

MANAGEMENT'S RESPONSE TO THE INSPECTOR GENERAL'S STATEMENT ON THE MOST SERIOUS MANAGEMENT AND PERFORMANCE CHALLENGES FACING THE DEPARTMENT OF LABOR

The Department recognizes that the ten challenges posed by the Inspector General represent issues of major potential impact on the effectiveness and efficiency of the Department's programs and operations. The Department's responses identify extensive actions, which have been completed or are currently in progress to address these challenges.

Several of the challenges reference specific concerns reported in detail in Office of the Inspector General (OIG) audits issued over the past several years, and the management response summarizes the corrective actions plans taken or planned by the Department. The majority of these findings, if not already closed, should be corrected within the next year. Other challenges require legislative action or otherwise fall outside of the Department's jurisdiction, as explained in management's response. The Department's responses to other challenges offer systemic performance data to provide readers comprehensive information about the overall effectiveness of a program or area of responsibility.

Where a sustained effort is required over several years to address an OIG management challenge that impacts a core program or management priority, performance goals and strategies are targeted in either the Departmental or agency annual performance plans. For example, plans at the Departmental and agency level are in place to comprehensively address the human capital management challenges faced by the Department. Goals to continuously improve the results of each DOL job training program identified in the challenges are included in the Department's Annual Performance Plan. Finally, other issues raised in the management challenges, such as plans to improve data quality and achieve further integration of budget and performance, are discussed in detail in the Department's Annual Performance Plan.

Each management challenge and the actions taken or planned by the Department to address the conditions cited are discussed below.

Effectiveness of Employment and Training Programs

The Department has administered a considerable variety of employment and training programs over more than thirty years to respond to a number of different challenges to the U.S. economy and labor markets. Over this time, the Department has responded with programs to address structural, cyclical and other discrete problems for the economy with a combination of Federally, State and locally administered programs. The administrative structures and mechanisms as well as the fundamental program designs and approaches have changed markedly over these years from categorical programs, through programs under the Comprehensive Employment and Training Act, the Job Training Partnership Act and now, the Workforce Investment Act. At the same time, substantial gains have been made, especially in the mechanisms for accountability to the public. The Department recognizes, however, that challenges related to public accountability remain and that there is always room for improvement in this area. The Department will continue to improve the ways in which the success of its key employment and training programs is measured, seeking better ways to provide comprehensive, consistent, and timely outcome data.

Finally, as demonstrated in several parts of the Department of Labor FY 2001 Annual Performance Report, the Department was able to respond rapidly and effectively to the extraordinary September 11 catastrophe and to related economic dislocations with emergency unemployment insurance claims

services and with National Emergency Grants under the WIA to States, including New York, New Jersey, Virginia, Florida, Illinois and Texas.

Welfare-to-Work Competitive Grant Program: The Department is committed to ensuring that the Welfare-to-Work program places participants in unsubsidized jobs that offer the opportunity for long-term economic self-sufficiency and career advancement, as well as to the accurate reporting of the program's results. For perspective on the scope of OIG's findings, it is important to recognize that the audit addressed only competitive grants which account for 25 percent of the nearly \$3 billion investment in the Welfare-to-Work program. The remaining 75 percent of the program are Formula Grants, operated and overseen by experienced Workforce Investment Boards. These grants have not been similarly assessed, and they form the bulk of the public investment.

The OIG audit report on Competitive Grants and the auditors' subsequent discussions of their findings questioned the accuracy and reliability of the reported data, not the failure of the program to keep individuals in unsubsidized employment. The OIG report states that, "Our analysis was based upon documentation available at the grantees... We did not confirm the participants' work histories with the employers or any other outside sources." For this reason, it is not clear that the reported "shortfalls" are performance shortfalls, or instead are issues of grantee documentation and reporting errors on the part of grantees inexperienced with Federal reporting systems. The Department appreciates, however, that accountability challenges within the Welfare-to-Work program prevented the OIG from fully verifying the performance levels reported by the Department. The Department's current data validation activities for Welfare-to-Work, including the distribution of data validation tools to grantees, should help to resolve questions about the significance of errors.

Trade Programs: To strengthen performance-based management in Trade Programs, ensure that States have suitable employment goals, and provide outcomes for each participant, the Department is preparing guidance on performance-based management for State Trade Act coordinators, planning training and technical assistance events, and developing a directive on performance-based management. This will be completed in FY 2002, with initial guidance issued in early 2002. These efforts to focus attention on program performance will address the issue of improving the replacement wage for each individual and improving rates of "suitable employment" for trade-impacted workers.

The Employment and Training Administration (ETA) is also taking steps to assure that Trade Adjustment Assistance reporting is accurate and complete. ETA has revised the Trade Act Performance Report, and is developing a method to evaluate State data submissions and provide immediate feedback to States on errors. In addition, the program is part of an agency wide "data validation" project to improve the reliability and validity of not only Trade program data, but also WIA program data.

Dislocated Worker Program: ETA agreed that participant files should contain adequate information to support a participant's eligibility as a dislocated worker. ETA also indicated that it would work with States and localities to develop guidance in this regard under the Workforce Investment Act (WIA). This collaboration was begun as part of the review of WIA implementation to identify implementation issues and options to achieve their resolution, including a review of eligibility determination policies and procedures. ETA is also exploring a method to include eligibility as part of the data validation process by drawing validation samples on program entry.

The Department of Labor has initiated a review of the funding formula and fund distribution process for the dislocated worker program. In addition, the Department will seek to identify effective practices for States to consider in determining within-State allocations of dislocated worker funds. As stated earlier, the Department was able to respond effectively to the immediate events of September 11 and layoffs that occurred thereafter under current legislative authority and through National Emergency Grants.

Assistance to Trade-Affected Dislocated Workers in El Paso, Texas: ETA arrived at a different cost-per-participant figure for providing assistance under their program. If the \$45 million in dislocated worker discretionary funds were used to serve 4,370 workers as of June 30, 2001, the costs would be \$10,297 per participant, not \$25,000 as estimated in the OIG report. With the average layoff wage at \$7.13 per hour and the reported average wage at placement of \$6.77 per hour, a 95 percent wage replacement rate was achieved, well within the goal established for wage replacement.

ETA believes that the challenges facing El Paso need to be weighed before making a final judgment on the project. The GAO noted that El Paso is a community with significant economic development challenges, compounded by retraining issues when jobs for which workers might qualify are limited. The year-end program reports suggest that the program achieved credible results. In addition, the lessons learned, such as ensuring better assessment, periodic evaluation of training providers, and focus on employers' needs, will be used to improve future WIA formula and discretionary grant programs.

Financial Performance

The Office of the Chief Financial Officer (OCFO) works closely with program agencies on financial management and compliance issues. A significant example during the past year was OCFO's leadership role in closing the last of the Department's Federal Financial Management Improvement Act issues, bringing DOL into full compliance with that legislation. OCFO is also working with the Department's program agencies to produce timely financial information that can be used in their day-to-day management.

The Single Audit Compliance Supplement requires that the Single Audit Act auditors evaluate the results of the Benefits Accuracy Management (BAM) overpayment calculations. However, the OIG has discovered that auditors under the Single Audit Act are not familiar with BAM and were not evaluating BAM results. It is understandable that Single Audit Act auditors would have difficulty determining the accuracy of a BAM overpayment calculation because the process is highly technical and complex. The Department appreciates OIG's assistance in fulfilling the oversight responsibility to ensure that audits prepared under the Single Audit Act provide adequate and reliable audit coverage of DOL's programs.

Accountability: Budget and Performance Integration

The Department has implemented the Government Performance and Results Act and performance-based management using a systematic, staged approach based on sound business practices. Our first priority has been the establishment of enduring outcome goals which target continual improvement in the achievement of the core results the Department is committed to delivering on behalf of working men and women. A majority of DOL's programs have stabilized their goals, and the Department's focus has progressively shifted toward ensuring the reliability of our performance measures, effectively using performance data to enhance our program results, and meeting the additional challenges identified in the President's Management Agenda in the arena of budget and performance integration. In the FY 2002 Annual Performance Plan, the Department for the first time linked budget authority and outlays to its 3 strategic and 10 outcome goals. Net costs by outcome goal have been reflected in the Department's financial statements since FY 1999, and have been presented this year in the Annual Performance Report as well. To further the President's Management Agenda, the Department will initiate pilots in selected programs during this fiscal year to develop integrated budget and performance plan presentations and to establish performance goals targeting improved program cost-effectiveness.

Quality of Program Data: The challenges to performance measurement vary significantly among DOL's programs, with the data sources and the agencies' level of control over the reporting systems being the

primary factors influencing the reliability and usefulness of the Department's performance information. DOL agencies collect critical program data from third parties, including State and local government agencies, community based organizations, private sector employers, and international organizations.

The Department's ability to increase the frequency of reporting, establish data standards, or verify the accuracy of the information reported by third parties is limited in some cases. Guidance provided in OMB's Circular A-11 acknowledges the limitations on Federal agencies' capacity to assure the quality of data received from non-Federal sources. The Circular does not require an independent capacity for verifying or validating performance data received from third-party sources, and instructs agencies to be mindful of the costs and anticipated benefits of improving the quality of program information which meets decision-makers' needs. The Circular does, however, provide that information from external sources regarding data validity should be collected and may be included in program plans whenever possible.

However, recognizing the importance of reliable performance data to sound program decisions, the Department has developed approaches for ensuring the validity of key data submitted by third parties. For example, both the Mine Safety and Health Administration and the Occupational Safety and Health Administration conduct audits of a selected number of mine operations and other businesses respectively, to verify the accuracy of the employers' data pertaining to injuries, illnesses, and lost productive time. The Bureau of International Labor Affairs relies on program evaluations to confirm the performance results reported by local project administrators who receive DOL grant funding through the International Labor Organization, and the Department's OIG conducts selective audits to verify performance data from internal Departmental systems as well as third parties.

The Employment and Training Administration's data validation project cited as an example in OIG's challenges is not limited to report validation, as indicated by OIG, but also includes data element validation. Report validation involves a system review to determine whether the reporting software works according to specifications. Data element validation checks the integrity of data against the source case files. At the State level, a sample of records in the State database will be checked against local case files to compute error rates. Thus, the project enables the accuracy of data in State databases to be validated. A handbook is in preparation that will serve as a reference guide for conducting data validation.

Access to Data: Important progress was made in 2001 in developing access to Unemployment Insurance wage record information for program management purposes, especially connected to the implementation of the Workforce Investment Act. In addition to the use of wage records for calculating performance on employment, employment retention, and earnings gain and wage replacement, the Wage Record Interchange System was established to permit partner States to query wage record information throughout the country.

The Department expects to begin work shortly with the Social Security Administration to develop State access to information in the New Hire Directory as a method to reduce improper Unemployment Insurance payments.

Managerial Cost Accounting: The Office of the Chief Financial Officer is expanding its managerial cost accounting efforts from agency specific-pilots to a department wide approach. Initially these efforts will focus on the development of a high level departmental cost accounting model. This model will provide improved cost information and support better accountability and resource allocation. Later updates will provide more detailed cost information and better reporting capabilities in support of performance budgeting. These cost accounting efforts will significantly enhance management decision-making in the Department by providing accurate, relevant and timely information on the cost of DOL programs.

The cost accounting pilots in the individual agencies introduced managerial cost accounting to the Department and presented an opportunity for the agencies to gain experience in using managerial cost accounting methods. The new top down approach will comprise a cost model for each agency that will roll up to a common Department-wide structure.

The success factor of this strategy is a Department-wide managerial cost accounting process that is cost effective, flexible, and auditable. The process output will provide the full cost of DOL programs and will further support management decision-making by providing accurate, relevant, and timely information.

Security of Pension Assets

Pension Plan Audits: Between 1991 and 1997, the Department submitted legislative proposals either calling for the repeal of the limited-scope audit provision or calling for reforms to strengthen plan audits. Despite the Department's continued efforts, Congress has not enacted legislation. Absent Congressional action which is required to correct this management challenge, PWBA continues to take steps to improve the ERISA audit process. Program initiatives of the agency include cooperative efforts with the accounting profession, such as referral of deficient accountant work to the American Institute of Certified Public Accountants (AICPA) for appropriate remedial action. In addition to its on-going program efforts with the AICPA, PWBA continues its active involvement with the Financial Accounting Standards Board (FASB) to develop accounting guidance for employee benefit plans. PWBA recognizes that the problem of deficient audits remains in spite of our compliance initiatives and will be considering approaches to address these issues.

Pension Plan Security: PWBA agrees that pension funds represent a target for individuals with criminal intent and have responded to that challenge with a strong enforcement program. PWBA's enforcement mission is to deter and correct violations of Title I of ERISA and related criminal statutes. This is accomplished through a program of civil and criminal investigations of plans, plan sponsors, fiduciaries, and service providers. During the past few years, there has been a significant increase in PWBA's time and investigative resources committed to criminal enforcement activity. During FY 2001, there were 87 indictments issued as a result of PWBA's criminal investigations, and convictions or pleas were entered in 49 different PWBA cases. PWBA criminal enforcement investigations resulted in the recovery of over \$3.7 million on behalf of employee benefit plans or their participants and beneficiaries in FY 2001.

PWBA will continue to target criminal cases in various ways that have demonstrated successful results in the past such as analyzing computer data, gathering information through civil investigations, leads from plan participants, plan officials, informants, and media sources, and information gained from other government agencies. The Department also maintains close working relationships with other law enforcement agencies such as the local U.S. Attorneys, the FBI, the Postal Inspectors, and the OIG. Finally, while not all fraud can be prevented, PWBA is proactive in the early detection and prevention of criminal behavior by, among other things, aggressive outreach and education campaigns. Education campaigns create knowledgeable consumers who can assist in "policing" their own benefit plans. An informed public is a good source of early detection and prevention of criminal activity, and PWBA continues to leverage the knowledge of the public who may be in the best position to identify potential fraudulent behavior.

Protection of Worker Benefit Funds

The Department is dedicated to the highest standards of financial stewardship and program integrity in administering funds that provide critical benefits to the Nation's workers. The funding concerns identified by OIG are matters largely outside the Department's control. With respect to program

integrity, we recognize that all Government benefit programs are vulnerable to abuse. However, the minimal rates of fraud and overpayments identified in systemic studies of both the Unemployment Insurance and Federal Employees' Compensation Act programs and the aggressive corrective actions taken in response to OIG recommendations attest to the Department's vigilance in protecting these funds. The Department is aware, however, that further protection of these funds is required and will continue to seek out additional ways to combat fraud.

Funding Concerns

Unemployment Trust Fund: The OIG raises concerns that DOL reported that 19 States were "minimally solvent" in their Unemployment Trust Funds (UTF) which could result in a need to borrow funds to pay unemployment benefits. While DOL does not officially rate States as "minimally solvent," DOL does recommend that States keep about one year's worth of benefits at recessionary levels in reserve in their Trust Funds (i.e., Average High Cost Multiple). The Employment and Training Administration tracks and publishes State balances, calculates the reserves, and urges States to keep a healthy balance in reserve. States that borrow from the Federal Trust Fund must repay the loan with interest.

The OIG recommended that the Department of Labor and Treasury negotiate an alternative method for charging administrative costs. DOL agreed with the OIG's audit recommendation that a negotiating team be established to explore alternative methods for charging administrative costs to the UTF, and the recommendation was closed on March 26, 2001. The Department of Labor has established a working relationship with the Department of the Treasury to reevaluate the methods of making administrative charges to the UTF and to develop a method that avoids or minimizes UTF overcharges.

Black Lung Trust Fund Deficit: This issue can only be resolved by legislative action, and the Department has been actively seeking such a solution. On October 4, 2000, the Department sent proposed legislation, developed in cooperation with the Treasury and OMB, to both Houses of Congress. The proposed legislation addressed the Black Lung Disease Trust Fund indebtedness issue by proposing to restructure the debt at lower interest rates, extend current excise tax levels beyond the current expiration date, December 31, 2013, and provide for a one-time appropriation to cover Treasury losses of interest income resulting from restructuring.

No action was taken on the proposed legislation. The new Administration reviewed that proposal and considered other possible options for addressing the Trust Fund solvency issue. On August 22 the Department's Policy and Planning Board directed the Office of Workers' Compensation Programs to resume consultations with the Department of the Treasury on this matter. Those consultations, to determine whether the legislation submitted to the last Congress in October 2000 should be resubmitted or if some other more effective legislative solvency options may be available, occurred most recently on December 18, 2001. On January 9, 2002, the Department's Planning and Policy Board approved a decision to resubmit the original legislative proposal. The Secretary approved this decision on January 14, 2002, and it is being resubmitted with the FY 2003 President's budget request.

Employees' Occupational Illness Compensation Programs: Working with the OIG, the Department is presently determining the model requirements for the Energy Employees' Illness Occupational Compensation Program Act actuarial liability.

Program Integrity

Unemployment Insurance: The first priority of all States is to make prompt payments to eligible UI claimants, and States do a commendable job in both payment accuracy and promptness. However, recognizing the importance of increasing efforts to reduce fraud against the UI system, ETA has made efforts

to direct States' limited resources to the most productive and cost-effective methods to minimize overpayments.

OIG recommends increased training for State employees. The following initiatives have been achieved since 1998, with further enhancements proposed.

Training

- *Fraud Detection and Investigation.* ETA sponsored development of training packages that were distributed to all States, consisting of CD-ROM's for recently hired investigators and a set of videos for advanced investigators.
- *Overpayment Recovery.* ETA sponsored in-person training on overpayment recovery that provided States with train-the-trainer packages and technical assistance guides.
- *Integrity Conference.* ETA, in partnership with the National Association of State Workforce Agencies, hosted a professional development conference directed towards key staff in the integrity areas (benefit payment control, internal security, and tax).

Funding

DOL requested and obtained additional funding from Congress for integrity activities, including screening initial claims and continued claims for issues, overpayments, tax field audits, activities that are vital to the UI program in terms of benefit payment accuracy, detection of overpayments, collection of overpayments, and collection of under-reported taxes:

- 1999 – \$20 million
- 2000 – \$35 million
- 2001 – \$35 million

These investments have helped the States to realize measurable results in these areas.

Federal Employees' Compensation Act (FECA): While OIG is correct in pointing out the FECA program's vulnerability to fraud, it should also be noted that FECA has instituted several measures to address that vulnerability and reduce overpayments. These measures are already yielding significant results.

For example, in FY 1999, a 100 percent review of FECA medical bills identified \$187,095 in actual duplicate medical billings. Adding \$10,671,691 in benefit overpayments recorded in the FECA accounting system for that year results in a total erroneous payment figure for both medical and cash benefits of \$10,858,786, which is only one half of one percent of the \$1.98 billion in total cash benefit and medical care disbursements. The Department, in compliance with the requirements of the Debt Collection Improvement Act, refers all such erroneous FECA payments, once a receivable has been established and the debt has aged over 180 days, to Treasury for collection or other action.

In addition, the program has already acted on the above-cited audit findings. In January 2000, FECA instituted code manipulation software to screen for improper payments. Automated cross-matches with SSA, as recommended, require a legislative solution, but FECA has changed the procedures for obtaining earnings information by requiring submission of the authorization to obtain earnings data from SSA annually instead of every three years. The new procedures emphasize the requirement to follow-up with a second request within 30 days, and then refer the case to the OIG for investigation if the form is not signed and returned. As a result, the OIG has resolved the recommendation and noted improvements in the error rates in their FY 2000 findings.

FECA has also taken numerous concrete steps to address its vulnerability:

- Review of long-term disability cases for continuing entitlement to benefits under Periodic Roll Management has been in place since 1992 and has saved over \$500 million. (Note: The program devotes more than 120 full-time staff to this function each year.)

- The Quality Case Management initiative ensures that new disability cases are carefully reviewed, including by rehabilitation nurses, to ensure appropriate care, early return to work, and avoidance of inappropriate payments.
- The Corrective Coding Initiative reviews of medical bills (implemented in response to OIG findings regarding improper medical provider bill coding practices).
- Automated system relational edits to bills, in addition to Correct Coding and fee schedule edits, deny or suspend bills for services unrelated to the diagnosis accepted in the case.
- In FY 2001 FECA began a limited utilization review of high-cost and high-incidence medical services, such as Physical Therapy and Psychiatric services, to ensure that proper treatment regimens are followed for those medical services. The Department is seeking additional funding in FY 2003 to expand utilization review.
- A new position of Fiscal Operations Specialist with monitoring and auditing responsibilities was created in each of FECA's twelve district offices. Part of the monitoring responsibility entails identifying potential duplicate medical and compensation payments and guarding against any potential compensation or medical fraud, including internal fraud.
- FECA continues to refine existing improper payments controls wherever necessary and plan new systems designs so as to minimize vulnerability. For example, the initiative to receive some new claims and medical bills electronically has been carefully designed to maintain and enhance existing controls.

Information Technology and Electronic Government Challenges

Security of IT Assets: The Department has made information security a top priority in recent years. This emphasis has integrated information security into the Department's enterprise architecture, systems development life-cycle management, and the Department's information technology (IT) planning, management, and capital investment processes. Information technology management policies that deal with computer security risks, and the prevention and detection of unauthorized users were updated. A Computer Security Handbook was issued to provide implementation guidance of Departmental policy in the areas of incident response and reporting, computer security awareness and training, vulnerability assessments, and security planning requirements.

The Department continues its cyber security program implementation activities detailed within its Plan of Actions and Milestones (POA&Ms) submitted to the Office of Management and Budget in October 2001. Additionally, in FY2002 the Department will focus on 3 specific areas that were identified through the Department's self-assessment and the Office of Inspector General's audits performed under the requirements of the Government Information Security Reform Act (GISRA). The 3 areas of emphasis are contingency planning, certification and accreditation, and security training and awareness.

The Department's progress to strengthen its cyber security posture has been measurably improved. As reported to the Office of Management and Budget in October 2001, the Department identified 1,203 weaknesses within its security program. As of January 2002, corrective action was completed on 31% or 370 of the 1,203 weaknesses. The Department will continue to work aggressively to complete corrective actions for the remaining weaknesses in accordance with the details contained within its Plans of Actions and Milestones (POA&Ms).

Under the leadership of the Department's Assistant Secretary for Administration and Management (ASAM), the Department has established a comprehensive Cyber Security Program that is being implemented in a phased approach. During Phase I, the Department accomplished the following:

- Developed Security and Privacy IT Budget Cross-cut. Applied rigorous IT investment analysis to proposed IT security initiatives

- Issued revised DOL policy for computer security
- Developed computer security guidance and issued the Computer Security Handbook
- Established an Emergency Incident Response Team
- Installed an intrusion detection system on the Department's core network backbone
- Upgraded the Firewall on the core Department network
- Implemented an automated tool to perform log analyses functions
- Developed Change Management Control Procedures for OASAM
- Conducted risk assessments of DOL IT systems
- Developed System Security Plans for major systems
- Developed an Enhanced Computer Security Awareness Training Plan
- Conducted annual security refresher training for DOL employees
- Demonstrated compliance with Level II of the Federal Security Assessment Framework and provided lessons learned to the Federal CIO Council
- Issued the Systems Development Life Cycle Methodology that integrates IT security into each phase of the project's life cycle
- Conducted penetration tests on all major networks.

During Phase II the Department will continue implementation of the Computer Security Awareness Program, establish a Certification and Accreditation Process, and develop plans for moving to higher maturity levels in the Federal Security Assessment Framework. This Framework is the Federal CIO Council's sponsored mechanism for measuring security progress.

It is important to note that the Department has developed the following for all of the 67 Major Applications and General Support Systems: System Security Plans, Risk Assessments, and Federal Security Assessment Framework Assessments. Plans of Actions and Milestones have been prepared to close gaps identified through the assessment processes and audit activities. This comprehensive approach to IT security has been conducted even though none of the Department's major applications or general support systems are classified as critical assets based on the national Critical Infrastructure Assurance Office Project Matrix assessment. Therefore, none of the Department's 67 major applications and general support systems are subject to the requirements of Presidential Decision Directive 63. Finally, the Department has fulfilled the requirements established in OMB Circular No. A-130, Management of Federal Information Resources, Appendix III on Security of Federal Automated Information Resources, and will continue to strengthen its security posture through the implementation of the Plans of Actions and Milestones. The OIG conducted audits on 18 of the 67 mission critical systems – this reflects a review of 27 percent of the Department's mission critical systems. The remaining 73 percent of the systems have not been reviewed.

The integration of CIO responsibilities within the Assistant Secretary for Administration and Management (ASAM) position has resulted in distinctive advantages in the implementation of the Clinger Cohen Act. Effective management of information technologies requires linking proposed IT investments to Departmental missions, priorities, and strategies. It also requires a close partnership with the Department's Budget Office to control IT investments. The ASAM is responsible for Departmental strategic planning, Government Performance and Results Act implementation, and Departmental budget development and management. As a result, the ASAM is best positioned to ensure the integration of IT policies and plans into other major departmental management processes. This integrated approach is also practiced by other agencies, including the Department of Treasury and the Department of Justice. It is worth noting that only 3 of the 67 mission critical systems (less than 5 percent) fall within the Office of the Assistant Secretary for Administration and Management and come directly under the ASAM's area of responsibility.

Under the current organizational arrangement, the Department has established a significant record of achievement. As a result, the Department is recognized as a leader in Clinger Cohen Act implementation throughout the Federal government. For example, the Director of the Office of Management and Budget

(OMB) recognized the Department for its leadership as the only department with centralized funding for some of its IT systems. The OMB's scorecard for the implementation of the President's Management Agenda cites effective enterprise architecture and capital planning processes, two of the primary objectives of the Clinger Cohen Act. The FY 2003 Budget Passback highlighted the efforts of the CIO in the development of an E-government strategy and cited our customer value network process as "best practice material." Finally, the Subcommittee on Technology and Procurement Policy, House Committee on Government Reform, recognized an OCIO staff member as having an "excellent" reputation and being able to share information on the subject of E-government. Consequently, the Department was invited to testify on its E-government activities by the House Committee on Governmental Reform, Subcommittee on Technology and Procurement. Finally, the OMB has designated the Department as a "managing partner" to lead a large-scale E-government initiative.

This recognition by key oversight entities and peers is an indicator of the progress the Department has made in the management of information technologies. Given this record of success, the alignment of the Chief Information Officer with the ASAM has positioned the Department to continue to meet its statutory and regulatory requirements and to implement effectively the E-Government vision articulated in the President's Management Agenda.

Program Integrity in an Electronic Environment: The Department acknowledges that any significant revision of benefit payment processes – including those utilizing automation – must be designed and implemented such that vulnerability to fraud and abuse is assessed, and appropriate controls are developed to minimize or curtail that vulnerability. Since the realm of information technology entails its own complex security issues, this requires that techniques used to safeguard benefit adjudication and payment systems must interface with and be carried out within the framework of a comprehensive computer security plan.

State Workforce Agencies (SWAs) operate a number of integrity programs to prevent and detect fraud in the Unemployment Insurance (UI) program. All States are required to operate a Benefit Payment Control program as well as a Benefit Accuracy Measurement program whereby weekly samples of all claims are reviewed for accuracy and detection of systemic problems. These activities have been a part of ongoing UI program operations for many years. Employment and Training Administration (ETA) Regional Offices conduct formal on-site reviews of these programs in the SWAs to identify problems or weak areas and recommend solutions. Regardless of whether a particular SWA takes claims in-person or by a remote method(s), attention is placed on the integrity of the system.

The UI system pays out approximately \$20 billion in benefits annually. Historically, overpayments have been a small percentage of benefit payments, and employer schemes or multi-claimant schemes have been but a small percentage of these overpayments. ETA has advised SWAs of methods for detecting schemes of these types and provided guidelines for referral of certain such schemes to the OIG for assistance or prosecution. There is no evidence that such schemes have increased in SWAs that have implemented remote claims taking.

Program integrity continues to be a management priority for ETA and for SWAs as they transition to an electronic environment. Most SWAs are currently using telephone initial claims taking systems as the primary means of accepting UI claims, and many SWAs are beginning to implement Internet-based systems to accept UI claims from unemployed workers. ETA expects the trend towards increased use of telephone and Internet claims systems to continue.

Finally, ETA funded a joint study by the Information Technology Support Center (ITSC) and Mathematica Policy Research to evaluate the impact of telephone initial claims (TIC) filing. This study included an examination of the impact of TIC on UI benefit overpayments, including overpayments due to fraud. While a statistical analysis was conducted, data limitations did not permit definitive conclusions. However, the

study indicated that telephone initial claim filing does not generally have negative impacts on program integrity, and that it may improve program integrity in some instances. This improvement is likely due to stringent procedures used by SWAs to verify claimant information, e.g., on-line checks with the State's motor vehicle administration to verify identity, and the continued use of computer cross matches to detect overpayments. The results of the joint ITSC/Mathematica Policy Research study have been further corroborated by ETA data analysis of approximately 150,000 UI claims from 1995 through 2000, which found no statistically significant differences in the incidence of fraud in claims filed by traditional procedures versus those filed by telephone.

Integrity of Foreign Labor Certification Programs

In administering the H-1B Labor Condition Application (LCA) program, the Employment and Training Administration (ETA) is prevented by statute, as OIG's Major Management Challenges recognizes, from conducting a meaningful review of LCAs submitted by employers. Unless the application is incomplete or obviously inaccurate on its face, the LCA must be certified within seven days of the date it is filed. The Department is not permitted to look behind an application to verify the accuracy of the information provided by employers. Only if a complaint is filed can DOL review the employer's documentation and payment of wages.

The OIG also indicates that many H-1B nonimmigrants working in the U.S. are not qualified for the positions for which they were admitted, or that such positions are relatively entry-level and do not require specialized skills. The Department of Justice's Immigration and Naturalization Service is responsible, as part of its review of employer petitions, for determining whether the occupation named in the petition is in fact a "specialty occupation" as defined by law, and whether the qualifications of the nonimmigrant meet the statutory requirements for H-1B visa classification.

Effectiveness of Mine Safety and Health Programs

The Mine Safety and Health Administration (MSHA) is responsible for ensuring the safety and health of miners. Performance for FY 2001 is noteworthy considering the mining industry experienced the lowest number of fatalities recorded in its history. As discussed in the Annual Performance section of this report, compliance assistance initiatives contributed significantly to this achievement, especially in the metal and nonmetal mining sector. However, there were three OIG audits/evaluations of MSHA's Metal and Nonmetal Mine Safety and Health programs that were completed in FY 2001. They were: 1) Study of Metal and Nonmetal Mining Enforcement and Compliance Assistance Activities 1983-2000, 2) Evaluation of MSHA's Handling of Inspections at the W.R. Grace Mine in Libby, Montana, and 3) Evaluation of Hazard Complaint Handling in MSHA's Office of Metal and Nonmetal Mine Safety and Health.

MSHA is taking action to further integrate enforcement and compliance assistance activities by improving direction and guidance to district management on operation of program activities, and is studying the allocation and distribution of enforcement and compliance assistance resources to determine the combination of activities that will produce the greatest effects on mine safety. MSHA has developed new performance goals with more meaningful outcomes regarding prevention of fatalities, injuries and illnesses. The agency is also identifying trends in injuries and fatalities, studying features of current programs to identify elements that are most successful in reducing injuries and fatalities, and will utilize these elements to revise other enforcement and compliance assistance activities.

MSHA plans to provide specific training on asbestos-related matters to safety and health compliance specialists who visit mines known to contain asbestos, and will provide training on procedures for air and bulk sampling when asbestos may be present. Several of the OIG recommendations would require

rulemaking, including lowering the permissible exposure limit for asbestos, use of Transmission Electron Microscopy in initial analysis of fiber samples and addressing take-home contamination. MSHA is currently considering these recommendations and is using the Mine Act's enforcement, education, training and technical support authorities to ensure miners are appropriately protected from harmful contaminants, including asbestos.

MSHA has formed a Hazard Complaint Committee to review, standardize, and develop hazard complaint intake, inspection and reporting forms which will be integrated into a Hazard Complaint Procedures (HCP) handbook. The committee is reconciling inconsistent language in various MSHA policies, procedures, and memoranda regarding the processing of hazard complaints by field office supervisors and inspectors, is developing guidelines for districts on appropriate processing of hazard complaints deemed trivial and/or outside of MSHA's jurisdiction, and is also developing policy regarding when hazard complaints should be incorporated into a regular mine inspection. Additionally, MSHA has gathered and is currently reviewing best practices from within the agency relating to processing and responding to hazard complaints. MSHA is developing a nationwide hazard complaint analysis system similar to the system used by Metal and Nonmetal headquarters staff in tracking complaints.

MSHA is reviewing all Personal Protective Equipment (PPE) related violations for special assessment, developing cognitive behavior approaches that will target risk taking and PPE use by management and labor, and is tracking fatalities involving adequacy, availability, and use of PPE.

Rapid Expansion of the Bureau of International Labor Affairs

The Bureau of International Labor Affairs (ILAB) carries out the Department of Labor's international responsibilities and assists in formulating international economic, trade, and immigration policies affecting American workers. ILAB is also responsible for supporting international efforts to eliminate exploitative Child Labor, promote core labor standards and protect the basic rights of workers, improve economic opportunity and income security for workers, and provide workplace based education to help reduce the spread of HIV/AIDS. To combat child labor abuses and make a difference in the lives of workers in FY 2001, ILAB invested over \$100 million in technical assistance. Recognizing the significant expansion of funding for its technical cooperation programs in recent years, implementation oversight continues to be a management priority for ILAB. A number of initiatives to improve oversight and performance measurement are in progress and efforts are being made to standardize approaches and procedures. In FY2001, ILAB implemented remedies to all the identified management issues and continued to refine the agency's processes and procedures. Developing and implementing comprehensive management systems that accommodate ILAB's current program demands and needs will take time. However, the agency continues to perfect its procedures and management systems to make sure that the necessary controls are in place to support current program levels and ensure fiscal accountability.

Reinforcement of ILAB's Grant/Contract Management Systems

- Additional staff in grants/contract management, program oversight, and program management have been hired and trained.
- The DOL-International Labor Organization (ILO) set of management procedures and guidelines for the development and implementation of USDOL-funded technical assistance programs has been updated and refined.
- A system for tracking the finances of ILAB projects has been installed and staff have been trained in its use.
- Financial management has been converted to an electronic transfer and draw down system (the Payment Management System, operated by HHS), enabling ILAB staff to directly monitor grantee drawdowns.
- Assessment and streamlining of program information needs, reporting, and monitoring are underway. These efforts will contribute to effective and efficient management systems.

Program Evaluation and Accountability

- ILAB has executed cooperative agreements with the ILO and a number of other organizations, which require increased reporting in the financial and performance areas.
- ILAB, through an exchange program with the Department of State, has placed staff in embassies overseas to help monitor the implementation of ILAB funded projects.
- Project staff in all program areas have been provided training in program monitoring and evaluation.
- Responsibilities within the respective program offices have been defined and delineated to strengthen accountability.
- ILAB has instituted a performance monitoring system to track and report semiannually on progress in achieving program objectives.
- ILAB has instituted a policy to ensure that every project undergoes a mid-term evaluation (internal) and a final evaluation (external & independent).
- Plans are under way to conduct financial audits, ex-post and impact evaluations of selected child labor projects.

Human Capital Management

The human capital challenges outlined by the Office of the Inspector General (OIG) are in line with the Department's views and, as such, are perceived to be fair and balanced. The OIG statement deals predominately with Government wide flexibilities outside of our control but we agree with the OIG that there are a number of specific legislative, regulatory, and policy changes that would be helpful to Federal agencies like DOL to more effectively compete with private industry for highly-skilled personnel.

Notwithstanding the Government wide limitations, there are a number of initiatives currently underway within the Department that directly address strategic human capital management challenges within the context of current law, rule and regulation. In addition to the numerous Departmental initiatives outlined by the OIG in their statement, we have aggressively moved forward toward a cross-cutting Departmental approach to improving human capital management within DOL. In August 2001, the Secretary of Labor created the Management Review Board (MRB) to ensure a coordinated, department wide approach to promoting management reforms. For example, the MRB oversaw implementation of an overhaul of the Department's performance appraisal system for managers and executives, to ensure that personnel are evaluated against progress on management agenda items. In addition, the Board has initiated an evaluation of DOL's regional office structure to identify opportunities for reorganization and consolidation.

As part of the Department's 5 Year Restructuring Plan submitted to OMB in September 2001, DOL identified human capital management tools and flexibilities needed for the successful implementation of restructuring initiatives. The Department's cross-cutting approach to strategic management of human capital supports the President's Management Agenda by enhancing our ability to forecast human capital trends and needs; assess and address the growing core competency skill gap of the current and future workforce, and provide for retooling of the skill sets of employees displaced by contracting out initiatives or technological innovations; improve the quality of our current workforce by using aggressive recruitment strategies to identify highly qualified, diverse candidates; and provide for recruitment and retention bonus flexibilities that are directly linked to the Department's workforce and restructuring plans.

The Department of Labor, through its Human Resource Center, will continue to provide leadership and direction to achieving the President's and Secretary's strategic human capital management agenda for the Department and its individual Agencies. Ongoing leadership initiatives include negotiating new collective bargaining agreements in support of the Department's human capital program and positive labor-management relations; implementing enhancements to the Departmental human resource information system to promote e-government principals in providing services to DOL employees; and overseeing the conduct of internal, and OPM sponsored, oversight reviews of human resource operations within DOL to ensure a positive human resource program that adheres to merit systems principles. ■