



U.S. Department of Agriculture



**Office of Inspector General
Northeast Region**

Management Oversight of Federal Employees' Compensation Act Operations within the U.S. Department of Agriculture

**Report No. 50601-2-Hy
August 2005**



UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20250



September 12, 2005

REPLY TO

ATTN OF: 50601-2-Hy

TO: John Surina
Deputy Assistant Secretary
for Administration

ATTN: Arthur Goldman
Audit Liaison

FROM: Robert W. Young /s/
Assistant Inspector General
for Audit

SUBJECT: Management Oversight of Federal Employees' Compensation Act
Operations within the U.S. Department of Agriculture

This report presents the results of the Office of Inspector General's (OIG) audit of Federal Employees' Compensation Act (FECA) operations within the Department of Agriculture (Department). The objectives of the review were to assess (1) whether the Department is administering FECA operations in accordance with the President's Safety, Health and Return-to-Employment (SHARE) initiative enacted January 9, 2004; the U.S. Department of Labor (DOL) regulations, policies, and procedures; and Departmental Regulation (DR) 4430-3, Workers' Compensation Program, dated January 8, 2001, and (2) whether various Departmental agencies are complying with requirements established in DR 4430-3. While the FECA is primarily administered by the DOL, we found the Department's limited responsibilities have been performed in general compliance with DOL policies and procedures and the President's SHARE initiative. We did note that DR 4430-3 contains requirements above and beyond those in the President's SHARE initiative. Additionally, the daily use of telecommunications and e-mail provides useful data, but does not eliminate the need for quarterly reports required by DR 4430-3. Also, more frequent use of various e-Gov initiatives, to include e-mails, faxes, and overnight delivery services, could expedite the filing of claims with DOL.

Our findings and recommended corrective actions are presented under the Audit Results section of this report. Also under this section are excerpts from the Department's response to the draft report and OIG's position.

BACKGROUND

The FECA as amended, 5 U.S.C. 8101 et seq., provides benefits to civilian employees of the United States for disability due to personal injury or disease sustained while in the performance of duty. The FECA provides for payment of several types of benefits, including compensation for wage loss, schedule awards, and medical and vocational rehabilitation services. In addition, the FECA provides compensation benefits to qualifying dependents in the event a work-related injury or disease causes an employee's death. The DOL has primary responsibility for the FECA and is responsible for adjudicating new claims for benefits, managing ongoing cases, paying medical expenses and compensation benefits to injured employees and survivors, and assisting injured employees' return to work. DOL regulations for the FECA are contained in Title 20, Code of Federal Regulations, and parts 1 through 25.

According to DOL Publication CA-810, revised January 1999, Federal departments are encouraged to actively manage FECA operations. This publication provides that the departments are primarily responsible for submitting claim forms, retaining records supporting the claims accepted, and annually accounting for claims costs charged back to the departments by the DOL.

On January 8, 2001, the Department issued DR 4430-3 to establish policy for providing compensation and benefits to employees who sustain traumatic injury or occupational condition while in the performance of duty. This regulation included a requirement that the Department conduct periodic reviews of agency FECA operations to ensure compliance with applicable Federal and Departmental regulations and guidelines. It also requires agencies to report quarterly to the Department on actions taken on DOL quarterly reports of FECA activities. In addition, the regulation requires agencies to report annually (July 1 through June 30) to the Department on rehire and return-to-work, long-term disability case management, and program cost activity and results. This regulation was issued, in part, as a response to our prior audit of FECA activities issued in August 1999.¹

Since 1999, two Presidential initiatives have been enacted to improve workplace safety and health and reduce costs of injury. The "Federal Worker 2000" initiative was signed on July 2, 1999. The SHARE initiative that replaced it was signed on January 9, 2004, and became effective for fiscal years (FY) 2004 through 2006. The Secretary of Labor issued a memorandum to the heads of the executive departments and agencies on January 15, 2004, explaining the four goals set by the President. The goals included (1) reducing the total case rate for injuries and illnesses, (2) reducing case rates for lost time injuries and illnesses, (3) increasing the timeliness of filing notices of injury and illness, and (4) reducing the rate of lost production days due to injuries and illnesses. By January 30, 2004, each agency was to respond to the DOL citing its goals for each of the next three fiscal years. The Department responded setting program goals that reflect a 3 percent reduction in total and lost time injury cases, a 1 percent reduction in lost time production

¹ Audit Report No. 50099-9-At, Control of Workers' Compensation Cost

days, and a 5 percent increase in timely filing of claims. This was in accord with the requirements of the Secretary of Labor's memorandum. The Department and its agencies were required to operate according to requirements in the SHARE initiative, work with the DOL, and report on accomplishments after the end of FY 2004.

According to the Department Annual Report on Occupational Safety and Health, FY 2003, the Department was charged-back \$72,269,808 for FECA costs by the DOL and directly incurred continuation of pay costs of \$2,946,876. For FY 2003, the Department reported 1,873 lost time injuries, 2,539 no lost time injuries, and 7 fatalities.

AUDIT OBJECTIVES

Our objectives were to determine whether (1) the Department is administering FECA operations in accordance with the SHARE initiative; DOL regulations, policies, and procedures; and DR 4430-3; and (2) Departmental agencies are complying with reporting requirements established in DR 4430-3.

SCOPE AND METHODOLOGY

To accomplish the audit objectives, we reviewed Federal laws and regulations; DOL publications; prior OIG audits; Presidential initiatives; and Departmental regulations policies, and procedures governing FECA operations. We interviewed Departmental officials within the Office of the Assistant Secretary for Administration's mission area and reviewed the FECA records these Departmental level officials maintained, including annual reports to the DOL under the Federal Worker 2000 initiative. Since the SHARE initiative was enacted in January 2004, our review of SHARE operations was limited to reviewing the goal setting and implementation of training to accomplish the goals. No report of SHARE initiative accomplishments had been prepared as of the end of our fieldwork. Since the agencies did not file quarterly reports on FECA operations required by DR 4430-3, we interviewed Departmental and agency officials to assess why the reports had not been filed.

At the agency level, we interviewed Animal and Plant Health Inspection Service (APHIS) and Agricultural Research Service (ARS) officials responsible for day-to-day FECA activities and quarterly reporting within their respective agencies. We selected these agencies for review because their records were maintained within the local area. We also reviewed 21 FECA cases to obtain an understanding of the processes employed by the agencies to manage activities. We did not assess the propriety of agency decisions about specific cases.

The audit work was performed at Department Headquarters in Washington, D.C., and APHIS and ARS offices in Riverdale and Beltsville, Maryland, respectively. We also reviewed the DOL's official website information regarding the Department's timeliness of filing claim forms but did not independently validate the DOL statistics. The audit covered Departmental operations from October 2001 through July 2004. Audit work was

performed between April and July 2004. We conducted this audit in accordance with Generally Accepted Government Auditing Standards.

AUDIT RESULTS

The Department's limited responsibilities for FECA operations were performed in general compliance with DOL regulations, policies, and procedures; and Presidential initiative requirements. However, the Department has not conducted periodic reviews of agency FECA operations and the agencies have not reported quarterly to the Department in accordance with DR 4430-3. We did not identify any specific negative effects resulting from this noncompliance, in part, because telecommunication, e-mail, faxing, and general daily communication have provided much of the data needed to manage Departmental FECA operations. However, without the periodic agency reviews and agency reports required by the Departmental Regulation, the Department runs a risk that future problems may not be discovered and corrected timely. We identified two areas where additional action could strengthen the Department's operations with respect to workers' compensation.

Finding 1 – The Department and Its Agencies Are Not In Strict Compliance with DR 4430-3

The Department and its agencies were not in strict compliance with DR 4430-3 requirements that call for periodic Departmental reviews of agency compliance with Federal and Departmental requirements and periodic reporting by agencies on various FECA activities. The noncompliance came about because Departmental employees relied on informal communications from the agencies and the annual OSHA Report to Congress on Federal Agency Occupational Safety and Health Programs and did not hold agencies accountable for strict compliance with provisions of the Departmental Regulation. The Presidential Initiatives had different periodic reporting requirements and the agencies changed their practices to comply with the new requirements. Nevertheless, the existing requirements in the Departmental Regulation remain in effect. Department officials told us that there is still a need for agency level analysis, program emphasis, and agency head awareness, and that periodic review and agency level reporting should still occur. We did not identify any adverse effect from the absence of periodic reporting, primarily because Department and agency officials generally obtained much of the basic data needed to manage the program through electronic means.

Recommendation 1:

Develop and implement a schedule for performing Departmental reviews of agency compliance with Federal and Departmental requirements. Include in the reviews an assessment of whether agencies have filed required reports and recommendations to ensure future compliance with requirements for quarterly reporting.

Departmental Response:

Concur. This office will continue to follow the schedule for conducting program reviews as stated in Appendix to DR 4430-3 (as part of a Personnel Management Evaluation, when deemed necessary by the Safety, Health and Welfare Division (SHEWD), or at the request of an agency). In addition, we will initiate followup procedures to ensure receipt of required reports. The determination of when an agency program review is necessary will be based in part on our periodic review of agency adherence to the reporting requirements of DR 4430-3. Non-adherence to these requirements will be cause for further examination of an agency's program which in some cases may identify the need for an SHEWD program review.

OIG Position:

The Departmental response states that the schedule for conducting program reviews as set forth in the Appendix to DR 4430-3 will **continue** (emphasis added) to be followed; however, we noted that Departmental officials considered themselves to be in technical compliance with the Appendix even though no reviews had actually been conducted. In their view, expressed orally at the exit conference, compliance with the Appendix was achieved because reviews were to be performed under one of three listed conditions and none of the listed conditions had occurred. That is reviews were to be conducted (1) as part of a Personnel Management Evaluation; (2) when deemed necessary by the SHEWD or (3) at the request of an agency. However, because (1) no Personnel Management Evaluations had been conducted; (2) SHEWD did not see a need for a review; and (3) no agency specifically requested a review, Departmental officials asserted compliance with the review requirements, even though no reviews had been performed.

To reach management decision for this recommendation, please provide the planned date for implementation of the followup procedures, and for review of agency adherence to reporting requirements.

Finding 2 - FECA Claim Forms Are Not Timely Filed With The DOL

The agencies are not timely filing the form CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation, and the form CA-2, Notice of Occupational Disease and Claim for Compensation. DOL requires that agencies file within 10 working days of receipt from the injured employee. However, according to DOL's official website, only 29.1 percent of the claim forms were filed within the 10-day limit during FY 2003. As a result, employees are not always being timely served, delays may increase compensation costs, and the Department's performance is subject to criticism.

DR 4430-3 states that claims are to be filed within 10 working days. The DR did not establish a Department-wide control to monitor timely filing of claims. The DOL monitors this and reports to the Department. Various Department officials explained that it takes time for the supervisor to review the claim filed for completeness and accuracy, work with the employee on discrepancies found, and obtain needed codes for occupation, injury type, etc. The delay is often compounded if the employee and supervisor are not located in the same office or locale, and use of the U.S. Postal Service often creates delays. Further, since original signatures are required by DOL Publication CA-810, faxes have not been used.

In its response to the President's SHARE initiative, the Department has set an annual goal to increase timely filing for each of the 3 years of the initiative. According to this initiative, by the end of FY 2006, the timeliness rate should exceed 33.7 percent, as compared to the FY 2003 rate of 29.1 per cent. The Department is achieving the SHARE initiative goal, and reached a reported timeliness rate of 34.5 percent at the end of FY 2004. However, while the Department has taken action to improve timeliness including notifying the agencies of the goals and discussing timely filing during training sessions, additional effort, to include more extensive use of electronic processes to facilitate completion of forms (e.g., drop down menus that include necessary coding), electronic signatures, e-mail, and overnight delivery services, is needed to ensure achievement of the Department's own objective of ensuring that all claims are filed within 10 working days, as set forth in DR 4430-3.

Recommendation 2:

Explore use of various electronic processes, to include E-Authentication, E-Forms, use of faxes to transmit non-signature forms, overnight delivery services, and implement additional procedures to support more rapid filing of claims, in compliance with the provisions of DR 4430-3.

Departmental Response:

Concur. We will expand our efforts to support more rapid filing of claims, particularly through the widest possible implementation of the electronic claims transmission aspect of the Forest Service's Safety, Health and Information Portal System.

OIG Position:

To achieve management decision for this recommendation, please provide additional detail about planned efforts to support more rapid filing of claims, to include clarification of whether the Forest Service's Safety, Health and Information Portal System will be used throughout the Department and the dates when planned actions will occur.

The Department's complete response, dated July 8, 2005, is included as Attachment A.

Based on the response, management decision has not been reached for Recommendations 1 and 2. The information needed to reach management decision is set forth in the OIG

Position section after each recommendation. In accordance with DR 1720-1, please furnish a reply within 60 days describing the correction actions taken or planned and the timeframes for implementation for the recommendations for which management decisions have not been reached. Please note that the regulation requires a management decision to be reached for all recommendations within a maximum of 6 months from the date of report issuance. Final action on management decisions should be completed within 1 year of the date of management decision to preclude listing in the Department's annual Performance and Accountability Report.

We appreciate the courtesies and cooperation extended to our staff during this review. Please contact Regional Inspector General, Rebecca Anne Batts, at (301) 504-2100, if you have further questions or need additional information.

Attachment

OIG:AFD:720-1918:0907/05:Users:bdhill file:Wpdata:JMoore folder:50601-2-Hy
FOLDER:FECAFinal Report-bbrevised8-30_.2doc:FINAL 9/9/05

Orig. _____ DD _____ DAIG/A _____

ATTACHMENT - A



United States
Department of
Agriculture

Office of the
Assistant Secretary
For Administration

Office of
Human Capital
Management

1400 Independence
Avenue SW
Washington, DC
20250-9600

JUL - 8 2005

TO: Robert W. Young
Assistant Inspector General for Audit

FROM: *Ruthie Jackson*
Ruthie Jackson
Director
Office of Human Capital Management

SUBJECT: OIG Audit 50601-2-Hy: Final Response to
Recommendations 1 and 2

Attached is our final response to audit recommendations 1 and 2 of
OIG Audit 50601-2-Hy: Management Oversight of Federal Employees'
Compensation Act Operations within the Department of Agriculture.

If you have any questions, please contact Jim Stevens, Director, Quality Work Life
Division, at 202 720-8248

Attachment

Recommendation No. 1

Concur

This office will continue to follow the schedule for conducting program reviews as stated in Appendix to DR 4430 - 003 (as part of a Personnel Management Evaluation, when deemed necessary by the Safety, Health and Employee Welfare Division (SHEWD), or at the request of an agency). In addition we will initiate follow up procedures to ensure receipt of required reports. The determination of when an agency program review is necessary will be based in part on our periodic review of agency adherence to the reporting requirements of DR 4430 - 003. Non adherence to these requirements will be cause for further examination of an agency's program which in some cases may identify the need for a SHEWD program review.

Recommendation No. 2.

Concur

We will expand our efforts to support more rapid filing of claims, particularly through the widest possible implementation of the electronic claims transmission aspect of the Forest Service's Safety, Health and Information Portal System.