

Semiannual Report to the Congress

Highlights



Office of Inspector General
U.S. Department of Labor
Gordon S. Heddell, Inspector General

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I am pleased to transmit the Office of Inspector General's (OIG) Semiannual Report to the Congress on our significant activities. The report covers the six-month period ending March 31, 2004. During this reporting period, we issued 45 audits and identified nearly \$13 million in questioned costs. Moreover, we closed 218 investigations and achieved 223 indictments, 166 convictions, and nearly \$60.3 million in monetary accomplishments. Among our audit and evaluation findings this reporting period are the following:

- After a \$22 million investment by DOL to improve the Davis-Bacon prevailing wage determination process, problems persist with wage data accuracy, survey methodology, and the timeliness of wage determinations.
- Vulnerabilities in the management of the migration of DOL payroll activities to the National Finance Center could impede the implementation of e-Payroll by the September 30 deadline.
- An estimated \$1.67 million in overpayments of Federal Disaster Unemployment Assistance were made in Florida due to the State's improper application of eligibility and filing requirements.
- The State of Ohio had not fully implemented its Workforce Investment Act program after two years of operation and was not in compliance with program requirements.
- An employer association that hires about one-third of foreign workers under the temporary agricultural labor certification program did not accurately report aliens; 50% had abandoned their jobs and their whereabouts were unknown.

OIG investigations into labor racketeering and program fraud produced equally significant results:

- The guilty plea by the international president of the United Transportation Union to labor racketeering conspiracy charges for a scheme to bribe attorneys.
- The sentencing to prison of a subcontractor hired to clean anthrax from a New York postal service center after falsifying hazardous material training records for workers hired to clean the center; he was also ordered to pay \$1.4 million in restitution.
- Successful prosecutions of attorneys and labor brokers as a result of our investigations into fraud against DOL foreign labor certification programs.

We continue our ongoing effort to promote the economy, efficiency, effectiveness, and integrity of DOL programs in cooperation with the Secretary of Labor and the DOL team. As a result of these efforts, we will detect waste, fraud, and abuse against programs that serve and protect the rights and benefits of American workers and retirees.

A handwritten signature in blue ink that reads "Gordon S. Heddell".

Gordon S. Heddell
Inspector General

The OIG is concerned about the abuse of DOL foreign labor certification programs and the associated risk of foreign nationals who enter the country by fraudulent means.

The OIG is concerned about the abuse of DOL foreign labor certification programs and the associated risk of foreign nationals who enter the country by fraudulent means. Our investigations continue to identify fraud by immigration attorneys and labor brokers who file false labor certification applications with DOL that contain fictitious employer information and stolen Social Security numbers. Our audit work resulted in several recommendations, including the need to address enhanced oversight of the use of one growers association's foreign agricultural worker program.

H-2A PROGRAM REQUIRES STRONGER MONITORING

The OIG evaluated the North Carolina Grower's Association's use of the H-2A temporary agricultural labor certification program to hire foreign workers in 2001. The association and its members hired about one third of the total number of H-2A workers admitted nationwide in 2001. We found that the association did not accurately report worker abandonments and that approximately 50% of the workers had abandoned their jobs and their whereabouts were unknown. In addition, we determined that the association requested some workers for longer than needed to harvest crops, which may have contributed to abandonment rates. As a result, we recommended that the Employment and Training Administration (ETA) implement a plan to stringently monitor the association's use of the H-2A program. ETA agreed to reinforce its policy to verify employers' dates of need to make sure those dates are reasonable and reflect historical practices.

LABOR BROKER GETS NEARLY 16-YEAR PRISON SENTENCE

In March 2004, the owner of American Immigration Agency was sentenced to nearly 16 years in prison after being found guilty in June 2003 of immigration and bank fraud. A joint investigation found that he filed dozens of applications for labor certifications that contained false information. In those applications, he declared that he owned numerous businesses that were in fact shell corporations created solely for obtaining green cards under false pretenses.

GUILTY PLEA FOR DEFENDANTS WITH TIES TO ORGANIZED CRIME

In January 2004, five individuals with ties to a Russian organized crime group pled guilty to charges of conspiracy to commit visa fraud and misuse of government visas. This case resulted from joint investigations into Russian organized crime and the smuggling of illegal aliens into the United States using the H-1B program. The defendants' scheme used fictitious companies, falsified computer-generated visas, and false Social Security cards to help illegal aliens, some of whom were organized crime associates, obtain H-1B status.

Davis-Bacon Act

The Davis-Bacon Act requires the payment of prevailing wage rates and fringe benefits to employees working on federally funded or federally assisted construction projects with contracts of \$2,000 or more. It was enacted to prevent contractors from importing lower-wage workers into a community or driving down wages for local workers. In 2001, the latest year for which data are available, approximately \$67 billion in Federal funds were authorized for construction projects covered by the Davis-Bacon Act.

CONCERNS PERSIST IN PREVAILING WAGE DETERMINATIONS DESPITE \$22 MILLION INVESTMENT

The OIG conducted a follow-up audit to determine progress made by DOL to address past OIG and General Accounting Office recommendations about data inaccuracies and weaknesses in prevailing wage determination procedures. Based on our recent audit, the OIG is concerned that the \$22 million spent by DOL since 1997 to reengineer the wage survey process has resulted in limited improvements and that some problems persist.

We found that wage and fringe benefit data supplied to DOL and used in surveys continue to have inaccuracies. Because surveys are returned by companies, unions, and others that voluntarily submit wage data, there is the

potential for bias. Moreover, prevailing wage decisions developed from the data are not timely.

We recommended DOL move to a statistically valid approach, such as that used by the Department's Bureau of Labor Statistics, to collect the data upon which Davis-Bacon wage determinations are based. While the Employment Standards Administration was unconvinced about some of our conclusions, it agreed to undertake a number of positive changes to address many OIG recommendations.

CONTRACTOR FORFEITS \$5 MILLION IN WAGE FRAUD SCHEME

An owner of a New York construction company pled guilty to structuring cash withdrawals from a bank account to hide his failure to pay workers the prevailing wage on federally funded contracts. He agreed to forfeit \$5 million to the government. The owner had been awarded contracts by the New York City Housing Authority, including a contract to renovate all bathrooms and kitchens in New York City housing projects. This contract was funded chiefly by the Department of Housing and Urban Development and thus subject to Federal prevailing wage requirements under the Davis-Bacon Act.

Selected Statistics

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| Investigative monetary accomplishments | \$60.3 million |
| Questioned costs | \$13 million |
| Audit and evaluation reports issued | 45 |
| Indictments | 223 |
| Convictions | 166 |
| Investigative cases opened | 271 |
| Investigative cases closed | 218 |
| Investigative cases referred for prosecution | 313 |
| Investigative cases referred for administrative/civil action | 161 |

Employment and Training

OHIO WIA PROGRAM NOT IN COMPLIANCE

The OIG conducted a performance audit of Ohio's implementation of the Workforce Investment Act (WIA) from July 2000 through June 2002. We found that Ohio's WIA program was not fully implemented or in compliance with program requirements. Specifically, our audit looked at Ohio's compliance with 17 provisions of WIA identified by ETA as being critical to states' implementation of WIA. We found Ohio was not in compliance with over 50% of those critical elements, resulting in inaccurate accounting and time reporting, unreliable participant activity reporting, and inefficient delivery of services. In addition, Ohio had not completed corrective action on 60% of noncompliance and nonperformance concerns raised by ETA during a 2001 review. Among our recommendations was that ETA direct Ohio to improve controls over accounting and time reporting. Ohio officials were in overall agreement with our recommendations and identified steps they had taken or planned to take to address the recommendations.

\$1.9 MILLION QUESTIONED IN AUDIT OF VETS GRANTEE

The Homeless Veteran's Reintegration Program (HVRP) grants fund a range of services to help homeless veterans obtain jobs. An OIG audit of an HVRP grantee in New Mexico questioned over \$1.9 million in charges to HVRP grants due to inadequate financial management and internal controls, such as commingling funds without proper tracking. We recommended DOL terminate the grantee's current grant and disallow previous charges to grants. DOL advised the OIG that it subsequently terminated the grant.

The complete *Semiannual Report to the Congress* can be viewed at the OIG's Web site: www.oig.dol.gov

Worker Benefits Programs

IMPROPER DUA PAYMENTS ESTIMATED AT \$1.67 MILLION

Under the Disaster Unemployment Assistance (DUA) program, states receive grants from the Federal Emergency Management Agency (FEMA) to provide benefits to individuals who become unemployed as a result of a major disaster and who are not eligible for regular state Unemployment Insurance. DOL administers the grants. In February 2001, the President declared a major disaster in 49 Florida counties, allowing FEMA to provide a DUA grant to Florida's unemployment security agency. At FEMA's request, the OIG audited \$3 million in claims charged to Florida's DUA grant.

We found that Florida improperly applied eligibility and filing guidelines, resulting in payments to claimants who did not apply for benefits in a timely manner, were not unemployed due to the disaster, were not required to show continuing eligibility, or were paid because of administrative errors. We estimate that the total amount of improper payments was at least \$1.67 million. We recommended that ETA ensure that Florida establishes administrative policies and procedures that comply with Federal filing and eligibility guidelines. The State agreed to take corrective action.

DEFENDANT SENTENCED IN IDENTITY THEFT RING

In recent years, the Unemployment Insurance (UI) program has suffered losses in the millions of dollars from fraud. OIG investigations continue to uncover multistate UI fraud schemes that involve the creation of fictitious employers, the use of stolen identities, and the participation of organized crime groups. In one such case, a defendant was sentenced in January 2004 to five years' probation and was ordered to pay more than \$75,000 in restitution for his role in a multistate UI identity theft ring. He was 1 of 10 subjects in this multimillion-dollar UI case, 7 of whom have pled guilty. The group defrauded the states of California, Arizona, Nevada, and Washington by filing false UI claims using stolen identities.

Departmental Management

DOL'S FINANCIAL STATEMENTS

For the seventh consecutive year, the OIG issued an unqualified opinion on DOL's consolidated financial statements. Our audit disclosed that DOL substantially complied with the Federal Financial Management Improvement Act (FFMIA), except for applicable Federal accounting standards concerning implementation of managerial cost accounting. The Department has developed a plan to implement managerial cost accounting, but in our view, it will not be in substantial compliance with FFMIA until the system is fully implemented. The Department concluded that, in its determination, its financial management systems are currently in substantial compliance with FFMIA.

Our report on DOL's internal control over financial reporting reflected no material weaknesses but noted two new reportable conditions that require management's attention. We noted that Job Corps real property requires better tracking and controls to ensure it is safeguarded and accurately reported in DOL's property tracking and general ledger systems. Moreover, the Federal Employees' Compensation Act program has inadequate procedures for obtaining and reviewing medical evidence used to determine continuing eligibility, which increase the risk of improper payments.

PROGRESS MADE ON IT SECURITY

The OIG assessed the information technology (IT) general controls on and security of selected DOL IT systems that support the preparation of DOL's financial statements. We found that DOL had made progress in resolving previous IT controls findings and continues to take more immediate corrective actions. We noted three reportable conditions. We also made general controls findings and recommendations, most of which have been resolved. We found that DOL lacked strong logical security controls to secure its data and information and had not performed comprehensive tests of all continuity of operations/recovery plans for critical systems and processes. The Chief Information Officer concurred with our findings and outlined a specific action plan to address the outstanding recommendations.

DEADLINE PRESENTS CHALLENGE FOR E-PAYROLL IMPLEMENTATION

The OIG identified vulnerabilities in the management of the migration of DOL payroll activities to the National Finance Center (NFC) that could impede the implementation of e-Payroll by the September 30 deadline. Among the vulnerabilities were that, as of March 31, DOL had prepared only a draft detailed e-Payroll conversion plan and lacked a data-validation process to ensure reliability of existing payroll data before conversion. Also of concern were lack of DOL user involvement in project development and limited involvement of agency IT executives. Moreover, we are concerned that NFC's capabilities are not as advanced as DOL's current payroll system's capabilities and that communication interfaces will require DOL to expend additional resources. According to the Department, it completed a detailed project plan, which included a data-validation process, on April 9, 2004.

Occupational Safety and Health

The mission of the Occupational Safety and Health Administration (OSHA) is to ensure safe and healthful conditions for workers. OSHA protects millions of workers and is responsible for the safety and health of workers in nearly every workplace in the United States.

ANTHRAX DECONTAMINATION SUBCONTRACTOR ORDERED TO PAY NEARLY \$1.4 MILLION

A subcontractor hired to clean anthrax from a New York postal service center was sentenced to 30 months in prison and 3 years' probation and was ordered to pay nearly \$1.4 million in restitution. He pled guilty to mail fraud and false statements charges in August 2003 for falsifying the training records of approximately 37 workers hired to clean anthrax from the center. OSHA regulations require that workers have hazardous material training; however, the investigation found that the workers were not properly trained. Moreover, the subcontractor provided false statements to an OSHA inspector by advising that the workers were trained. The prime contractor eventually cleaned the center.

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The OIG at the Department of Labor is unique among inspectors general because it has an external program function to conduct criminal investigations to combat the influence of labor racketeering and organized crime in the nation's labor unions. Labor racketeering is the infiltration, domination, and/or use of a union or employee benefit plan for personal benefit by illegal, violent, or fraudulent means.

UNION'S INTERNATIONAL PRESIDENT PLEADS GUILTY TO RICO CHARGES

The international president of the United Transportation Union (UTU) pled guilty to labor racketeering conspiracy charges in a scheme to extort bribes from attorneys in exchange for becoming or remaining designated legal counsel (DLC), a highly coveted position for attorneys who practice Federal Employers' Liability Act cases.

He was ordered to forfeit \$100,000 and agreed to resign as international president following his conviction. He admitted that he and the retired UTU international president, who pled guilty on related charges, used their positions to direct two UTU officials to solicit and collect over \$525,000 in cash payments from 34 DLCs. The cash was then used for their campaigns and other special projects.

FORMER INVESTMENT MANAGER SENTENCED FOR EMBEZZLEMENT

The former manager of plan investments for Keyspan Energy Corporation was sentenced to one year's incarceration and three years' probation and was ordered to pay \$250,000 in restitution to Keyspan's Pension Plan. The plan manager pled guilty in November 2002 to embezzling \$250,000 in retirement fund assets through a double- and triple-billing scheme.

DEFENDANT ORDERED TO PAY MORE THAN \$215,000 FOR EMBEZZLEMENT

The founder of Global Consolidated Employee Association (GCEA), a multiple employer welfare arrangement, was sentenced to 40 months' imprisonment and 3 years' probation and was ordered to pay more than \$215,000 in restitution. He pled guilty in September 2003 to embezzling from the Uni-Med Health Plan, a fraudulent health plan affiliated with GCEA. The investigation found that he used plan premiums to pay personal expenses. A cease and desist order was issued by the Georgia State Insurance Commissioner, which effectively prohibits GCEA and Uni-Med from conducting any further business.

CIVIL RICO AGREEMENT ENACTED TO DETER ORGANIZED CRIME CORRUPTION

In December 2003, Plumbers' Union Local 1 entered into a civil RICO agreement aimed at deterring corruption and criminal influence over Local 1 by organized crime and to preserve Local 1's integrity and effectiveness while representing its membership. Pursuant to the agreement, Local 1 will hire an independent private-sector inspector general who will serve for 18 months and submit to the government quarterly reports of any evidence of criminal activity involving the Local 1 union members.

This agreement is the result of several investigations that found that corrupt Local 1 business agents were accepting bribes from union contractors as part of a conspiracy to circumvent their collective bargaining agreements. For example, two former Local 1 business agents were sentenced after pleading guilty to receiving \$50,000 in bribes from a construction contractor. The business agents were involved in an extortion ring controlled by the Colombo La Cosa Nostra Organized Crime Family.

UNION PRESIDENT SENTENCED TO PAY MORE THAN \$1 MILLION IN RESTITUTION

The United Teachers of Dade (UTD) union president was sentenced for misappropriation of UTD funds and making false statements on his Federal income tax returns. He used the UTD funds for personal benefit. He was sentenced to 27 months' imprisonment and 2 years' probation and was ordered to pay more than \$1 million in restitution.

MOB MEMBERS AND UNION OFFICIALS PLEAD GUILTY TO RICO CHARGES

As of March 2004, 12 of 47 individuals charged in a union corruption case have pled guilty to violation of the RICO statute, extortion in violation of the Hobbs Act, unlawful labor payments in violation of the Taft-Hartley Act, and mail fraud. The defendants include members of the International Union of Operating Engineers Locals 14 and 15, shop stewards, and business agents, as well as members of the Genovese and Colombo Organized Crime Families.

The guilty pleas resulted from a joint investigation that found that union officials allowed construction contractors to violate collective bargaining agreements in exchange for kickbacks that the officials shared with the two organized crime families. In addition, "made" members of the organized crime families and their associates used their influence to obtain membership in the Locals for friends and family, as well as preferential job assignments, including no-show jobs.

Activities carried out by organized crime groups affect the general public in many ways. For example, by controlling a key union local, organized crime can control the pricing in an entire industry.

Major Management Challenges

The Reports Consolidation Act of 2000 (P.L. 106-531) requires the OIG to identify the most serious management challenges faced by the Labor Department. These challenges and the Department's response to them are published in DOL's annual report. The complete list of challenges follows:

- UI overpayments, identity theft fraud, and funding
- Integrity of foreign labor certification programs
- Financial and performance accountability
- Information technology and electronic government
- Security of pension assets
- Workforce Investment Act reauthorization
- Grant accountability, performance, and effectiveness
- Effectiveness of mine safety and health programs
- Addressing issues that require joint action with other federal entities in the areas of:
 - Unemployment Insurance administrative charges
 - Cash balance pension plans
 - Black Lung Disability Trust Fund indebtedness
 - Human capital management

A full description of the major management challenges and DOL's response is on the OIG's Web site:
www.oig.dol.gov

To receive a printed copy of the full report write or e-mail:

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