labor racketeering investigative function in an independent law enforcement office free from political interference and competing priorities. Since then, OIG special agents, working in association with the Department of Justice’s Organized Crime and Gang Section, as well as various U.S. Attorneys’ Offices, have conducted criminal investigations to combat labor racketeering in all its forms.*

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

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

The OIG is committed to safeguarding American workers from being victimized through labor racketeering and/or organized crime schemes. The following cases are illustrative of our work in helping to eradicate both traditional and nontraditional labor racketeering in the nation’s labor unions, employee benefit plans, and workplaces.

Labor racketeering and organized crime groups have been involved in benefit plan fraud, violence against union members, embezzlement, and extortion. Our investigations continue to identify complex financial and investment schemes used to defraud benefit fund assets, resulting in millions of dollars in losses to plan participants. The schemes include embezzlement or other sophisticated methods, such as fraudulent loans or excessive fees paid to corrupt union and benefit plan service providers. OIG investigations have demonstrated that abuses involving service providers are particularly egregious due to their potential for large dollar losses and because the schemes often affect several plans simultaneously. Thus, benefit plan service providers, such as accountants, attorneys, contract administrators, and medical providers, as well as corrupt union officials, plan representatives, and trustees, continue to be a strong focus of OIG investigations.

## Benefit Plan Investigations

*The OIG is responsible for combating corruption involving funds in union-sponsored employee benefit plans. Pension and health and welfare benefit plans comprise hundreds of billions of dollars in assets. Our investigations have shown that assets in such plans remain vulnerable to labor racketeering schemes and/or organized crime influence. Benefit plan service providers, including accountants, actuaries, attorneys, contract administrators, investment advisors, insurance brokers, and medical providers, as well as corrupt union officials, plan representatives, and trustees, continue to be a strong focus of OIG investigations.*

### Former Illinois Chiropractor Sentenced for Health Care Fraud Scheme

Bradley Mattson, a former chiropractic clinic owner, was sentenced on December 12, 2012, to six and a half years in prison and over \$2 million in restitution, for his role in a health care fraud scheme, which included union-sponsored benefit plans.

Between 1999 and 2009, Mattson co-owned and operated six different chiropractic medical clinics and used them to execute this fraud scheme. He directed that patients receive multiple medical tests without regard to their medical necessity. In addition, he directed the clinics' staff to order MRI exams and neurological diagnostic testing performed by others without regard to need. As part of this investigation, an undercover law enforcement agent posing as a patient was seen and diagnosed by Mattson. In his diagnosis, Mattson recommended a medically unnecessary treatment plan for the agent that included daily visits to his clinic for two weeks.

This scheme allowed Mattson to fraudulently bill \$5.9 million to health care insurance plans, including \$4 million to several union-sponsored health and welfare funds.

This was a joint investigation with the Federal Bureau of Investigation (FBI). *United States v. Bradley Mattson*. (N.D. Illinois)

### New York Company Vice-President Sentenced for Stealing Benefit Plan Contributions

Mohammad Beig, former Takbeer Enterprises vice-president, was sentenced on October 12, 2012, to nine months' home confinement, three years' supervised release, and ordered to pay a forfeiture of \$1,879,575, of which \$1,488,764 represents restitution for Beig's victims (former employees).

Beig, in consultation with Steven Coren, Esq., the sole trustee of the Contractor Benefit Trust (CBT), participated in a kickback scheme that enabled Takbeer Enterprises to give the appearance of complying with Davis-Bacon Act prevailing wage law filings requirements, while requiring virtually all of Takbeer Enterprises' prevailing wage employees to cash their payroll checks and kick back a portion of their earnings to Beig.

In 1993, Coren set up the CBT fund, which he utilized to help his contractor clients — including Takbeer Enterprises — steal fringe benefit contributions made on behalf of its public work employees pursuant to the Davis-Bacon Act requirements. The CBT fund was governed by Employee Retirement Income security Act (ERISA). The main defendant, Steven Coren, was convicted and sentenced to 30 months' imprisonment in February 2010.

This was a joint investigation with Department of Transportation-OIG, Employee Benefits Security Administration (EBSA), Wage and Hour Division, and Internal Revenue Service – Criminal Investigation (IRS-CI). *United States v. Mohammad Azam Beig* (E.D. New York)

### **Founder and President of Labor Union Convicted in Washington, D.C., for Stealing from Union’s Treasury and Pension Fund and Related Crimes**

Caleb Gray-Burriss, the founder and president of the National Association of Special Police and Security Officers (NASPSO), which represents private security guards assigned to protect Federal buildings in the metropolitan Washington, D.C., area, was convicted by a Federal jury on December 4, 2012, on 18 counts of theft from a labor organization, union record-keeping offenses, mail fraud, obstruction of justice, and criminal contempt.

From approximately June 2004 through February 2011, Gray-Burriss wrote numerous unauthorized checks to himself or to other third parties from the NASPSO pension plan checking account. He spent more than \$100,000 of the pension plan funds while falsely maintaining it was an operational fund that he was properly administering and using to provide benefits to plan beneficiaries. In addition, Gray-Burriss also stole more than \$150,000 in NASPSO funds consisting of unauthorized cash withdrawals, salary increases, and bonuses — all received by him for his personal use. He also wrote checks to himself purportedly for employment taxes on behalf of NASPSO, and unlawfully used NASPSO funds to pay his personal fines in a civil lawsuit.

Gray-Burriss was found guilty of obstruction of justice as a result of his actions involving the destruction or concealment of NASPSO financial records during a grand jury investigation, failure to file required annual reports on behalf of NASPSO, falsification of those reports, and failure to properly maintain the records of NASPSO.

This was a joint investigation with EBSA and Office of Labor Management Standards (OLMS). *United States v. Caleb Gray-Burriss* (District of Columbia)

### **Ohio Investment Broker Pleads Guilty to Influencing Operations of ERISA-Covered Benefit Plans**

Nicholas DelBrocco, an investment broker in Ohio, pled guilty on October 18, 2012, to one count of offer, acceptance, or solicitation to influence operations of an employee benefit plan. DelBrocco also pled guilty to one count of conspiracy to commit mail fraud and honest services mail fraud.

DelBrocco served as the president of Ocean State Asset Management, which provided investment and advisory services to the Ohio Carpenters Pension and Annuity Funds, both of which are covered by the Employee Retirement Income Security Act (ERISA). From February 2005 to August 2011, DelBrocco provided Robert Peto, the former executive secretary/treasurer of the Ohio and Vicinity Regional Council of Carpenters and trustee for both funds, with property and services of value in an attempt to persuade Peto to award the administration of the Pension and Annuity Funds to Ocean State Asset Management.

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

## Internal Union Corruption Investigations

*Our internal union corruption investigations include officers who abuse their positions of authority in labor organizations to embezzle money from union and member benefit plan accounts, and who defraud hardworking members of their right to honest services. Investigations in this area also focus on situations in which organized crime groups control or influence a labor organization — frequently to influence an industry for corrupt purposes or to operate traditional vice schemes. Following are examples of our work in this area.*

### La Cosa Nostra Member Sentenced for Racketeering Conspiracy

Louis Fazzini, a Philadelphia La Cosa Nostra (LCN) family “made” member and “second in command” of the Philadelphia LCN’s North Jersey crew, was sentenced on February 25, 2013, to four and a half years in prison and three years’ supervised release for his role in a racketeering conspiracy involving illegal gambling and theft from an employee benefit plan.

Fazzini operated a sports bookmaking business and devised a fraudulent scheme to receive union health benefits through a “no-show” job with a collectively bargained trash company controlled by the LCN. He operated this business while subject to court-supervised release for a previous racketeering conviction, for which he was sentenced to four years in prison followed by three years of court-supervised release.

This was a joint investigation with FBI, IRS-CI, Pennsylvania State Police, New Jersey State Police, Philadelphia Police Department, EBSA, and the New Jersey Department of Corrections. *United States v. Louis Fazzini* (E.D. Pennsylvania)

### Former President of SEIU California Local Found Guilty of Stealing Thousands of Dollars From Union

Tyrone Ricky Freeman, the former president of Service Employees International Union (SEIU) Local 6434, was convicted on January 28, 2013, for embezzling thousands of dollars from the union.

From the beginning of 2007 through the summer of 2008, Freeman concealed from SEIU; the Local 6434 Executive Board, and an SEIU-associated union, the California United Homecare Workers (CUHW) Executive Board, that he received improper payments of \$2,500 per month in addition to the regular salary he received from Local 6434. This scheme resulted in Freeman receiving \$47,500 to which he was not entitled.

During that same period, Freeman used a Local 6434 credit card to pay \$8,105 in expenses that he incurred related to a personal trip to Hawaii in 2006. In June 2008, Freeman also stole nearly \$17,000 from Local 6434, by requesting and convincing the Executive Board to make payments to the Long-Term Care Housing Corporation, a not-for-profit corporation that develops affordable housing for members of Local 6434, but diverting the payments to himself.

This was a joint investigation between FBI, IRS-CI, OLMS, and EBSA. *United States v. Tyrone Ricky Freeman* (C.D. California)

## Labor-Management Investigations

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

### Former Ohio Port Authority Board Member Sentenced to 57 Months in Prison

Robert Peto, former executive secretary/treasurer of the Ohio and Vicinity Regional Council of Carpenters (OVRCC) and member of the Cleveland-Cuyahoga County Port Authority, was sentenced on January 15, 2013, to more than four years in prison followed by 36 months’ supervised release. Peto was ordered to pay restitution of \$39,565 to be divided equally between the OVRCC and the Ohio Carpenters Union Fringe Benefit Fund for his role in multiple crimes, including the offer, acceptance, or solicitation to influence operations of an employee benefit plan; conspiracy to commit mail/ wire fraud and honest services mail/ wire fraud; tampering with a witness, victim, or an informant; and a Hobbs Act violation.

Peto, who served as a member of the Port Authority Board from December 2004 until around August 2012, obtained property and services not due him or his Port Authority office, including free and discounted home improvements and materials, entertainment, and a financial benefit related to a vehicle acquisition. The property and services were provided by Michael Forlani and/or companies in which he had an ownership interest.

Michael Forlani, currently awaiting sentencing for his role in this scheme, sought and obtained assistance from Jimmy Dimora, a former Ohio county commissioner. Dimora was previously sentenced to 28 years in prison for accepting bribes in order to ensure Peto’s appointment to the Cuyahoga County Port Authority Board. Peto’s appointment to the board ensured that Forlani would

obtain financing for several government-funded projects, including the construction of a 2,080-space parking garage, office building, and a 122-bed dwelling for homeless veterans that were part of a \$125 million U.S. Department of Veterans Affairs (VA) project.

This was a joint investigation with FBI, EBSA, and VA-OIG. *United States v. Robert M. Peto* (N.D. Ohio)

### Former New York City Construction Company Executives Sentenced for Over-Billing Scheme

John Hyers, the former director of operations and a general superintendent for the New York City Office of Bovis Lend Lease, was sentenced on December 20, 2012, to one year of probation and a fine of \$15,000. James Abadie, the former principal in charge for the New York Office of Bovis Lend Lease, was sentenced on November 20, 2012, to two years of probation, a \$175,000 fine, and 750 hours of community service.

From 1999 to 2009, Hyers and Abadie played a major role in a scheme to fraudulently bill both public and private construction projects in New York City for hours not worked by labor foremen, resulting in the fraudulent costs being passed to developers and taxpayers.

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

# Departmental Management



### Department Needs a Better Process to Sanitize Electronic Media Prior to Disposal

Federal regulations mandate that government agencies protect data about individual citizens from unauthorized release, and establish policies and procedures to protect licensed software and sensitive data stored on electronic media before its release, transfer, or disposal. Within the Department of Labor, the Chief Information Officer (CIO), currently the Assistant Secretary for Administration and Management, is responsible for implementing controls and practices, including properly sanitizing electronic media to protect the Department's information. Previous OIG audits found that computers and hard drives that were identified as sanitized and ready for disposal actually contained licensed software and recoverable data. Given these findings, we conducted a performance audit to determine whether DOL effectively sanitized electronic media prior to its transfer or disposal.

While our testing in three regional offices operated by the Office of the Assistant Secretary for Administration and Management (OASAM) did not identify any issues or weaknesses, our testing at the national office found that DOL did not always effectively sanitize electronic media prior to its transfer or disposal. For example, we found equipment and unsanitized hard drives containing DOL and personal information that included names, dates of birth, and Social Security numbers of separated DOL employees, discarded in a trash receptacle. We also noted that inventoried equipment designated for disposal could not be physically located. At the Bureau of Labor Statistics national office, which OASAM had authorized to directly dispose its equipment following its own policies and procedures, we found unsanitized media containing sensitive information, as well as an inventory listing of hard drives that could not be physically located.

Because our audit fieldwork indicated that DOL had not established or implemented policies and procedures to prevent the unintentional release of sensitive data stored

on electronic media, we issued Alert Memoranda to the CIO on March 1, 2012, and June 19, 2012, recommending a moratorium on the release of surplus computers until hard drives could be sanitized. We also recommended that the CIO update policies and provide guidance to DOL agencies in this area. In response, the CIO took immediate corrective action, declaring a moratorium on the release of surplus electronic media and updating disposal procedures to address the sanitization of electronic media. OASAM subsequently informed us that it resumed disposing electronic media at the DOL national office by sanitizing, then destroying, all hard drives and memory contained in the computers. According to the agency, disposal of each computer was documented with a certificate of destruction identifying each item.

We made two recommendations to the Department to fully implement both effective electronic media sanitization practices for preventing the unintentional release of DOL information, and effective monitoring practices for testing DOL agencies' sanitization of IT equipment and electronic media before disposal. OASAM responded that its management is fully prepared to implement appropriate corrective actions to address the report's recommendations and cited that it has improved controls and practices that ensure 100 percent destruction of electronic media capable of holding information through vendor-contracted services and performs quarterly random sampling verification. (Report No. 23-13-006-07-001, March 29, 2013)

### Department's Information Technology Security Program Is Weakened by Deficiencies

Congress, the Office of Management and Budget (OMB), and the Government Accountability Office (GAO) have identified information security among Federal agencies as a continuing area of high risk. As required by the Federal Information Security Management Act (FISMA), the OIG conducted a performance audit to determine whether

the Department and its agencies were meeting OMB and FISMA-required minimum IT security controls.

We concluded that the DOL IT security program did not meet OMB and FISMA-required minimum IT security controls. We identified significant deficiencies in the Department's overseeing of third-party systems and in the Personal Identity Verification II system (PIV II) security program, which plays a key role in protecting DOL's infrastructure, including data, other systems, and people, from potential harm caused by unauthorized access.

For the fourth consecutive year, we found DOL lacked specific policies and procedures to ensure adequate oversight of third parties that either own and operate systems on behalf of DOL or operate DOL-owned systems. Without effective oversight of these third parties, an increased risk exists that unauthorized persons could access sensitive resources and disclose sensitive information, including personally identifiable information.

We found PIV II security program weaknesses continued to be a significant deficiency because of the substantial and pervasive risks to the confidentiality, integrity, and availability of mission-critical and sensitive data.

For the past two years, DOL has indicated these significant deficiencies would be resolved through its risk-based management program; however, the program has yet to be fully implemented.

We also identified other concerns in the areas of access control, media sanitization, configuration management, and security training, even though they were not considered significant deficiencies. We shared these concerns with management through the issuance of 18 Management or Alert Reports that highlighted immediate action items needed to address these concerns, as well as the status of prior-year recommendations.

We recommended the Department reassess and establish remediation priorities of the identified significant deficiencies to minimize risks to confidentiality, integrity, and availability of information and information systems. OASAM responded that management did not agree that the areas outlined in the report rose to the level of a significant deficiency. However, OASAM concurred that corrective action should be implemented, stating that it has implemented Department-wide and agency specific IT security performance metrics, has met with agency officials to emphasize the importance of these metrics, and is requiring agencies to submit quarterly progress reports. OASAM also indicated it has deployed an Enterprise Monitoring Tool designed to provide near-real-time risk and compliance information for all the Department's major information systems. (Report No. 23-13-008-07-001, March 29, 2013)

# Single Audits

*Office of Management and Budget (OMB) Circular A-133 provides audit requirements for state and local governments, colleges and universities, and nonprofit organizations receiving Federal awards. Under A-133, covered entities that expend \$500,000 or more per year in Federal awards are required to obtain an annual organization-wide audit that includes the auditor's opinion on the entity's financial statements and compliance with Federal award requirements. Non-Federal auditors, such as public accounting firms and state auditors, conduct these single audits. The OIG reviews the resulting audit reports for findings and questioned costs related to DOL awards and to ensure that the reports comply with the requirements of A-133.*

We reviewed 110 single audit reports this period, covering DOL expenditures of \$5.7 billion during audit years 2006 through 2012. These expenditures included more than \$144 million related to Recovery Act funding. The non-Federal and state auditors issued 14 qualified or adverse opinions on awardees' compliance with Federal grant requirements, their financial statements, or both. In particular, the auditors identified 113 findings and \$431,450 in questioned costs. Those findings indicated material weaknesses or significant deficiencies, indicating serious concerns about the auditees' abilities to manage DOL funds and comply with the requirements of major grant programs. We reported these 113 findings and 118 related recommendations to DOL managers for corrective action. Not correcting these deficiencies could lead to future violations and improper charges.

Recipients expending more than \$50 million a year in Federal awards are assigned a cognizant Federal agency for audit, and the cognizant agency is responsible for conducting or obtaining quality control reviews of selected A-133 audits. For the reporting period, DOL was the cognizant agency for 13 recipients.

During this reporting period, we conducted two single audit quality control reviews of Experience Works, Inc., and Senior Service America, Inc. The purpose of these reviews was to determine whether (1) the audits were conducted in accordance with applicable standards and met the single audit requirements, (2) any issues were identified that may require management's attention, and (3) any follow-up audit work was needed. In these reviews we found the audit work performed was generally acceptable and met the requirements of the Single Audit Act and OMB Circular A-133.

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## Employee Integrity Investigations

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

### Former Human Resources Executive Violated Merit Systems Principles

An investigation into the activities of a former director of DOL's Human Resources Center (HRC), who was the highest ranking Human Resources executive in the Department, found that he violated Merit System Principles by frequently engaging in noncompetitive hiring and reassignment of employees with whom he had previously worked, some of whom he placed in upper management positions.

He also did not ensure fair and open competition when hiring student trainees under the Student Career Experience Program authority. DOL's own review after his departure identified nine student trainees improperly hired during his tenure as the director of HRC.

The executive retired from Federal service on April 2, 2012.



# Legislative Recommendations



# Legislative Recommendations

*The Inspector General Act requires the OIG to review existing or proposed legislation and regulations and to make recommendations in the Semiannual Report concerning their impact both on the economy and efficiency of the Department's programs and on the prevention of fraud and abuse. The OIG's legislative recommendations have remained markedly unchanged over the last several semiannual reports, and the OIG continues to believe that the following legislative actions are necessary to increase efficiency and protect the Department's programs.*

## Allow DOL Access to Wage Records

Wage records are a valuable source of information, both as an audit and program tool to reduce overpayments in employee benefit programs such as Unemployment Insurance (UI), Federal Employees' Compensation Act (FECA), and Disaster Unemployment Assistance, as well as an investigative resource to identify and combat fraud in Department programs.

For example, states cross-match UI claims against National Directory of New Hires (NDNH) data, which are maintained by the Department of Health and Human Services, to better detect overpayments to UI claimants who have gone back to work but continue to collect UI benefits. However, the law (42 U.S.C. 653 (i)) does not permit DOL or the OIG access to the NDNH.

Moreover, access to Social Security Administration (SSA) wage records and state UI data would allow the Department to measure the long-term impact of employment and training services on job retention and earnings. Outcome information of this type for program participants is otherwise difficult to obtain.

Accordingly, the Department and the OIG need legislative authority to obtain complete access to state UI wage records, SSA wage records, and NDNH data. While the OIG can currently use its subpoena authority to obtain state wage records, this can be inefficient and untimely, and the OIG cannot use its subpoena authority for SSA or NDNH records.

## Amend Pension Protection Laws

Legislative changes to the Employee Retirement Income Security Act (ERISA) and criminal penalties for ERISA violations would enhance the protection of assets in pension plans. To this end, the OIG recommends the following:

- **Expand the authority of the Employee Benefits Security Administration (EBSA) to correct substandard benefit plan audits and ensure that auditors with poor records do not perform additional plan audits.** Changes should include providing EBSA with greater enforcement authority over registration, suspension, and debarment, and the ability to levy civil penalties against employee benefit plan auditors. The ability to correct substandard audits and take action against auditors is important because benefit plan audits help protect participants and beneficiaries by ensuring the proper value of plan assets and computation of benefits.
- **Repeal ERISA's limited-scope audit exemption. This provision excludes pension plan assets invested in financial institutions, such as banks and savings and loans from audits of employee benefit plans.** The limited-scope audit prevents independent public accountants who are auditing pension plans from rendering an opinion on the plans' financial statements in accordance with professional auditing standards. These "no opinion" audits provide no substantive

assurance of asset integrity to plan participants or the Department.

- **Require direct reporting of ERISA violations to DOL.** Under current law, a pension plan auditor who finds a potential ERISA violation is responsible for reporting it to the plan administrator, but not directly to DOL. To ensure that improprieties are addressed, we recommend that plan administrators or auditors be required to report potential ERISA violations directly to DOL. This would ensure the timely reporting of violations and would more actively involve auditors in safeguarding pension assets, providing a first line of defense against the abuse of workers' pension plans.
- **Strengthen criminal penalties in Title 18 of the United States Code.** Three sections of U.S.C. Title 18 serve as the primary criminal enforcement tools for protecting pension plans covered by ERISA. Embezzlement or theft from employee pension and welfare plans is prohibited by Section 664; making false statements in documents required by ERISA is prohibited by Section 1027; and giving or accepting bribes related to the operation of ERISA-covered plans is prohibited by Section 1954. Sections 664 and 1027 subject violators to up to five years' imprisonment, while Section 1954 calls for up to three years' imprisonment. We believe the maximum penalty should be raised to 10 years for all three violations to correspond with the 10-year penalty imposed by 18 U.S.C. § 669 (theft from health care benefit programs), to serve as a greater deterrent and further protect employee pension plans.

### Provide Authority to Ensure the Integrity of the H-1B Program

If DOL is to have a meaningful role in the H-1B specialty occupations foreign labor certification process, it must have the statutory authority to ensure the integrity of that process, including the ability to verify the accuracy of information provided on labor condition

applications. Currently, DOL is statutorily required to certify such applications unless it determines them to be "incomplete or obviously inaccurate." Our concern with the Department's limited ability to ensure the integrity of the certification process is heightened by the results of OIG analysis and investigations that show the program is susceptible to significant fraud and abuse, particularly by employers and attorneys.

### Improve the Integrity of the FECA Program

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

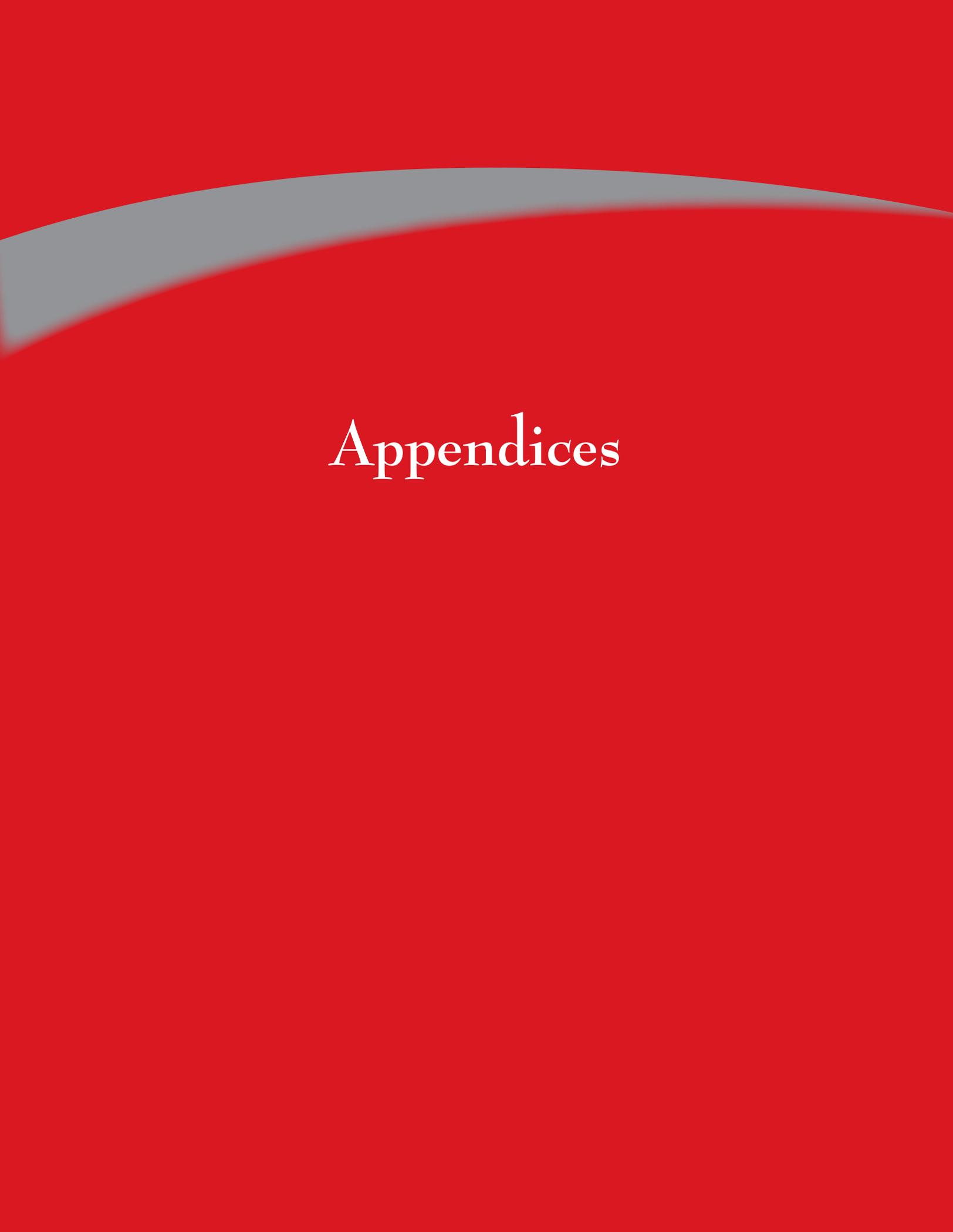
- **Statutory access to Social Security wage records and the NDNH.** Currently, the Department can access Social Security wage information only if the claimant gives it permission to do so, and it has no access to the NDNH. Granting the Department routine access to these databases would aid in the detection of fraud committed by individuals receiving FECA wage loss compensation but failing to report income they have earned.
- **Benefit rates when claimants reach normal Federal or Social Security retirement age.** Alternate views have arisen as to whether and how benefit rates should be adjusted when beneficiaries reach Federal or Social Security retirement age. The benefit rate structure for FECA should be reassessed to determine what an appropriate benefit should be for those beneficiaries who remain on the FECA rolls into retirement. Careful consideration is needed to ensure that the benefit rates ultimately established will have the desired effect while ensuring fairness to injured workers, especially those who have been determined to be permanently injured and thus unable to return to work.
- **Three-day waiting period.** The FECA legislation provides for a three-day waiting period intended to

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

### Clarify MSHA's Authority to Issue Verbal Mine Closure Orders

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

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



# Appendices

## Reporting Requirements Under the Following Acts: Inspector General Act of 1978

REPORTING	REQUIREMENT	PAGE
Section 4(a)(2)	Review of Legislation and Regulation	44
Section 5(a)(1)	Significant Problems, Abuses, and Deficiencies	ALL
Section 5(a)(2)	Recommendations with Respect to Significant Problems, Abuses, and Deficiencies	ALL
Section 5(a)(3)	Prior Significant Recommendations on Which Corrective Action Has Not Been Completed	56
Section 5(a)(4)	Matters Referred to Prosecutive Authorities	57
Section 5(a)(5) and Section 6(b)(2)	Summary of Instances Where Information Was Refused	NONE
Section 5(a)(6)	List of Audit Reports	51
Section 5(a)(7)	Summary of Significant Reports	ALL
Section 5(a)(8)	Statistical Tables on Management Decisions on Questioned Costs	50
Section 5(a)(9)	Statistical Tables on Management Decisions on Recommendations That Funds Be Put to Better Use	50
Section 5(a)(10)	Summary of Each Audit Report Over Six Months Old for Which No Management Decision Has Been Made	56
Section 5(a)(11)	Description and Explanation of Any Significant Revised Management Decision	NONE
Section 5(a)(12)	Information on Any Significant Management Decisions With Which the Inspector General Disagrees	NONE

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

Section 3(d)	Peer Review Reporting	58
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## American Recovery and Reinvestment Act of 2010

Section 1553(b)(2)(B)(iii)	Whistleblower Reporting	59
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## Congressional Testimony

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

- **March 19 , 2013 — House Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education and Related Agencies**

Elliot P. Lewis, Assistant Inspector General for Audit, testified on the OIG’s Top Management Challenges report.

- **March 12, 2013 — Senate Committee on Health, Education, Labor and Pensions, Subcommittee on Employment and Workplace Safety**

Elliot P. Lewis, Assistant Inspector General for Audit, testified on the OIG’s work relating to the Job Corps program.

# Funds Recommended for Better Use

Funds Put to a Better Use Agreed to by DOL		
	Number of Reports	Dollar Value (\$ millions)
For which no management decision had been made as of the commencement of the reporting period	2	297.0
Issued during the reporting period	<u>1</u>	<u>42.1</u>
Subtotal	3	339.1
For which management decision was made during the reporting period:		
• Dollar value of recommendations that were agreed to by management	2	297.0
• Dollar value of recommendations that were not agreed to by management		0.0
For which no management decision had been made as of the end of the reporting period	1	42.1

Funds Put to a Better Use Implemented by DOL		
	Number of Reports	Dollar Value (\$ millions)
For which final action had not been taken as of the commencement of the reporting period	5	189.5
For which management or appeal decisions were made during the reporting period	<u>2</u>	<u>297.0</u>
Subtotal	7	486.5
For which final action was taken during the reporting period:		
• Dollar value of recommendations that were actually completed	1	142.0
• Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed		0.0
For which no final action had been taken by the end of the reporting period	6	344.5

## Questioned Costs

Resolution Activity: Questioned Costs		
	Number of Reports	Questioned Costs (\$ millions)
For which no management decision had been made as of the commencement of the reporting period (as adjusted)	34	31.6
Issued during the reporting period (including single audits)	<u>7</u>	<u>9.3</u>
Subtotal	41	40.9
For which a management decision was made during the reporting period:		
• Dollar value of disallowed costs*		19.1
• Dollar value of costs not disallowed		12.2
For which no management decision had been made as of the end of the reporting period	10	9.6
For which no management decision had been made within six months of issuance	3	0.3

Closure Activity: Disallowed Costs		
	Number of Reports	Disallowed Costs (\$ millions)
For which final action had not been taken as of the commencement of the reporting period (as adjusted)	70	34.4
For which management or appeal decisions were made during the reporting period	<u>20</u>	<u>19.7</u>
Subtotal	90	54.1
For which final action was taken during the reporting period:		
• Dollar value of disallowed costs that were recovered		20.3
• Dollar value of disallowed costs that were written off by management		1.8
• Dollar value of disallowed costs that entered appeal status		
For which no final action had been taken by the end of the reporting period	55	0

\* Does not include \$568,274 in additional costs disallowed by Contracting/Grant Officers as a result of OIG audits.

# Final Audit Reports Issued

Report Name	# of Nonmonetary Recommendations	Questioned Costs (\$)	Funds Put to Better Use (\$)	Other Monetary Impact (\$)
<b>Employment and Training Programs</b>				
<b>Employment and Training — Multiple Programs</b>				
District of Columbia Department of Employment Services Did Not Have Adequate Controls for the Financial Management of Funds for Grants Awarded by ETA; Report No. 03-13-001-03-315; 03/27/13	7	8,853,820	0	0
FY 2012 Audit of Consolidated Financial Statements – Information Technology Control Deficiencies Related to the ETA E-Grants System, Unemployment Insurance Database Management System, and General Support System; Report No. 23-13-012-03-001; 02/26/13	5	0	0	0
<b>Older Workers Program</b>				
Recovery Act: In General Grantees Properly Used Recovery SCSEP Funds to Train and Place Participants; Report No. 18-13-002-03-360; 11/07/12	5	11,573	0	0
<b>Job Corps Program</b>				
Job Corps Needs to Improve Timeliness of and Accountability for Maintenance Repairs at Its Centers; Report No. 26-13-002-03-370; 12/07/12	2	0	42,091,121	0
<b>Workforce Investment Act</b>				
ETA Needs to Enhance Its Performance Evaluation Process for Discretionary Grantees at Closeout and Use Results for Future Grant Investments; Report No. 02-13-201-03-390; 12/20/12	2	0	0	0
Recovery Act: Green Jobs Program Reports Limited Success in Meeting Employment and Retention Goals as of June 30, 2012; Report No. 18-13-001-03-390; 10/25/12	6	0	0	0
<b>Goal Totals (6 Reports)</b>	<b>27</b>	<b>8,865,393</b>	<b>42,091,121</b>	<b>0</b>
<b>Worker Benefit Programs</b>				
<b>Unemployment Insurance Service</b>				
Georgia Department of Labor Missed Opportunities to Detect and Recover Unemployment Insurance Overpayments; Report No. 04-13-001-03-315; 03/15/13	5	0	0	0
<b>Federal Employees' Compensation Act</b>				
Special Report Relating to the Federal Employees' Compensation Act Special Fund; Report No. 22-13-001-04-431; 10/26/12	1	0	0	0
<b>Longshore and Harbor Workers' Compensation</b>				
Longshore and Harbor Workers' Compensation Act Special Fund Financial Statements and Independent Auditors' Report; Report No. 22-13-004-04-432; 03/29/13	7	0	0	0
District of Columbia Workmen's Compensation Act Special Fund Financial Statements and Independent Auditors' Report; Report No. 22-13-005-04-432; 03/29/13	6	0	0	0
<b>Office of Workers' Compensation Program</b>				
FY 2012 Consolidated Financial Statements — Information Technology Control Deficiencies Related to the OWCP Automated Support Package, Energy Compensation System, Longshore Disbursement System, and the OASAM Division of Information Technology Management Services General Support System; Report No. 22-13-011-04-001; 02/26/13	5	0	0	0
<b>Goal Totals (5 Reports)</b>	<b>24</b>	<b>0</b>	<b>0</b>	<b>0</b>

# Final Audit Reports Issued, continued

<b>Worker Safety, Health, and Workplace Rights</b>				
<b>Mine Safety and Health</b>				
Analysis of MSHA's MNM Inspection Activity Does Not Show Excessive Enforcement in South Dakota; Report No. 05-13-001-06-001; 01/15/13	0	0	0	0
MSHA Has Improved Its Roof Control Plan Review and Monitoring Process but Could Do More; Report No. 05-13-002-06-001; 03/29/13	3	0	0	0
MSHA Is Making Progress to Implement the Upper Big Branch Internal Review Recommendations and Is Undertaking Actions on the Independent Panel Report; Report No. 05-13-003-06-001; 03/31/13	2	0	0	0
<b>Goal Totals (3 Reports)</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Departmental Management</b>				
<b>Office of the Assistant Secretary for Administration and Management</b>				
FY 2012 Audit of Consolidated Financial Statements – Information Technology Control Deficiencies Related to the OASAM E-Procurement System and Employee Computer Network/Departmental Computer Network; Report No. 22-13-013-07-001; 01/30/13	6	0	0	0
The Department of Labor Needs a Better Process to Sanitize Electronic Media Prior to Disposal; Report No. 23-13-006-07-001; 03/29/13	2	0	0	0
The Department's IT Security Program Is Weakened by Deficiencies; Report No. 23-13-008-07-001; 03/29/13	1	0	0	0
<b>Office of the Chief Financial Officer</b>				
Fiscal Year 2012 Independent Auditors' Report on DOL Consolidated Financial Statements; Report No. 22-13-002-13-001; 02/23/13	13	0	0	0
FY 2012 Audit of the Consolidated Financial Statements – Information Technology Control Deficiencies Related to the Office of Chief Financial Officer New Core Financial Management System and People Power; Report No. 22-13-010-13-001; 02/23/13	5	0	0	0
<b>Goal Totals (5 Reports)</b>	<b>27</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Final Audit Report Totals (19 Reports)</b>	<b>86</b>	<b>8,865,393</b>	<b>42,091,121</b>	<b>0</b>

# Other Reports

Report Name	# of Nonmonetary Recommendations	Questioned Costs (\$)
<b>Employment and Training Programs</b>		
<b>Employment and Training — Multiple Programs</b>		
Quality Control Review of the Single Audit of Experience Works, Inc., for the Year Ended June 30, 2012; Report No. 24-13-004-03-360; 03/21/13	0	0
Quality Control Review of the Single Audit of Senior Service America, Inc., for the Period Ended June 30, 2012; Report No. 24-13-005-03-360; 03/21/13	0	0
<b>Job Corps Program</b>		
Summary of Subcontracting of Six Privately Operated Job Corps Centers; Report No. 26-13-001-03-370; 11/08/12	0	0
<b>Goal Totals (3 Reports)</b>	<b>0</b>	<b>0</b>
<b>Worker Benefit Programs</b>		
<b>Office of Workers' Compensation</b>		
Verification of Office of Workers' Compensation Programs Remediation Efforts of Prior Year Information Technology Security Recommendations; Report No. 23-13-003-04-430; 10/04/12	0	0
<b>Goal Totals (1 Report)</b>	<b>0</b>	<b>0</b>
<b>Departmental Management</b>		
<b>Office of the Assistant Secretary for Administration and Management</b>		
Verification of Office of Assistant Secretary for Administration and Management Remediation Efforts of Prior Year Information Technology Security Recommendations; Report No. 23-13-002-07-001; 10/04/12	0	0
Department eRecruit/DOORS System Testing; Report No. 23-13-004-07-001; 10/10/12	4	0
OIG Results for DOL's FY 2012 Federal Information Security Management Act Reporting; Report No. 23-13-005-07-001; 12/19/12	0	0
Verification of Office of Chief Information Officer Remediation Efforts of Prior Year Information Technology Security Recommendations; Report No. 23-13-001-07-720; 10/04/12	0	0
<b>Office of the Chief Financial Officer</b>		
The Department of Labor's Compliance with the Improper Payment Elimination and Recovery Act of 2010 in the Fiscal Year 2012 Agency Financial Report; Report No. 22-13-014-13-001; 03/15/13	0	0
<b>Goal Totals (5 Reports)</b>	<b>4</b>	<b>0</b>
<b>Other Report Totals (9 Reports)</b>	<b>4</b>	<b>0</b>

# Single Audit Reports Processed

Program/Report Name	# of Nonmonetary Recommendations	Questioned Costs (\$)	Funds Put to Better Use (\$)
Central Oklahoma Workforce Investment Board, Inc.; Report No. 24-13-500-03-340; 10/02/12	3	0	0
Arkansas Human Development Corporation; Report No. 24-13-501-03-390; 10/22/12	1	0	0
Le Fe Community Development Corporation; Report No. 24-13-502-03-390; 10/22/12	1	0	0
Puerto Rico Department of Labor and Human Resources; Report No. 24-13-503-03-390; 10/22/12	14	0	0
State of Alabama; Report No. 24-13-505-03-390; 11/19/12	2	0	0
Houston Works, Inc.; Report No. 24-13-506-03-001; 11/19/12	3	0	0
International Training Institute for the Sheet Metal and Air Conditioning Industry; Report No. 24-13-513-03-340; 11/20/12	1	0	0
Central Oklahoma Workforce Investment Board; Report No. 24-13-514-03-390; 11/26/12	1	0	0
Association of Farmworker Opportunity Program, Inc.; Report No. 24-13-508-03-315; 12/05/12	1	0	0
Lighthouse Youth Services, Inc.; Report No. 24-13-518-03-390; 12/05/12	2	145,995	0
State of Utah; Report No. 24-13-515-03-315; 12/27/12	3	19,613	0
Town of Guadalupe; Report No. 24-13-519-03-390; 12/27/12	2	222,598	0
National Council on Aging, Inc.; Report No. 24-13-517-03-355; 12/28/12	1	0	0
Span, Inc.; Report No. 24-13-520-03-390; 12/31/12	1	0	0
Anne Arundel Workforce Development; Report No. 24-13-521-03-390; 12/31/12	1	0	0
Citrus Levy Marion Regional Workforce; Report No. 24-13-522-03-390; 12/31/12	1	0	0
Institute for Career Development Inc.; Report No. 24-13-512-03-390; 01/03/13	1	0	0
University of Puerto Rico; Report No. 24-13-523-02-201; 01/03/13	4	0	0
New England Farmworkers' Council, Inc.; Report No. 24-13-524-03-340; 01/04/13	1	0	0
Harlem Children's Zone, Inc., and Subsidiaries; 24-13-526-03-390; 01/08/13	2	0	0
Oakland Community College; Report No. 24-13-527-03-390; 01/08/13	2	0	0
College of Lake County Community College; Report No. 24-13-528-03-340; 01/14/13	1	0	0
Dallas Inter-Tribal Council; Report No. 24-13-529-03-390; 01/22/13	2	0	0
Sasha Bruce Youthworks, Inc.; Report No. 24-13-532-03-370; 01/31/13	9	0	0
Tohatchi Area of Opportunity and Services, Inc.; Report No. 24-13-531-03-390; 02/06/13	1	0	0
Jefferson Community College; Report No. 24-13-535-03-370; 02/06/13	2	13,244	0
Utility Workers Union of America; Report No. 24-13-538-03-390; 02/06/13	1	0	0
Providence Plan; Report No. 24-13-533-03-370; 02/11/13	1	0	0
Labor Department Administration FKA Human Resources and Occupation; Report No. 24-13-536-03-370; 02/11/13	2	0	0
Indian Center, Inc.; Report No. 24-13-534-03-370; 02/19/13	1	0	0
Paralta Community College District; Report No. 24-13-530-03-390; 02/20/13	3	0	0
Way Station, Inc., and Subsidiary; Report No. 24-13-539-02-001; 02/26/13	2	0	0
New Mexico Institute of Mining and Technology; Report No. 24-13-540-03-315; 02/26/13	1	0	0

# Single Audit Reports Processed, continued

Easter Seals New Jersey; Report No. 24-13-541-03-360; 02/26/13	1	0	0
New Mexico State Department of Aging and Long-Term Services Single Audit Report for the Year Ended June 30, 2011; Report No. 24-13-542-03-390; 02/27/13	6	0	0
New Mexico State Department of Aging and Long-Term Services Single Audit Report for the Year Ended June 30, 2012; Report No. 24-13-543-03-390; 02/27/13	2	0	0
County of Santa Barbara; Report No. 24-13-537-03-370; 03/05/13	1	0	0
Northern Wyoming Community College District; Report No. 24-13-545-03-390; 03/05/13	1	0	0
Los Angeles Community College District; Report No. 24-13-544-03-390; 03/07/13	1	0	0
Project Quest, Inc.; Report No. 24-13-546-03-390; 03/06/13	1	0	0
Puerto Rico Department of Labor and Human Resources; Report No. 24-13-547-01-001; 03/14/13	2	0	0
Workforce Connections; Report No. 24-13-549-03-390; 03/14/13	4	0	0
Puerto Rico Department of Labor and Human Resources; Report No. 24-13-550-03-370; 03/14/13	9	0	0
Youth Conservation Corps and Affairs; Report No. 24-13-551-03-390; 03/20/13	2	30,000	0
State of Illinois Governor's Office of Management and Budget; 24-13-504-03-315; 03/27/13	9	0	0
<b>Single Audit Report Totals (45 Reports)</b>	<b>113</b>	<b>431,450</b>	<b>0</b>

# Unresolved Audit Reports Over Six Months Old

Agency	Report Name	# of Nonmonetary Recommendations	Questioned Costs (\$)
<b>Nonmonetary Recommendations and Questioned Costs</b>			
<b>Final Management Decision/Final Determination Issued Did Not Resolve; OIG Negotiating With Agency</b>			
ETA	Performance Audit of Management and Training Corporation Job Corps Centers, Report No. 26-09-001-01-370; 03/31/09	1	63,943
ETA	Job Corps Needs to Improve Reliability of Performance Metrics and Results; Report No. 26-11-004-03-370; 09/30/11	1	0
OASAM	OASAM General and Security Controls; Report No. 23-06-006-07-001; 12/13/05	1	0
OSHA	OSHA Needs to Evaluate and Use of Hundreds of Millions of Dollars in Penalty Reductions as Incentives for Employers to Improve Workplace Safety and Health; Report No. 02-10-201-10-105; 09/30/10	1	0
ETA	Job Corps Oversight of Center Performance Needs Improvement; Report No. 26-12-006-03-370; 09/28/12	2	0
EBSA	Changes Are Still Needed in the ERISA Audit Process to Increase Protections for Employee Benefit Plan Participants; Report No. 09-12-002-12-121; 09/28/12	5	0
OLMS	OLMS Could Do More to Improve the Effectiveness of the Compliance Audit Program; Report No. 09-12-001-04-421; 09/13/12	2	0
MSHA	MSHA's Accountability Program Faces Challenges, But Makes Improvements; Report No. 05-12-002-06-001; 09/28/12	1	0
<b>Final Determination Not Issued by Grant/Contracting Officer by Close of Period</b>			
VETS	State of Louisiana; Report No. 24-11-543-02-201; 05/06/11	1	147,057
VETS	Black Veterans for Social Justice; Report No. 24-12-514-02-201; 04/06/12	1	0
VETS	Goodwill Industries of Greater Rapids, Inc.; Report No. 24-12-548-02-201; 03/19/12	2	40,000
ETA	State of Rhode Island and Providence; Report No. 24-12-570-03-325; 08/21/12	8	0
ETA	National Academy of Sciences; Report No. 24-12-619-03-390; 08/24/12	1	0
<b>Final Decision Not Issued by Agency by Close of Period</b>			
MSHA	Interim Report: MSHA Needs to Strengthen Planning and Procurement for Metal and Nonmetal Mine Rescue Contests; Report No. 05-12-004-06-001; 09/28/12	4	0
<b>Total Nonmonetary Recommendations, Questioned Costs</b>		<b>31</b>	<b>251,000</b>
<b>Other Monetary Impact</b>			
<b>Final Management Decision Issued by Agency Did Not Resolve; OIG Negotiating With Agency</b>			
OSHA	OSHA Needs to Evaluate and Use of Hundreds of Millions of Dollars in Penalty Reductions as Incentives for Employers to Improve Workplace Safety and Health; Report No. 02-10-201-10-105; 09/30/10	2	318,200,000
<b>Total Other Monetary Impact</b>		<b>2</b>	<b>318,200,000</b>
<b>Total Questioned and Other Monetary Impact</b>		<b>33</b>	<b>318,451,000</b>

## Investigative Statistics

	Division Totals	Total
<b>Cases Opened:</b>		316
Program Fraud	265	
Labor Racketeering	51	
<b>Cases Closed:</b>		254
Program Fraud	214	
Labor Racketeering	40	
<b>Cases Referred for Prosecution:</b>		237
Program Fraud	201	
Labor Racketeering	36	
<b>Cases Referred for Administrative/Civil Action:</b>		107
Program Fraud	87	
Labor Racketeering	20	
<b>Indictments:</b>		293
Program Fraud	233	
Labor Racketeering	60	
<b>Convictions:</b>		262
Program Fraud	210	
Labor Racketeering	52	
<b>Debarments:</b>		20
Program Fraud	6	
Labor Racketeering	14	
<b>Recoveries, Cost-Efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions:</b>		\$38,422,447
Program Fraud	\$27,320,646	
Labor Racketeering	\$11,101,801	

<b>Recoveries:</b> The dollar amount/value of an agency's action to recover or to reprogram funds or to make other adjustments in response to OIG investigations	\$6,397,246
<b>Cost-Efficiencies:</b> The one-time or per annum dollar amount/value of management's commitment, in response to OIG investigations, to utilize the government's resources more efficiently	\$6,799,296
<b>Restitutions/Forfeitures:</b> The dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations	\$22,089,332
<b>Fines/Penalties:</b> The dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations	\$571,540
<b>Civil Monetary Actions:</b> The dollar amount/value of forfeitures, settlements, damages, judgments, court costs, or other penalties resulting from OIG criminal investigations	\$2,565,033
<b>Total:</b>	<b>\$38,422,477<sup>1</sup></b>

- 1 These accomplishments do not include results from cases that involved the participation of multiple agencies, as follows:
- Criminal fines and forfeiture in the amount of \$698.5 million from Abbott Laboratories to resolve its criminal and civil liability arising from the company's unlawful promotion of the prescription drug Depakote, which caused fraudulent claims to be submitted to Federal health care programs such as the Federal workers' compensation programs. This case was reported in our *Semiannual Report* for the period April 1–September 31, 2012; Volume 68. *United States v. Abbott Laboratories*
  - Criminal forfeiture and civil fines in the amount of \$11.3 million obtained from Victory Pharma, Inc., to resolve Federal, civil, and criminal liability arising from the illegal marketing of its pharmaceutical products Naprelan, Xodol, Fexmid, and Dolgic, which caused false claims to be submitted to Federal health care programs, including the Federal workers' compensation program. This case is reported on page 24 of this report. *United States v. Victory Pharma, Inc*

## Peer Review Reporting

*The following meets the requirement under Section 989C of the Dodd–Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) that the Inspectors General include their peer review results as an appendix to each semiannual report. Federal audit functions can receive a rating of “pass,” “pass with deficiencies,” or “fail.” Federal investigation functions can receive a rating of “compliant” or “noncompliant.”*

### Peer Review of DOL-OIG Audit Function

The Social Security Administration OIG conducted a peer review of the system of quality control for DOL-OIG’s audit function for FY 2012. The peer review report, which was issued on March 15, 2013, resulted in an opinion that the system of quality control was suitably designed and provided reasonable assurance of DOL-OIG conforming to professional standards in conduct of audits. The peer review gave DOL-OIG a pass rating and made no recommendations.

### Peer Review of DOL-OIG Investigative Function

In FY 2010, the Treasury Inspector General for Tax Administration initiated a peer review of the system of internal safeguards and management procedures for DOL-OIG’s investigative function for the year ending on September 30, 2010. This peer review found DOL-OIG to be compliant and made no recommendations. The next peer review for DOL-OIG is scheduled to start by October 2013.

### DOL-OIG Peer Review of VA-OIG Audit Function

DOL-OIG conducted an external peer review of the system of quality control for Veterans Affairs OIG’s audit function for FY 2012. This peer review report was issued on March 21, 2013, and resulted in an opinion that the system of quality control was suitably designed and provided reasonable assurance that the Veterans Affairs OIG conformed to professional standards in conduct of audits. The peer review gave the Veterans Affairs OIG a pass rating and made no recommendations.

### DOL-OIG Peer Review of DOJ-OIG Investigative Function

DOL-OIG conducted an external peer review of the Department of Justice (DOJ)-OIG’s system of internal safeguards and management procedures for the investigative function for the period ending on October 31, 2012. This peer review, which concluded in April 2013, found DOJ-OIG to be compliant and made no recommendations.

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## Whistleblower Reporting

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*Under the American Recovery and Reinvestment Act of 2009 (ARRA) (P.L. 111-5), an employee of any non-Federal employer receiving covered ARRA funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information that the employee reasonably believes is evidence of (1) gross mismanagement of an agency contract or grant relating to covered funds; (2) a gross waste of covered funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of covered funds; (4) an abuse of authority related to the implementation or use of covered funds; or (5) a violation of law, rule, or regulation related to an agency contract or grant awarded or issued relating to covered funds. Further, ARRA states that any person who believes he/she has been subjected to a prohibited reprisal may submit a complaint to the appropriate Office of Inspector General (OIG), and the OIG must, subject to several limited exceptions, investigate the complaint and submit a report to the agency head.*

*The following meets the requirements under this Act that the Inspectors General include in each semiannual report a list of those investigations for which the Inspector General received an extension beyond the applicable 180-day period to conduct an investigation and submit a report (Section 1553(b)(2)(B)(iii)), and a list of those investigations the Inspector General decided not to conduct or continue (Section 1553(b)(3)(C)).*

The OIG decided not to conduct one Recovery Act whistleblower investigation during this semiannual period:

An individual submitted a complaint to the OIG claiming that he reported fraud with respect to the graduation and placement rates submitted by a contractor receiving ARRA job training funds through the Workforce Investment Act. The individual claimed that he was subsequently terminated by the contractor and that he failed to receive severance payments from the contractor as retaliation for his disclosures. The OIG was unable to determine that any ARRA funds were received by the contractor, and the OIG closed its review of the individual's retaliation claim.

The OIG received one extension of time during this semiannual period:

An individual submitted a complaint to the OIG claiming that he reported fraud with respect to the activities of a workforce development company that received ARRA funds, and that he was subsequently terminated from his position with the company. The OIG and the individual have agreed to an extension of the 180-day period for the OIG to conduct an investigation and submit a report to the Secretary of Labor.

## OIG Hotline

The OIG Hotline provides a communication link between the OIG and persons who want to report alleged violations of laws, rules, and regulations; mismanagement; waste of funds; abuse of authority; or danger to public health and safety. During the reporting period October 1, 2012, through March 31, 2013, the OIG Hotline received a total of 988 contacts. Of these, 317 were referred for further review and/or action.

<b>Complaints Received (by Method Reported):</b>		<b>Totals</b>
Telephone		584
E-Mail/Internet		325
Mail		112
Fax		23
Walk-In		0
<b>Total</b>		<b>1,044</b>
<b>Complaints Received (by Source):</b>		<b>Totals</b>
Complaints From Individuals or Nongovernment Organizations		1,008
Complaints/Inquiries From Congress		1
Referrals From GAO		6
Complaints From Other DOL Agencies		12
Complaints From Other (Non-DOL) Government Agencies		17
<b>Total</b>		<b>1,044</b>
<b>Disposition of Complaints:</b>		<b>Totals</b>
Referred to OIG Components for Further Review and/or Action		53
Referred to DOL Program Management for Further Review and/or Action		138
Referred to Non-DOL Agencies / Organizations		126
No Referral Required / Informational Contact		767
<b>Total</b>		<b>1,084*</b>

\*During this reporting period, the Hotline office referred several individual complaints to multiple offices or entities for review (i.e., to OIG components, or to an OIG component and DOL program management and/or non-DOL agency).

Office of Inspector General, U.S. Department of Labor  
200 Constitution Avenue, NW  
Room S-5506  
Washington, DC 20210

<http://www.oig.dol.gov/>

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Office of Inspector General  
United States Department of Labor

# Report Fraud, Waste, and Abuse

Call the Hotline

202.693.6999

800.347.3756

Email: [hotline@oig.dol.gov](mailto:hotline@oig.dol.gov)

Fax: 202.693.7020



The OIG Hotline is open to the public and to Federal employees 24 hours a day, 7 days a week to receive allegations of fraud, waste, and abuse concerning Department of Labor programs and operations.

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Office of Inspector General  
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