

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 present the highlights of the 50th *Semiannual Report to the Congress* on our significant activities. Our recent work furthers the mission envisioned by the Congress for Inspectors General a quarter of a century ago. The report covers the six-month period ending September 30, 2003, during which we identified \$428 million in funds recommended be put to better use and \$5.2 million in questioned costs. Moreover, our investigative work resulted in 196 indictments, 136 convictions, and more than \$24 million in monetary accomplishments.

During this reporting period, the Department of Labor's (DOL's) Office of Inspector General (OIG) completed significant audit and investigative work relating to the Unemployment Insurance (UI) program. Our audit of the DOL system used to monitor UI overpayments found that the system accurately projects overpayments but is not being used by DOL to strengthen controls over benefit payments. We found that expanding the use of a method to detect improperly paid benefits could save an estimated \$428 million annually. In addition, OIG investigations highlighted losses resulting from fraud against the UI program. Two investigations identified nearly \$9 million in fraud by nontraditional organized crime groups who used stolen identities to obtain UI benefits.

Other accomplishments over the last six months include investigations of fraud against the Department's foreign labor certification programs. A related OIG assessment found that the Department's role in the labor certification process continues to be perfunctory and therefore does little to protect American jobs and workers.

Finally, our labor racketeering investigations resulted in numerous convictions. For example, a former United Public Workers Union state director received five years' imprisonment and was ordered to pay \$428,000 in restitution for embezzling union assets and receiving benefit plan-related kickbacks, among other charges. In addition, the president of Teamsters Union Local 25, who was also a benefit plan trustee, pled guilty to Hobbs Act extortion, conspiracy to embezzle from a benefit program, filing false documents under the Employee Retirement Income Security Act, and other charges.

In our ongoing effort to promote the economy, efficiency, effectiveness, and integrity of DOL programs, the OIG will continue to work constructively with the Secretary of Labor and the DOL team. In so doing, we will help detect waste, fraud, and abuse against programs that serve and protect the rights and benefits of American workers and retirees, as the OIG has done since its creation.

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

Gordon S. Heddell
Inspector General

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\$428 MILLION IN OVERPAYMENTS COULD BE AVOIDED BY MORE EFFECTIVE USE OF BENEFIT ACCURACY MEASUREMENT SYSTEM

The Benefit Accuracy Measurement (BAM) system monitors the accuracy of UI payments to claimants and statistically projects overpayments. Through 2002, the rate of overpayments has remained between 8% and 9%, while the total amount of overpayments has continued to grow, corresponding to increased benefit payments. In calendar year 2002, BAM estimated \$3.7 billion in overpayments. The OIG audited the Employment and Training Administration's (ETA's) use of the BAM system to monitor UI overpayments. We found that BAM accurately detected and projected overpayments. However, we made recommendations aimed at further improving the detection of overpayments related to unreported earnings.

We also found that ETA did not use BAM information to prevent overpayments by strengthening internal controls over benefit payments. Because the rate of overpayments has remained essentially unchanged for the last 12 years, the OIG believes that ETA needs to do more to reduce that rate. We recommended that ETA make overpayment oversight a top priority by emphasizing payment accuracy in ETA's performance measures and instituting additional quality control practices.

Finally, we concluded that expediting the implementation of new-hire database connectivity in 10 states, and increasing its use in another eight states, could save the Unemployment Trust Fund an estimated \$428 million annually. This is due to earlier detection of improperly paid benefits to recipients who start new jobs. We recommended that ETA implement the necessary improvements.

ETA agreed in principle to our findings and recommendations and emphasized that reducing UI overpayments is a priority. The OIG believes that management actions taken during the course of the audit affirmed ETA's commitment to make overpayment reduction a top priority. Also with respect to the recommendations regarding the use of new hire data, ETA's response estimated maximum potential savings of \$139 million.

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DEFENDANTS SENTENCED IN FICTITIOUS EMPLOYER SCHEME

In September and October 2003, nine of 12 defendants were sentenced in a fictitious employer unemployment fraud scheme involving four bogus companies in Pennsylvania. The nine were collectively sentenced to pay a total of more than \$180,000 in fines and restitution and were each sentenced from three to five years' probation. Their scheme caused Pennsylvania to issue 263 UI checks totaling about \$210,000. Of note, the ringleader pled guilty in July 2003 to mail fraud charges. He created documents containing fictitious business activities, corporate officers, Social Security numbers, and employees.

Fraud Against the Unemployment Insurance Program by Emerging Organized Crime Groups

For years, OIG work disclosed fraud against DOL programs by individual criminals, claimants, and service providers. However, recent OIG investigations are identifying UI program fraud by emerging organized crime groups. These new groups from Asia, Eastern Europe, and elsewhere have a formalized structure like the "Mob" or the Mafia but target government programs to a far greater extent. Their involvement has resulted in UI fraud schemes that are more costly, complex, and far-reaching than those of the past, as illustrated by the following investigations.

MEXICAN FAMILY INDICTED IN IDENTITY FRAUD SCHEME

In May 2003, nine members of a Mexican family living in California were indicted on charges of conspiracy, mail fraud, identity theft, and money laundering for defrauding the State of California UI program. This joint investigation revealed that the family opened approximately 150 mailboxes and established several business bank accounts to allegedly launder more than \$6 million obtained from fraudulent UI checks.

THIRTEEN INDICTED IN STOLEN IDENTITIES SCHEME

Thirteen members of a Mexican nontraditional organized crime group were indicted in May 2003 on charges of conspiracy, mail fraud, identity theft, and money laundering in connection with more than \$2.8 million in fraudulent UI claims. This joint investigation revealed that they defrauded four states' Unemployment Insurance programs through the use of at least 3,000 stolen identities obtained from payroll-servicing companies.

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DOL'S LIMITED ROLE IN THE FOREIGN LABOR CERTIFICATION PROCESS

The OIG reviewed DOL's foreign labor certification programs to assess the programs' vulnerabilities. ETA has responsibility for approving employers' applications that may ultimately allow aliens to work in the United States. Our review of the labor certification programs showed that long-standing concerns remain the same since our last audits of the permanent labor certification program and H-1B program in 1996, and of the H-2A program in 1998. We continue to be concerned about the perfunctory nature of DOL's role in each of these programs.

- *Permanent labor certification:* Under a new system, employer applications would be electronically submitted and processed. While reducing the time required to process applications, it will eliminate most human screening of certification applications, which may lead to an increase in program fraud due to fewer controls.
- *H-1B specialty workers:* On labor condition applications for the H-1B program, employers declare they will pay foreign specialty workers appropriate wages and follow workplace guidelines. Under current law, ETA must approve the application if it is complete and free of obvious errors. Without the authority to validate information on the application, ETA's role adds little value.
- *H-2A seasonal and temporary agricultural workers:* The H-2A certification process is ineffective in ensuring that U.S. workers' jobs are protected. In addition, the division of responsibilities between ETA and DOL's Employment Standards Administration results in confusion and inefficiencies and prevents cohesive enforcement.

For these reasons, we believe that DOL's limited role in the labor certification process adds little value to the process of protecting American jobs and wages.

OIG investigations continue to detect fraud against DOL's foreign labor certification programs. These cases involve fraudulent applications filed with DOL on behalf of fictitious employers and applications that use the names of legitimate employers without their knowledge. Dishonest immigration attorneys and labor brokers collect fees and file fraudulent applications on behalf of aliens seeking to work in the United States. The following cases are illustrative of OIG work in this area.

A man from Cameroon was found guilty of immigration fraud after an investigation revealed that he filed labor certifications that contained false information. In those applications, he declared that he owned numerous businesses that were in fact shell companies. This investigation also found that he stole more than \$260,000 from those who sought his services by creating counterfeit checks using their bank account information.

A Greek foreign national was sentenced to nearly six years in prison on visa fraud charges after an OIG investigation found that he filed more than 400 fraudulent visa applications and foreign labor certifications. In the applications, he claimed his clients were in various special occupations under the H-1B program, such as performers, when in fact they were not.

The owner of Central Migration pled guilty to visa fraud charges in New Jersey because she conspired with others to forge alien employment certification applications. The investigation revealed that the owner falsely claimed to be an attorney and filed more than 900 applications, charging between \$4,500 and \$8,000 per certification.

An Illinois immigration consultant was sentenced for filing fraudulent H-1B visa applications after pleading guilty to a RICO charge for his role in engaging in a pattern of racketeering activity, which involved the filing of more than 140 fraudulent H-1B visa applications and petitions. The consultant collected money from aliens seeking jobs at his companies in the United States. However, those jobs and his companies turned out to be nonexistent.

Employment and Training

DISLOCATED WORKER PROGRAM IMPROVEMENTS RECOMMENDED

The OIG conducted a nationwide audit of services provided to and outcomes obtained for participants enrolled in the Workforce Investment Act (WIA) Dislocated Worker program during program year 2000. This program provides a variety of core, intensive, and training services that are intended to help dislocated workers reenter the workforce.

Our audit disclosed that, overall, participants obtained employment, retained a large percentage of their layoff earnings, kept their postlayoff jobs, and were satisfied with most of the services provided. However, we concluded that additional focus is needed to ensure that the program serves only eligible people, participants return to the workforce as quickly as possible, reported outcomes are complete and meaningful, and participants are more satisfied with job-finding assistance. Among the recommendations we made to improve services and outcomes of the program were:

- provide additional guidance regarding documentation of unlikelihood of return to previous industry or occupation, which is an eligibility requirement;
- require the states to supplement their annual reports with information on all participants' employment status, in order to more fully represent outcomes; and
- study why some participants were in the program for more than one year, and explore providing intensive job services to those participants.

\$645,000 QUESTIONED IN AUDIT OF TURNER JOB CORPS CENTER

The OIG audited Global Associates' operation of the Turner Job Corps Center in Albany, Georgia. We questioned \$645,945 in costs charged for a security services subcontract because the subcontractor's invoices lacked adequate documentation and reported expenses were not in the original budget proposal. We also identified a need to improve controls over property and equipment.

PENNSYLVANIA CORRECTLY USED \$11.5 MILLION IN TRADE ADJUSTMENT ASSISTANCE FUNDS

Based on a congressional inquiry, the OIG evaluated the status of Pennsylvania's Trade Adjustment Assistance (TAA) program funding and how the Commonwealth used the \$11.5 million in funds that ETA provided in March 2003 for TAA job training. The TAA program assists workers who lose their jobs or whose hours of work and wages are reduced as a result of foreign trade. The program offers training to help trade-affected workers return to suitable employment as quickly as possible.

We concluded that Pennsylvania used the \$11.5 million for TAA expenses that occurred in FY 2003 in accordance with the cooperative agreement requirements. We also confirmed that back to at least FY 2001, TAA funds provided to Pennsylvania were not sufficient to meet the level of obligations incurred to provide training to eligible participants. While ETA addressed these funding shortages through National Emergency Grants authorized by WIA, we found that Pennsylvania still had a deficit of \$2.6 million for FY 2002.

Information Technology

COMPUTER SECURITY AUDITS CITE NEED TO IMPROVE CONTROLS AND CONTINGENCY PLANNING

The OIG audited the information security programs and practices of several DOL agencies during this reporting period. We identified positive security observations but also reported several high-risk control findings that needed corrective action. We found that one agency's information management system lacked a contingency plan with specifics on data recovery. A second agency's system contingency plan had not been tested. In addition, a third agency had not performed a risk assessment on its system. Finally, a fourth agency's system had an incomplete and untested continuity of operations plan.

The agencies agreed with most of our security control findings. In several cases, agencies had already taken corrective actions prior to the issuance of our report.

The Labor OIG has a unique external program function to conduct criminal investigations to combat the influence of labor racketeering and organized crime in the nation's labor unions.

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. Organized crime is defined as activities carried out by groups with a formalized structure whose primary objective is to obtain money through illegal activities.

MOB ASSOCIATES PLEAD GUILTY TO EXTORTION AND GAMBLING CHARGES

Julius Nasso, a Gambino associate who conspired to extort actor Steven Seagal, pled guilty to extortion charges on August 13, 2003. Nasso's brother, Vincent, a former pharmaceutical service provider to MILA, the International Longshoremen's Association's (ILA's) health and welfare fund, pled guilty to wire fraud charges. Vincent acquired the MILA contract after making payoffs to members of organized crime.

MOBSTER SENTENCED TO PRISON AND ORDERED TO PAY MORE THAN \$800,000 IN RESTITUTION

In July 2003, Joseph Lore, a reputed member of the Genovese Organized Crime Family and a former hiring agent for United Terminals, was sentenced to nearly six months' imprisonment and three years' probation and was ordered to pay more than \$820,000 in restitution. Lore was convicted of embezzling more than \$900,000 from ILA Local 1588, mostly through a salary diversion scheme. Even though he was barred from any involvement with Local 1588 because of an earlier civil RICO action, Lore, through his control of the waterfront, selected four Local 1588 officials. These officials provided little if any services to Local 1588 but received salaries totaling more than \$1.5 million and gave half of all their paychecks to Lore.

THREE CONTRACTORS PLEAD GUILTY TO MAKING PROHIBITED PAYMENTS TO A UNION

In April and May 2003, three Michigan companies pled guilty to making a prohibited payment to a union official. The investigation found that the companies improperly delivered nearly \$116,000 worth of building materials, for which they were not reimbursed, to Michigan Regional Council of Carpenters (MRCC) officials for use in building a MRCC official's home.

Labor Racketeering

HAWAII UNION STATE DIRECTOR SENTENCED TO FIVE YEARS' IMPRISONMENT

In September 2003, Gary Rodrigues, the former state director of the United Public Workers Union (UPW), was sentenced to more than five years' imprisonment and three years' supervised release and was ordered to pay more than \$428,000 in restitution and fines. The director and his daughter defrauded the UPW dental and health benefit programs. In addition, the director was found guilty of embezzling union assets and receiving kickbacks in connection with a union benefit plan. He received more than \$100,000 from an insurance agent who provided the life insurance benefits for UPW members. Both the director and his daughter laundered the embezzled proceeds from the health benefit program, which exceeded \$300,000.

TEAMSTERS UNION LOCAL PRESIDENT PLEADS GUILTY

In April 2003, George Cashman, president of Teamsters Union Local 25 and trustee of the local's health plan and the New England Teamsters and Trucking Industry Pension Fund, pled guilty to charges of Hobbs Act extortion, violating the Taft-Hartley Act, conspiracy to steal and embezzle from an employee benefit program, filing false documents under the Employee Retirement Income Security Act, and committing mail fraud. Cashman and another individual conspired to launder the

proceeds of a \$100,000 extortion payment from representatives of Cardinal Health, an Ohio-based pharmaceutical corporation. This payment was made in connection with the settlement of a pension fund liability that Cardinal owed to the pension fund following a lengthy strike at Cardinal's facility in Massachusetts.

THREE INDICTED IN \$10 MILLION LAND DEAL

Three defendants were indicted in September 2003 on charges related to a \$10 million land purchase by the pension fund of the Northwest District Council of Carpenters (NWDCC). Those indicted were an attorney for the Indiana Regional Council of Carpenters (IRCC), the secretary-treasurer of the IRCC (a former trustee of the NWDCC pension fund), and a real estate broker. The investigation found that in 1999, the NWDCC pension fund purchased 55 acres of undeveloped land in Indiana for \$10 million. The real estate broker and his partner received a \$600,000 commission from the sale and allegedly made an illegal payment of \$200,000 to the IRCC attorney. The salesman and the attorney then allegedly paid out \$65,000 to the former trustee through the establishment of a bogus company. The three are charged with conspiring to violate the law that prohibits the offer, acceptance, or solicitation of payments in connection with union pension funds.

Selected Statistics

Funds recommended be put to better use	\$428 million
Questioned costs	\$5.2 million
Investigative monetary accomplishments	\$24.5 million
Audit and evaluation reports issued	59
Indictments	196
Convictions	136
Investigative cases opened	216
Investigative cases closed	280
Investigative cases referred for prosecution	97
Investigative cases referred for administrative/civil action	73

Significant Concerns

In addition to the OIG's concern about fraud against the Unemployment Insurance program by emerging organized crime groups and vulnerabilities in DOL's foreign labor certification programs, we also highlight the following challenges in our Semiannual Report to the Congress.

DOCUMENTATION OF PERFORMANCE DATA

Quality data on DOL program results are key to evaluating program effectiveness and managing for results. Ensuring the quality of data generated below the Federal level presents difficulties for the Department. OIG audits have disclosed high error rates in grantee-reported performance data for programs administered by ETA. ETA has initiated a data validation project to improve reporting. The OIG will continue to follow this project to ensure the reliability of program data.

MANAGERIAL COST ACCOUNTING

In order to fully integrate budget and performance, the Department needs a managerial cost accounting system that matches cost information with program outcomes. In DOL's FY 2002 financial statements audit, we stated our opinion that DOL was not in substantial compliance with the Federal Financial Management Improvement Act because DOL had not complied with managerial cost accounting requirements. We recommended that DOL develop a comprehensive Department-wide managerial cost accounting system.

In May 2003, the Department issued its Managerial Cost Accounting Plan of Action, which called for a 14-month

time frame to implement initial managerial cost accounting capability across DOL. We will continue to monitor and assess the Chief Financial Officer's implementation of DOL's managerial cost accounting plan to determine its effect on financial and performance reporting.

SINGLE AUDIT ACT AUDITS

The Department relies on the Single Audit Act to provide audits for over 90% of its expenditures. The OIG is concerned about the adequacy of information being provided to DOL in these audits, which are conducted by public accountants or state auditors. The OIG has identified serious deficiencies in some single audits, which would make the audits unreliable. As a result, the OIG is working with OMB on two single audit initiatives and will work with DOL's grantor agencies to improve their monitoring and evaluation activities. DOL, through its monitoring, should also ensure that grantees procure quality audits and use the results to improve programs.

WORKFORCE INVESTMENT ACT REAUTHORIZATION

Seeking revisions to the Workforce Investment Act during the reauthorization process so that it can better achieve its goals poses challenges for the Department. Legislation has been proposed that addresses some concerns that the OIG has identified through our work, such as burdensome performance-reporting requirements imposed on training providers. We believe that our audits offer further lessons and insights that should be considered during reauthorization.

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