

DEPARTMENT OF LABOR

Fiscal Year 1999 Budget Request

for

Office of Inspector General

**Witnesses appearing before the
House Subcommittee on Labor-HHS-Education Appropriations**

**Charles C. Masten
Inspector General**

accompanied by

Patricia A. Dalton, Deputy Inspector General

U.S. DEPARTMENT OF LABOR

**Statement by
Charles C. Masten
Inspector General**

on

**Fiscal Year 1999 Budget Request for
Office of Inspector General
February 25, 1998**

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to testify before you in my capacity as the Inspector General of the U.S. Department of Labor (DOL). I am pleased to appear before you today to discuss our Fiscal Year (FY) 1999 appropriations request and proposed activities. I am accompanied today by my deputy, Patricia A. Dalton.

BACKGROUND

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

Investigations, the Office of Evaluations and Inspections, and the Office of Management and Counsel.

The OIG's FY 1999 budget request totals \$50,111,000 and 428 full-time equivalent positions. This includes \$1.6 million and 11 full-time equivalent positions to carry out an investigative initiative to address the problem of abuses by pension plan service providers. I will focus my testimony today on how we will meet our statutory responsibilities, contribute toward our 5-year strategic plan goals, and, within our jurisdiction, support the goals established by the Secretary.

OVERVIEW OF THE OIG STRATEGIC PLAN

Mr. Chairman, as required for most Federal agencies, the context in which the OIG program is administered is the Government Performance and Results Act of 1993 (GPRA). In conformance with GPRA, the OIG developed a strategic plan for Fiscal Years 1997 - 2002. The plan details our mission, vision, goals, objectives, and strategies. The plan is driven by our responsibilities under various statutes, including the IG Act and the Chief Financial Officers Act; the mission of the Department; the goals established by the Administration and the Secretary; and the challenges faced by DOL. In FY 1997, we began to organize our work based on our strategic plan goals, and I believe that this has served to improve the attention we give to key areas of the Department. Attached is a list of accomplishments for FY 1997 that helps illustrate how we are working to achieve our goals and to support the goals established by the Secretary.

The OIG strategic plan also establishes performance measures and indicators that will help us evaluate our success in achieving our strategic goals. These measures are directed toward ensuring the quality of the work and customer service the OIG provides to the Department and the

Congress. In our FY 1999 Performance Plan, we detail the process we will use to evaluate our success in achieving our goals. Since performance measurement is a challenge to all of us in Government, we will be assessing the effectiveness of our performance indicators and making adjustments to ensure we are able to adequately measure the impact of our work.

OIG WORK PLAN FOR FISCAL YEAR 1999

Mr. Chairman, in FY 1999 we will focus our program activities on audits, investigations, and evaluations that will provide quality information regarding the effectiveness, efficiency, and integrity of key programs and operations. Our primary goal is to ensure that the information provided to DOL and Congress will be useful in their management or oversight of the Department. In addition, we will provide technical assistance to help DOL management address challenges and prevent problems from arising. Our proposal is to carry out activities in the areas of departmental management, employment and training, occupational safety and health, worker benefits, and labor racketeering. The following are examples of the activities we will conduct and the Secretary's goal they support.

Maintaining a Strategic Management Process

From a departmental management perspective, we will focus audit resources on DOL's financial statements, DOL's implementation of GPRA and the Statement of Federal Financial Accounting Standard Number 4, grant and contract audits, and DOL information technology activities. We will also investigate allegations of misconduct by DOL service providers or employees.

A Prepared Workforce

To enhance performance and accountability of employment and training programs, we will focus audits on employer hiring incentives, School-to-Work initiatives, the North American Free Trade Agreement/Trade Adjustment Assistance Program, and services to welfare recipients under the Job Training Partnership Act. Our investigations will focus on fraud in DOL job training programs to ensure that funds are utilized to assist individuals to acquire needed training and employment skills.

Quality Workplaces

In the area of safety and health, we will focus audit activities on the Occupational Safety and Health Administration's cooperative enforcement efforts and on the reporting of mining accidents and injuries. Our investigations will focus on the integrity of those individuals administering DOL's safety and health programs.

A Secure Workforce

To safeguard the integrity and efficiency of workplace benefit programs we will devote audit attention to worker profiling and re-employment services under the Unemployment Insurance (UI) Program, cost savings from hospital in-patient billings to the Federal Employees' Compensation Act (FECA) Program; and DOL's Form 5500 Processing System. From an investigative perspective, we will focus on fraud against the FECA, UI, and Longshore and Harbor Workers' Programs by claimants. We will also focus on individuals who engage in schemes to defraud the state UI Programs, particularly those operating inter-state and intra-state fictitious or fraudulent employer schemes and those that utilize organized groups of illegal aliens to defraud the program.

In FY 1999, we will also continue our efforts to reduce the influence of organized crime

and labor racketeering in the workplace. In carrying out the OIG Labor Racketeering Program, we will give priority to organized crime influence or manipulation of labor unions, union-affiliated employee benefit plans, and labor-management relations. In particular, we plan to focus on corrupt pension plan service providers. OIG casework has identified this area of the pension arena as being especially vulnerable to labor racketeering activity and abuses.

By way of illustration, a recent case in New York uncovered several advisors to a Teamsters pension plan had diverted pension assets to an off-shore, high-risk investment scheme. The advisors invested the plan's money in exchange for kickbacks from the investments. Approximately \$10 million of the pension fund's \$40 million assets were lost when the off-shore investors stole the money. In yet another case, an investment manager to a Roofers' local union pension fund in Connecticut was convicted on embezzlement charges. He was sentenced to 87 months in jail and ordered to pay \$2.8 million in restitution to the pension fund.

Recently, the Department of Justice (Justice) identified pension abuses as a priority and launched an initiative to eradicate these abuses through a joint effort with the OIG and other Federal law enforcement agencies. To strengthen the attention given to the pension area, the OIG is proposing funding of \$1.6 million to conduct a pro-active, pension plan protection initiative. This initiative will support Justice's crackdown on pension abuses by focusing on pension plan service providers that are controlled or influenced by organized crime, as well as corrupt union and plan officials.

Abuses by service providers are particularly egregious in that they can result in large dollar losses in pension assets, since they can potentially affect more than one plan. Our initiative will establish, for the first time, coordinated scrutiny by Federal, State, or Local law enforcement entities to such abuses.

Mr. Chairman, our limited investigative efforts in this area have revealed just the tip of the iceberg. We believe this is an opportune time to give this area of the pension arena a comprehensive examination, with long-term strategies to address the problem. However, investigations of this type of criminal activity are extremely complex because the abuses are perpetrated by sophisticated investment advisors and plan administrators, who have the opportunity and ability to structure financial schemes to conceal their criminal activity.

Therefore, our proposal is to utilize the funding appropriated for this initiative to:

1) provide specialized training to our agents regarding intricate financial schemes utilized to defraud pension assets; 2) develop computer data base capabilities to allow comparisons of intelligence gathered by OIG criminal investigations with information obtained from the Securities Exchange Commission and the National Association of Securities Dealers to identify problematic investment advisors associated with union pension plans; and 3) significantly increase our case inventory by the end of FY 1999.

OIG CONSULTATION AND TECHNICAL ASSISTANCE

In addition to the activities just described, Mr. Chairman, we will continue our commitment to help the Department to fulfill its mission and to address the many challenges it faces in the coming years, while maintaining our independent status within the Department.

To this end, we will provide consultation and technical assistance to departmental management as they address a number of significant issues. Some of these issues include: the implementation of the GPRA and Welfare-to-Work; Year 2000 compliance; and cost-efficiencies in the FECA program.

CONCLUSION

Mr. Chairman, this concludes my prepared statement. I would like to express my appreciation for the opportunity to testify before you today. Ms. Dalton and I would be pleased to answer any questions you or the other members of the Subcommittee may have.

**U.S. DEPARTMENT OF LABOR
OFFICE OF INSPECTOR GENERAL
FY 1997 Accomplishments**

During Fiscal Year 1997, the OIG completed numerous activities in support of the strategic goals established in the OIG Strategic Plan. Examples of our accomplishments follow.

OIG Goal 1: To improve the effectiveness, efficiency, and management of DOL agencies, programs, and operations.

The OIG provided an assessment as to the financial status of the Department through its audits of the consolidated financial statements and the financial statements of the UI, Black Lung, Longshore and DC Trust Funds and the FECA Special Fund. As part of these activities, we called attention to several weaknesses including the \$5.5 billion indebtedness of the Black Lung Disability Trust Fund. We worked with the Department to surface and address issues related to the implementation of GPRA and provided recommendations to the Department regarding the sharing of information and consolidation of reports needed by VETS, ESA and the EEOC. We worked with PWBA and the CIO on the new 5500 reporting system development efforts. We conducted evaluations to assist the Department in determining the efficiency and effectiveness of specific DOL programs and operations. For example, an evaluation of a proposed contract resulted in a savings of over \$344,000 to the Government when, based on our recommendation, the contract was not awarded. An evaluation of the FECA Early Nurse Visitation Program provided the Department with information on how the program could be more effective. From an investigative perspective, we continued to investigate allegations of wrongdoing or criminal misconduct by DOL employees or service providers who fail to properly exercise their official or contractual responsibilities for personal gain.

OIG Goal 2: To optimize the use of funds appropriated for employment, training, and welfare-to-work programs by enhancing program performance and accountability.

In addition to conducting various financial and compliance audits of employment and training grants and contracts in which we identified improper charges to the Government, the OIG provided the Department recommendations to improve services provided under the JTPA Title III program for dislocated workers. This audit determined that Title III participants had an edge in obtaining and retaining employment but were re-employed at significantly lower wages than those who did not participate in the program. We also provided technical assistance and consultation to DOL on a number of employment and training issues and programs, including School-to-Work and workforce development performance measures. Through our investigative efforts, we have worked diligently to ensure the integrity of employment and training funds. An example of our efforts in this area involves the president of a union local who recently pled guilty to filing false on-the-job training costs claims, in conjunction with a grant awarded to the union to assist eligible dislocated workers to obtain employment. In another case, two officials of the Council of Jewish Organizations and a member of the New York State Assembly were indicted for diverting in excess of \$1.5 million in job training funds for personal benefit.

OIG Goal 3: To optimize the use of funds appropriated for workplace safety, health, and standards programs by enhancing program performance and accountability.

We identified weaknesses in the protections afforded to whistle blowers under the Occupational Safety and Health Act and made recommendations to ensure such protections. An OIG audit found that employees who complained directly to employers were more likely to be fired than those that complained directly to OSHA. We identified inaccuracies in the data used by ESA to determine the Davis-Bacon prevailing wages; responded to a congressional request to audit and determine how employers are selected for investigation and how resources are allocated for FLSA investigations; and identified inefficiencies in DOL's back wage collection activities, including \$8.5 million that should be transferred to Treasury. From an investigative perspective, we continued to successfully investigate allegations of wrongdoing by MSHA inspectors. For example, a mine safety inspector in Tennessee pled guilty to bribery charges related to the solicitation of cash payments during an inspection.

OIG Goal 4: To help workers and retirees by safeguarding workplace employment, unemployment, and disability benefits and enhancing DOL's effectiveness in administering related programs.

Through work in this area, we identified \$73 million of unreported equity in SESA real property. We also continued to identify and investigate fictitious and fraudulent employer schemes in the UI program. In just one case, 12 of 14 defendants have pled guilty to conspiracy to defraud the State of Michigan UI program. This scheme, which operated for approximately 2 years, resulted in losses of UI funds of almost half a million dollars. In the pension benefits area, we recommended that ERISA enforce reporting and disclosure requirements for Direct Filing Entities, which represent an estimated \$954 billion of pension assets. In the area of disability compensation, we identified \$7 million of improper FECA payments to medical providers and continued to investigate schemes by claimants and medical providers to defraud the FECA, Longshore, and Black Lung programs. The following cases illustrate our investigative accomplishments in this area. A former postal employee was ordered to pay a \$10,000 fine and to make restitution of \$119,000 for defrauding the FECA program by receiving disability benefits for an on-the-job injury while employed. Similarly, a former shipyard employee was sentenced to 3 years in prison and to make restitution of \$83,000 for operating a construction company while collecting disability benefits under the Longshore and Harbor Workers' Compensation Program.

OIG Goal 5: To reduce the influence of organized crime and labor racketeering in the workplace.

Through its labor racketeering program, the OIG continues to contribute toward the Government's effort to reduce the influence of organized crime and labor racketeering in the workplace. For example, in FY 1997, the OIG continued to identify, target and investigate investment brokers and plan administrators who have ties to organized crime and who are siphoning excessive fees and or commissions from union pension funds. An example of our accomplishments in this area involves an attorney for the Teamsters Local 875 Pension Fund in New York, who pled guilty to engaging in a scheme to temporarily divert pension assets to invest in an off-shore, high-risk investment scheme. Approximately \$10 million of the pension fund's \$40 million assets were lost in the scheme when the offshore investors stole the money. We also continue our efforts to remove associates of organized crime from some of the Nation's largest labor unions through the Racketeer Influenced and Corrupt Organizations Act (RICO). The OIG has also worked very closely with court-appointed monitors in these RICO cases to remove corrupt officials from unions and help restore democratic representation for their membership. One example is our investigation and subsequent work related to Hotel Employees and Restaurant Employees Local 54 in New Jersey. This Local was placed under monitorship after a Civil RICO action was filed by the Government following the OIG investigation. With the removal of organized crime from the union and democracy restored, the monitorship was dissolved this year and the union was returned to its membership.