



**DEPARTMENT OF LABOR**

**Fiscal Year 2004 Budget Request  
Statement for the Record**

**for**

**Office of Inspector General**

**House Subcommittee on Labor-HHS-Education Appropriations**

**Gordon S. Heddell  
Inspector General**

**U.S. DEPARTMENT OF LABOR**  
**Statement for the Record by**  
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**Inspector General**  
**on**  
**Fiscal Year 2004 Budget Request for**  
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Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to provide testimony for the record as the Inspector General of the U.S. Department of Labor (DOL).

**BACKGROUND**

The Office of Inspector General (OIG) was established by the Inspector General Act of 1978, as amended, to provide independent, objective oversight of DOL programs and operations. To carry out its mission the OIG conducts audits, investigations, and evaluations to identify potential problems or abuses; makes recommendations for corrective action; reviews legislative and regulatory initiatives; and informs the Secretary and the Congress of problems or concerns. The OIG at Labor is unique because it is also responsible for carrying out a criminal investigations program to contribute toward the Government's effort to reduce the influence of organized crime and labor racketeering in unions and the workplace.

The OIG program is administered within the context of the Government Performance and Results Act (GPRA) of 1993. In FY 2002, the OIG questioned \$44.7 million in costs through our audits and recommended that \$2.5 million in funds be put to better use. We closed 589 investigations and issued 80 audit reports. OIG investigations resulted in 345 convictions and \$245 million in monetary accomplishments. Attached is a list of accomplishments for FY 2002 that illustrates how we are working to achieve our Strategic Plan goals, as well as a summary of challenges that we have identified for the Department.

## **FY 2004 PROPOSED ACTIVITIES AND ENHANCEMENTS**

The OIG's FY 2004 budget request totals \$67.1 million and 473 full-time equivalent (FTE) positions to carry out its mission. I will focus on the types of activities that we propose to conduct in FY 2004, including areas where we plan to increase our attention.

Mr. Chairman, in FY 2004, we will conduct audits, investigations, and evaluations that will provide quality information regarding the effectiveness, efficiency, and integrity of key programs and operations. Our primary goal will be to ensure that DOL and Congress have information that is useful in their management or oversight of the Department. In addition, we will provide technical assistance to help DOL management address challenges and prevent problems. We will also operate a quality investigations program to combat the influence of organized crime in labor racketeering and to identify fraud against DOL programs. Our focus will be in the areas of employment and training, workplace safety, health and standards, worker benefits, departmental management, and labor racketeering. The following are examples of the types of activities we plan to conduct.

### **Employment and Training**

To enhance performance and accountability of the Department's employment and training programs, we will focus our efforts in several major areas. We will conduct an in-depth examination of selected Workforce Investment Act (WIA) performance issues and audit WIA incentive and sanctions systems to determine if they promote performance that is consistent with legislative intent. We also plan to review the Employment and Training Administration's (ETA's) performance data validation methodology and results.

We will audit the closeout of Welfare-to-Work (WtW) grants to determine if assets have been properly accounted for and excess cash balances returned to DOL. Our plans for Job Corps

include an audit of contracting activities carried out by Job Corps regional offices to determine compliance with procurement requirements. Further, we will conduct program, financial, and compliance audits of Job Corps Centers, center operators, and national contractors.

We will investigate contractor and participant fraud against employment and training programs with an increased emphasis on selected DOL foreign labor certification programs. Financial and performance audits of selected DOL grants and contracts, which assess whether funds are appropriately spent and desired results are obtained, are also part of our work plan.

### **Workplace Safety, Health and Workplace Standards**

In the area of safety, health, and workplace standards, we plan to review state-administered Occupational Safety and Health Plans. We will investigate allegations involving workplace health and safety inspectors who abuse their positions for personal gain. Our investigations will also target contractors engaged in Federal construction projects who violate worker rights to prevailing wages by falsifying certified payroll records.

During FY 2004, the OIG will audit data elements related to workplace standards and benefits, which are reported through the Employment Standards Administration's (ESA's) management information system, to ensure their reliability for program management and performance reporting purposes. We will also build on our FY 2003 audit work related to the Davis-Bacon prevailing wage determination process.

### **Worker Benefits**

The OIG will work to enhance the integrity of worker benefits programs and to reduce overpayments. Our strategy will include addressing fraud and abuse in the Unemployment Insurance program (UI) from several angles. We plan to audit the use of technology such as

electronic claims filing in UI programs that are operated by State Workforce Agencies. We will also audit selected states' compliance with funding use limitations applicable to Reed Act distributions. Further, the OIG will continue to investigate fictitious employer schemes and identity theft used to defraud the UI program and will sponsor fraud training for state and federal employees who work with the UI program.

We also plan to examine how efficiently the Office of Workers' Compensation Programs manages its caseload and how it works with Federal employing agencies to return Federal Employees Compensation Act (FECA) recipients to work. We will investigate fraud against the FECA, Black Lung, and other worker benefit programs by claimants and medical providers, given our ongoing concern about the ease with which these programs continue to be defrauded.

In addition, the OIG plans to assess the effectiveness of the Employee Benefits Security Administration's enforcement of the criminal provisions of Title I of the Employee Retirement Income Security Act (ERISA). The OIG will develop investigative casework on 401(k) plans established through collective bargaining agreements.

### **Departmental Management**

From a departmental management perspective, the OIG will continue our audit work in the areas of financial management, GPRA performance systems, and data validation. For example, we will audit the consolidated financial statements of the Department as mandated by the Chief Financial Officers Act and provide oversight of work conducted by independent public accountants under the Single Audit Act (SAA). The OIG has identified problems with the reliability of SAA audits, which are used to determine whether DOL funds at the state and local levels are spent for their intended purpose.

In the area of information technology, the OIG will assess security controls over selected DOL information technology systems consistent with the Federal Information Security Management Act. We will also continue to audit selected IT systems to determine the adequacy of application controls and systems development lifecycle processes.

In FY 2004, we plan to evaluate DOL's implementation and the effectiveness of its Administrative Dispute Resolution Program. We will also continue to investigate allegations of wrongdoing by those entrusted to carry out Departmental programs. Moreover, we will continue to provide oversight and consultation to assist DOL in fully complying with requirements in the areas of performance and managerial cost accounting.

#### **OIG Labor Racketeering Program**

Unlike other Inspectors General, the Department of Labor OIG has a unique program responsibility for investigating labor racketeering and organized crime influence or control in employee benefit plans, labor-management relations, and internal union affairs. The influence and control by traditional and non-traditional organized crime figures in the workplace continues to have an adverse impact on workers, employers and the U.S. economy. This results in reduced competitiveness in affected industries, thereby creating additional costs that are borne by businesses and consumers. The Administration has proposed a \$2.5 million increase in this program for FY 2004.

With the additional funding, the OIG plans to expand its investigative efforts to focus on non-traditional, transnational labor racketeering, particularly Russian organized crime activity. The OIG believes there is an increased need to focus on the abuse of DOL programs, such as foreign labor certification programs, by transnational groups. Our increased effort in this area is

further warranted by the FBI's shift in focus from white-collar crime and racketeering toward counter-terrorism activities.

We further propose to expand our comprehensive pension plan initiative. We will continue to investigate crimes against employee benefit plans by service providers including pension plan administrators, investment managers, and others who have the ability to conceal their illegal activities through complex financial transactions. Such crimes are particularly egregious because they may affect the solvency of more than one benefit plan.

The OIG also plans to expand its probes into industries that have traditionally been vulnerable to organized crime influence and labor racketeering, including the construction, maritime, transportation, and garment industries. Such probes examine all segments of an industry to identify the core racketeering activities and weaknesses that organized crime is able to exploit. We will also focus on internal union affairs, to continue to root out corruption in the four largest international unions, which have been traditionally influenced by organized crime families.

In addition, we will continue to support the Department of Justice's worker exploitation taskforce by participating in joint investigations involving alien smuggling and organized crime in the workplace, as well as worker exploitation.

## **CONCLUSION**

Mr. Chairman, I appreciate the opportunity to present our budget request and performance plan for FY 2004 and would be pleased to respond to any questions the Subcommittee may have.

**U.S. DEPARTMENT OF LABOR  
OFFICE OF INSPECTOR GENERAL  
FY 2002 ACCOMPLISHMENTS**

**OIG Goal 1: Optimize the use of funds appropriated for training and employment programs by enhancing program performance and accountability.**

In FY 2002, the OIG worked with the Employment and Training Administration (ETA) to improve its accountability procedures over billions of dollars in employment and training grants.

OIG audit findings on the effectiveness of a \$4.5 million Welfare-to-Work competitive grant led to cancellation of the grant, resulting in the return of nearly \$3 million in unspent funds to the DOL.

Audit work by the OIG identified reliability problems with audits conducted by independent public accountants under the Single Audit Act, which cover billions DOL funds spent at the state and local levels.

An OIG audit of controls over selected Workforce Investment Act (WIA) data found that the DOL had little assurance that state-reported WIA performance outcomes data were accurate.

Our audit work began to address the disagreement between the ETA and states over the level of WIA funding available to states. We found that Ohio reported the entire \$261 million in WIA funds it received as of December 2001 as obligated, but had spent only \$93 million.

The Job Corps needs to strengthen oversight of the \$22 million spent annually on student transportation, according to an OIG audit. We found that no formal, national system existed for controlling these funds.

A Virginia attorney was sentenced to 10 years' imprisonment and to forfeit \$2.3 million after an OIG investigation revealed that 2700 labor certification applications he filed were fraudulent. This is an example of our cases involving fraud against foreign labor certification programs.

Performance audits of six H1-B technical skills training grants found that the grants did not achieve the desired outcome of placing participants in jobs for which they were trained.

**OIG Goal 2: Safeguard workers' and retirees' benefit programs by enhancing program performance and accountability.**

The OIG found that two states overbilled the Department by \$7.5 million. These funds were Unemployment Insurance administrative costs charged by New Jersey and Massachusetts to DOL grants.

OIG investigations of fraud against the UI program focused on identity theft, fictitious employer schemes, and counterfeit check scams. In one case, a New Jersey man who used fictitious companies to file false UI applications was ordered to pay back more than \$320,000.

A Virginia doctor who was a provider to the Federal Black Lung Program was sentenced to nearly six years in jail and fined \$42,700 for 427 counts of dispensing narcotics, including Oxycontin, without a legitimate medical purpose as the result of another investigation.

In a Federal Employees Compensation Act (FECA) fraud case, a former Defense Department firefighter who received FECA payments but failed to report \$150,000 in earnings pled guilty and agreed to pay restitution.

An OIG audit of FECA's performance measures for FYs 1999 and 2000 found that FECA's program mission related to its legislative authority and that its performance goals provided accountability. We also found that controls over aspects of performance data could be improved.

Workers in 13 converted cash balance plans may have been underpaid by an estimated \$17 million each year, according to an OIG review. We looked at converted cash balance plans to see whether plan sponsors complied with ERISA; our objective was to determine the effectiveness of EBSA's oversight. We

found that 13 of 60 converted plans sampled improperly computed payments and that this was not detected by EBSA.

**OIG Goal 3: Optimize the use of funds appropriated for worker protection and workplace safety programs by enhancing program performance and accountability.**

The OIG assists the Occupational Health and Safety Administration (OSHA) in investigating cases where violations of OSHA standards result in death. In one case, a general contractor was sentenced to four months in prison, one year's supervised release and was ordered to pay a \$100,000 fine after pleading guilty to willfully violating OSHA standards in connection with the April 2001 death of an immigrant worker.

An OIG audit found OSHA's strategic partnership program, aimed at improving safety and health conditions in the workplace, was having limited national impact because of the relatively few partnerships that have been established and the small number of participating employers.

OIG investigations into violations of the Davis-Bacon Act focus on contractors who submit false certified payroll records. In one case, the owner of a contracting company incorrectly classified laborers and supervisors to avoid paying higher wage rates. The owner and company were ordered to pay over \$260,000 in fines and restitution and the company was suspended from future federal contracting work.

**OIG Goal 4: Assist DOL in maintaining an effective management process.**

The OIG issued an unqualified audit opinion on the Department's consolidated annual financial statements, but noted reportable conditions requiring management's attention.

Based on our audit work, the OIG recommended improvements of the automated controls over the DOL's general ledger system. We found that the accuracy, completeness, and integrity of the information in the system were weakened by controls that were not performing as intended.

The OIG forwarded 17 Single Audit Act audits to DOL agencies for action and follow-up in FY 2002. The audits questioned over \$27 million in costs charged to DOL grants.

An OIG evaluation found that the DOL could save \$2.5 million annually by eliminating underutilized motor vehicles from its fleet. Our review of the DOL motor vehicle fleet was conducted at the request of the Department.

We also found that the DOL travel card program was not administered consistently throughout the Department, and that Citibank had written off a total of \$326,000 of DOL employee travel card charges that were over 180 days delinquent.

During FY 2002, we continued to assist the Department in its efforts to enhance computer security controls. We reported to the Office of Management and Budget on 16 computer security audits the OIG performed in accordance with the Government Information Security Reform Act. These included system security tests and verification and validation of the Department's Plan of Actions and Milestones process.

**OIG Goal 5: Combat the influence of organized crime and labor racketeering in the workplace.**

In FY 2002 OIG labor racketeering investigations resulted in 218 indictments, 151 convictions, and \$106 million in fines, restitutions, forfeitures, and civil monetary actions.

For example, seventeen members and associates of the Gambino Organized Crime Family, including Gambino Family boss Peter Gotti, were charged in a 68-count indictment for crimes including racketeering, extortion, gambling, money laundering, and wire fraud. The investigation found that these individuals corruptly influenced unions and businesses on the New York and New Jersey waterfronts. Since that time, Gotti and six associates were found guilty.

Owners of a major construction company in New York pled guilty after a joint investigation revealed that they made payoffs to Luchese Organized Crime Family members and union officials of several construction trade unions. As a result, the State of New York Department of Transportation cancelled an \$85 million contract with that company.

Former labor union official John Serpico was sentenced in FY 2002 in connection with a multimillion-dollar scheme to defraud Chicago-based union pension plans and a labor organization. Serpico is serving a 30 month jail sentence and his co-defendant is serving 21 months. The investigation found that, in return for placing union and pension funds at area banks, Serpico and another individual received at least \$5 million in personal and business loans on terms more favorable than those available to regular bank customers.

A former registered investment advisor for Indiana-based Local 1969 of the International Longshoremen's Association pled guilty in FY 2002 to embezzlement from an employee benefit plan and money laundering. He has since been sentenced to 18 months' incarceration and 36 months' probation and was ordered to pay \$2 million in restitution.

The principal owner of Capital Consultants, an investment company, pled guilty in April 2002 to mail fraud and assisting in the preparation of a false tax return. The owner had been indicted for payment of over \$200,000 to a trustee of union pension plans that invested with his company. The investigation found that Capital Consultants defrauded dozens of union pension funds. Other Capital Consultants officials and business partners as well as union trustees have also been convicted.

## **Top Management Challenges at the Department of Labor**

As required by the Reports Consolidation Act of 2000, the OIG identifies and reports on what it considers to be the most serious management challenges facing the Department of Labor. Following is a synopsis of the top management challenges included in the Department's FY 2002 Annual Report.

### **Grant Accountability, Performance, and Effectiveness**

The Department continues to face challenges in providing accountability for the costs and results of its grant programs, which comprise some \$9.5 billion in funding. The OIG has worked with ETA, DOL's largest grantor agency, to help assess weaknesses in its grant accountability procedures and to develop potential solutions. Recent OIG audits have illustrated accountability problems in the grant award, execution, reporting, and oversight processes. In April 2002, ETA took a significant step toward improving accountability when it issued a grant/contract administration implementation plan that addressed many of the OIG's concerns. In addition, concerns previously raised with Bureau of International Labor Affairs' grant program have largely been addressed, with financial information improvements remaining.

### **WIA Program Implementation**

Both increased accountability and state and local flexibility are among the seven key principles embodied in the Workforce Investment Act of 1998. As WIA reauthorization is debated in 2003, the Department will be challenged to work with the Congress in drafting replacement legislation and issuing implementing regulations that strike an appropriate balance between the sometimes competing interests of accountability and flexibility that have resulted in inconsistent guidance.

### **Financial Performance**

The Department has achieved a high level of financial management discipline that has resulted in clean audit opinions on its financial statements since FY 1997. Nonetheless, the Department faces significant challenges in producing timely financial information that can be used in its day-to-day management. Another challenge in this area is the adequacy of information being provided to the Department via audit reports conducted by independent public accountants or state auditors under the Single Audit Act (SAA). In our reviews of six audits conducted under the SAA, we found serious deficiencies, including inadequate sampling, which would make the reports unreliable.

### **Accountability: Budget and Performance Integration**

Performance budgeting is a major focus of the President's Management Agenda, which calls for further integrating budget and performance to foster a results-oriented Department that is guided by performance rather than process. To this end, the Department has taken initial steps toward instituting a performance budget for FY 2004. Key to the Department's future success in this area will be development of the capability to generate reliable, timely, and auditable performance results for its programs and implement a managerial cost accounting system.

### **Security of Pension Assets**

Currently, there are over 700,000 private pension plans covering approximately 100 million people and containing approximately \$4 trillion in assets. Given the size of this universe, protecting pension assets poses a significant challenge for the Department. Over the years, the OIG has advocated that ERISA be amended in order to increase protections for pension plan participants. In particular, we have recommended that provisions in ERISA that allow auditors to exclude certain assets from the audit scope be repealed and that plan auditors be required to report any ERISA violations directly to the Department. More recently, we have identified the need for more clarity and guidance relative to the computation of participant benefits with

respect to cash balance plans, a growing segment of the pension universe. Another area of concern involves the security of the billions of dollars in assets in private pension plans, which are an attractive target to organized crime elements, corrupt pension plan officials, and individuals who influence the investment activity of pension assets. In particular, OIG labor racketeering investigations continue to show that the security of the assets within Taft-Hartley plans, which are jointly administered by labor union representatives and management representatives, is at risk.

### **Protection of Worker Benefit Funds**

Safeguarding Federal employee benefits programs administered by the Department of Labor is a formidable challenge, given the existing vulnerabilities and the sheer scope of these programs, which affect the lives of millions of workers and retirees and involve billions of taxpayer dollars. The OIG continues to identify vulnerabilities involving financial and program integrity within the unemployment insurance and disability compensation programs of the Department.

### **Information Technology and Electronic Government**

The expansion of electronic government is also among the aims of the President's Management Agenda. This presents challenges for the Department, such as the security of its information technology (IT) assets, the seamless implementation of its new IT architecture, and the integrity of its benefits programs in an electronic government environment.

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

The Department's foreign labor certification programs provide employers access to foreign labor. OIG investigations continue to identify fraud in these programs, which may result in economic harm to American workers and businesses, exploitation of foreign workers, and security risks associated with aliens who are admitted to this country by fraudulent means. The OIG believes that if the Department is to have a meaningful role in the labor certification process, it should have corresponding statutory authority, not currently available, to ensure the integrity of the process, including verifying the accuracy of information provided on labor condition applications.

### **Human Capital Management**

The management of human capital presents a significant challenge to the Department due to anticipated workforce and skills shortages. As many Federal workers become eligible for retirement, the Department's ability to recruit and retain highly qualified people will be essential to the successful accomplishment of its mission. The Department has instituted a number of policies to maximize its recruitment and retention of talented people. There are a number of specific legislative, regulatory, and policy changes that would be helpful to Federal agencies like DOL in more effectively competing with private industry for highly-skilled personnel and in retaining qualified employees.

### **Effectiveness of Mine Safety and Health Programs**

In January 2001, the OIG listed enhancing the effectiveness of programs administered by the Mine Safety and Health Administration (MSHA) as a management challenge to the Department. Prior evaluations by the OIG had identified a number of issues needing the Department's attention to ensure that programs that protect miners from injury or death operate efficiently and effectively. MSHA has taken significant steps toward addressing the recommendations that resulted from those evaluations, and will be challenged in the coming year to fully implement outstanding recommendations, some of which require rulemaking.