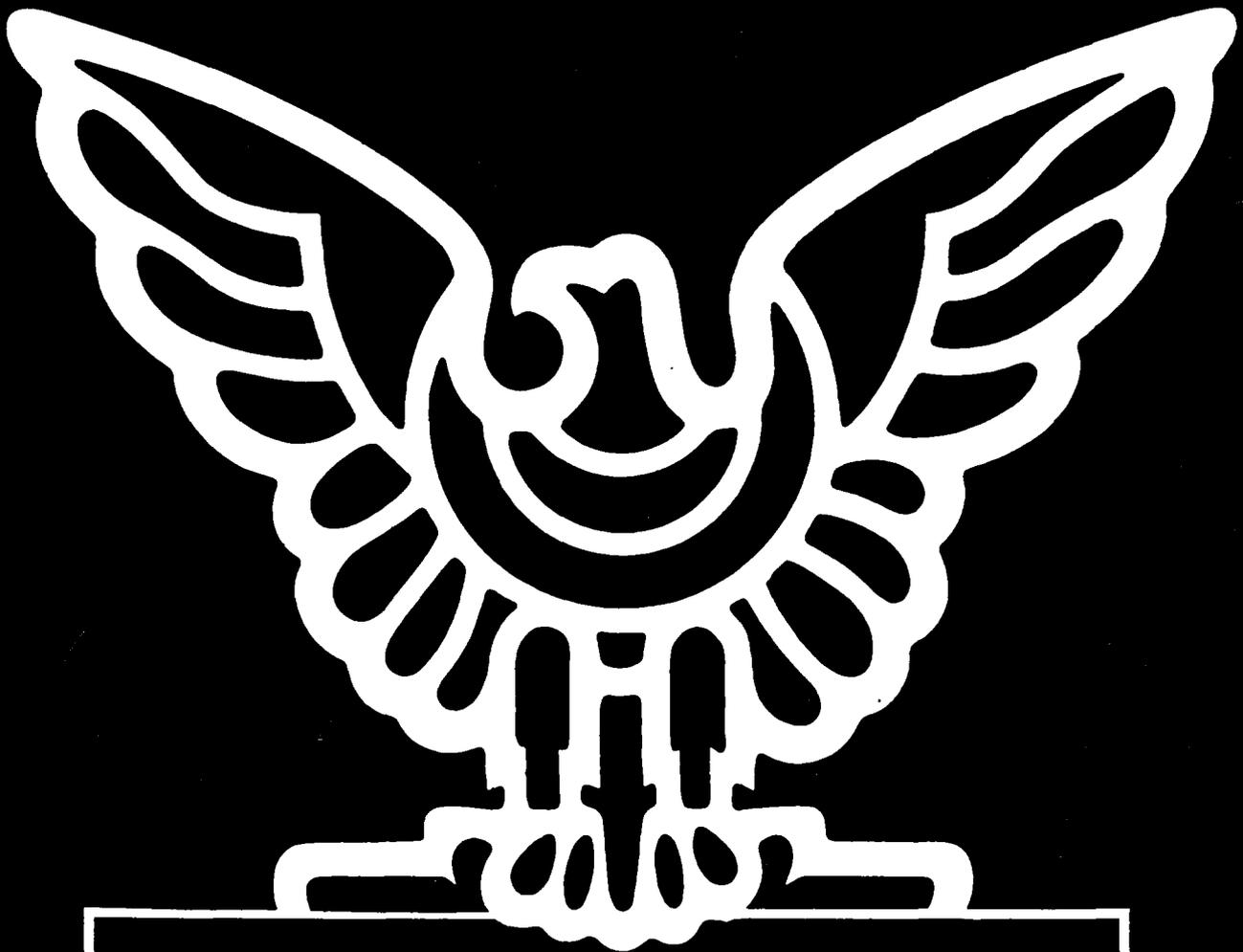


# Semiannual Report Office of Inspector General U.S. Department of Labor



U.S. Department of Labor  
Office of Inspector General

April 1 - September 30, 1990



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# Semiannual Report Office of Inspector General U.S. Department of Labor

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U.S. Department of Labor  
Elizabeth Dole, Secretary

Office of Inspector General  
Julian W. De La Rosa, Inspector General

April 1 - September 30, 1990

## THE INSPECTOR GENERAL'S MESSAGE

As the fourth Inspector General for the U.S. Department of Labor, I am honored to have been appointed by the President to serve in this important capacity and gratified that the U.S. Senate confirmed my appointment.

The Inspector General function is critical to the effective operations of our Government. With the assistance of the auditors, investigators, and support staff of the Office of Inspector General, I look forward to carrying out the responsibilities and obligations prescribed by the Inspector General Act of 1978. I also look forward to maintaining an effective working relationship with the Secretary, the Department's Executive Staff, and the Congress while retaining the necessary independence and objectivity to perform my duties.

The prime objective of the Department of Labor is to protect and, if possible, enhance the health, safety, working conditions, and financial security of more than 100 million Americans and their families. These individuals are best served by a highly professional and diligent Office of Inspector General which conducts broad oversight of Department of Labor programs, identifies operational problems at an early stage, and investigates potential criminal activities.

I intend to focus my attention in several areas. First, the Department needs to have a better balance of civil and criminal enforcement and it must improve the coordination of its entire criminal enforcement program. As part of this goal, it needs to actively press for consideration of its Employee Retirement Income Security Act (ERISA) legislative package in order to better safeguard the health and security of American workers.

Second, I plan to use my criminal investigative resources to the maximum extent possible and, in this regard, I intend to explore all opportunities, legislative or otherwise, to minimize the restrictions imposed by the March 1989 Department of Justice opinion concerning the investigative authority of the Inspectors General.

Finally, I believe the Congress should signal its strong commitment to law enforcement by providing basic law enforcement tools and techniques, such as the powers to make arrests and carry firearms, to the Office of Inspector General.

I have enjoyed my working relationship with Secretary Elizabeth Dole. I am grateful for her support and for the spirit of cooperation she has extended to me and my associates and I wish her well in her new position. I look forward to working with her successor to ensure that the Department of Labor continues to be a strong and vibrant voice for the American worker.



Julian W. De La Rosa  
Inspector General

# CONTINUING CONCERNS OF THE INSPECTOR GENERAL

Several serious concerns of the Office of Inspector General (OIG) that can have a substantial impact on the effectiveness of Department of Labor programs and operations remain in the category of “unfinished business.”

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## **Improving Criminal Enforcement Actions**

The OIG testified on several occasions before the Congress about the need for criminal sanctions against perpetrators of egregious white-collar crime involving laws protecting American workers. In response to the OIG’s continuing criticism and a series of some eight hearings during the last 13 months, as well as considerable press and media attention, the Department formed a task force to study the problem and make recommendations to the Secretary.

While the Task Force’s September 1990 report made several recommendations emphasizing voluntary compliance and information sharing, which may improve the general enforcement program, in our opinion, the report failed to address effectively the central issue of criminal enforcement. The report ignores the problem of clarifying Department of Justice’s Office of Legal Counsel’s March 1989 opinion which severely limits the OIG’s investigative ability and limits the Secretary’s ability to delegate authority for investigations. In addition, it does not acknowledge the OIG’s responsibility to coordinate investigations as specified in the Inspector General Act. The OIG will be closely reviewing and monitoring the Department’s efforts and progress in this area.

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## **Fraudulent Health Insurance Schemes**

The OIG also testified during this period about the problem of fraudulent multiple employer welfare arrangements or MEWAs. These schemes continue to result in tragic consequences by holding thousands of employers and their workers personally liable for unpaid medical bills even though they believed there was health coverage.

The OIG will continue to conduct Federal criminal investigations and assist the States in addressing the MEWA problem. A continued Federal role is necessary because the multi-State operation of most of these fraudulent MEWAs severely hampers the ability of individual States to reach the culpable individuals.

# EXECUTIVE SUMMARY

## Small Employer Health Insurance Fraud

Fraudulent multiple employer welfare arrangements or MEWAs continue to result in tragic consequences to thousands of American employers and workers ..... 1, 39

## Pension and Welfare Benefits Vulnerability

The nation's private pension and welfare plans are still open to fraud and abuse because of inadequate audits by independent public accountants, lack of independent plan oversight and the absence of a requirement that plans report significant ERISA violations. Although a draft audit guide finally has been presented by the AICPA, a final product must be promulgated quickly to address the continuing vulnerability ..... 2, 21, 47

## DOL Criminal Enforcement Problems

In a June 1990 report to the Secretary, OIG concluded that, regardless of the role management defines for criminal enforcement, the Department needs a framework to capture and report data about its criminal investigations. The report also urged the Department to revisit the issues raised by two Department of Justice opinions for reasons of departmental independence and policy. However, these issues were not addressed in the "Report to the Secretary of the Task Force on Enforcement" which was issued in September 1990 ..... 1, 31, 47

## Job Training Partnership Act (JTPA) Problems

OIG work continues to disclose extensive financial difficulties and management problems in JTPA programs nationwide. Unfortunately, legislation that would have addressed many of these flaws died. Without legislation, these kinds of problems will continue ..... 11, 48

For example, OIG questioned \$7.64 million in JTPA expenditures by the Louisiana Department of Employment and Training which spent the money inappropriately for a high-tech learning center in which no JTPA participants were trained, ineffective dislocated worker training with unachievable goals, and duplicate services already available from other sources such as the Job Service ..... 12

The OIG questioned 33 percent of the total JTPA expenses reported (primarily for less-than-arms-length transactions and improper expenses) in an audit of the National Urban Indian Council which was doing business both as the Georgia Association of Native Americans and the Delaware Indian Council. To date, audit findings from this and previous reports total over \$1.1 million ..... 14

After auditing several Opportunities Industrialization Centers of America (OIC/A) grants, OIG recommended that OIC/A be designated a “high risk” grantee. OIG also questioned almost 36 percent of the JTPA monies granted to the Greater Flint Opportunities Industrialization Center in Flint, Michigan ..... 14

### **Employment Service Problems**

ETA’s failure to impose foreign labor certification fees resulted in a loss to the Treasury of an estimated \$100 million since Fiscal Year 1988. During Fiscal Year 1991, we plan to review other departmental programs to identify those which should institute user fees for recovery of program costs ..... 19

### **DOL Financial Management Problems**

OIG’s oversight of the Department’s new general ledger accounting system (DOLAR\$) identified adverse conditions which prevent the Secretary of Labor from reasonably assuring the Department’s compliance with statutory requirements ..... 28

### **Top Union Officials and Reputed Organized Crime Figures Indicted**

Eight top officials of the Painters Union in New York City, two reputed major figures of the Luchese organized crime family, and others were indicted by a New York grand jury in June. The 153-count indictment charges them under the New York State Organized Crime Control Act with the crime of enterprise corruption, bribing a labor official, receiving bribes, grand larceny, coercion, and conspiracy ..... 43

**Selected Statistics**  
**April 1 - September 30, 1990**

**Audit Activities**

Reports issued on DOL activities.....	245
Total Audit exceptions .....	\$131.2 million
Recommended cost efficiencies .....	\$99.3 million
Reports issued for other Federal agencies .....	1
Dollars resolved .....	\$347.6 million
Allowed .....	\$3.6 million
Disallowed .....	\$344.0 million

**Fraud and Integrity Activities**

Allegations reported .....	545
Cases opened .....	304
Cases closed .....	521
Cases referred for prosecution .....	138
Individuals or entities indicted .....	97
Successful criminal prosecutions .....	154
Recoveries, fines, penalties, restitutions, settlements, and cost efficiencies .....	\$8.5 million

**Labor Racketeering Investigation Activities**

Cases opened .....	62
Cases closed .....	43
Individuals indicted.....	76
Individuals convicted .....	44
Fines .....	\$365,500
Forfeitures .....	\$259,444
Restitutions .....	\$2,737,731
Backtaxes .....	\$176,271

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# Chapter 1

## OFFICE OF AUDIT

During this reporting period, 245 audits of program activities, grants, and contracts were issued. Of these, 20 were performed by OIG auditors, 42 by CPA auditors under OIG contract, 26 by State and local government auditors, and 157 by CPA firms hired by grantees.

This chapter has three sections. The first section contains information about audits of the Department's programs (immediately following). The second section assesses progress and problems in DOL's Federal financial management systems and reaffirms OIG's commitment to annual audited financial statements (page 27). The third section reports on the Department's enforcement program (page 31).

Reports on significant audit resolution are contained in Chapter 5 (page 51) and revised management decisions can be found in Chapter 6 (page 55). Money owed to the Department, audit schedules and tables, and a listing of final audit reports issued and resolved this period are found in Chapter 7 (page 57).

### Section 1

#### Agency Activities

##### **EMPLOYMENT AND TRAINING ADMINISTRATION (ETA)**

ETA oversees the administration of the nation's employment and training system, principally the employment security programs of Unemployment Insurance (UI) and the Employment Service (ES), as well as the Job Training Partnership Act (JTPA) programs. Together, these programs are designed to maintain income for the unemployed while assisting them to obtain employment and, if necessary, provide them training through JTPA to increase their employability. ETA's Fiscal Year 1990 authorized staffing is 1,753 with a budget of about \$7.2 billion. Of that amount, \$2.5 billion was for State UI and ES operations and \$3.9 billion was for JTPA. In addition, the UI Trust Fund totaled \$45.7 billion in Federal and State cash accounts on deposit with the U.S. Treasury.

During this reporting period, the OIG conducted significant audit activity in JTPA programs (including State level, Job Corps and other federally-administered

activities); continued to monitor the Unemployment Insurance Service's developing Quality Control program; and completed a review of the Department's portion of the Foreign Labor Certification program which is operated by the Employment Service.

##### **Job Training Partnership Act (JTPA)**

Since the last *Semiannual Report*, the Congress appears to have moved closer to passage of needed amendments to JTPA. In June, the OIG was asked to testify for the third time before the House Education and Labor Committee on its recommendations for amendments. The Assistant IG for Audit and Secretary Dole each testified. Subsequent to the hearing, most of the issues raised during testimony were addressed by H.R. 2039, which was passed by an overwhelming margin of 416 to 1. Additional remarks on this legislation are included in the legislative assessment section (page 48).

JTPA programs prepare youth and unskilled adults for entry into the labor force and afford job training to

those economically disadvantaged individuals, dislocated workers, and others facing serious barriers to employment. Under JTPA Titles II and III, the Secretary of Labor grants funds to 59 States and entities which, in turn, distribute them to service delivery areas (SDAs) and other organizations. Grants are used for adult and youth programs, summer youth programs, and dislocated worker assistance.

During this period, the OIG audits questioned \$17 million in JTPA expenditures.

#### **Louisiana Department of Employment and Training (LDET): Report I**

(Audit Report No. 06-90-003-03-340, issued 4/30/90)

In the previous *Semiannual Report*, the OIG discussed work completed on the Louisiana Department of Employment and Training (LDET). The audit questioned \$1.04 million in JTPA expenditures by LDET. This included \$783,951 in JTPA costs expended for a high-tech learning center for dislocated workers at Northwestern State University in Natchitoches, Louisiana. Considerable funds were expended to install satellite communications equipment, television cameras, studio equipment, and computers. ETA reports that the State repaid \$533,340 in August 1990, as a partial reimbursement for the TV equipment purchased.

#### **Louisiana Department of Employment and Training (LDET): Report II**

(Audit Report No. 06-89-006-03-340, issued 9/17/90)

In September 1990, the OIG issued a second report to ETA's Assistant Secretary which questioned a further \$6.6 million in JTPA expenditures.

Of the \$6.6 million, \$3.2 million was questioned because LDET failed to administer JTPA Title III (dislocated worker) funds in a competent, timely manner. LDET held back almost half the available Title III funds until less than 4 months remained in the program year. As a result, program performance dropped dramatically because funds were expended at the last minute for ineffective dislocated worker training programs with unachievable goals. The OIG concluded that this last-minute activity wasted JTPA funds and that the funds were expended with no regard for the results.

Over \$3 million in Title III (dislocated worker) funds was used to establish "Job Link Centers" at universities in the State. The purpose was to provide a "one stop" location for dislocated workers. The cost of the centers

was questioned because the expenditure duplicated services already available from the Louisiana Job Service, Title III contractors, or Title III substate grantees.

Other questioned costs included \$82,213 for an employment and training conference in New Orleans that was inadequately planned and resulted in unreasonable and unnecessary costs, and \$212,753 for subgrants to the Louisiana Department of Economic Development for unallowable economic development activities.

LDET officials disagreed with the findings but presented no documentation to support their response. Consequently, the recommendations remain unchanged.

#### **Junction City, Kansas Administrative Service Contractor**

(Audit Report No. 05-90-045-03-340, issued 5/4/90)

At ETA's request, a special evaluation of the internal controls and subcontractor payments of the Administrative Service Contractor (ASC) in Junction City, Kansas, was conducted.

ASC had serious internal control weaknesses attributable to its organizational design and lack of written guidance for most financial functions.

Inadequate internal controls contributed to the basic findings that bank accounts had not been reconciled timely; there was a lack of followup on dated outstanding checks; and close-out expenditure reports for program years 1984 through 1987 were not filed with the Kansas Department of Human Resources.

Under audit resolution procedures, the State has 180 days to resolve the audit with the SDA before ETA takes action. The State has until November 4, 1990, to report to ETA.

#### **Greater Flint Opportunities Industrialization Center (GFOIC)**

(Audit Report No. 05-90-058-03-340, issued 9/28/90)

ETA requested a review of the Greater Flint Opportunities Industrialization Center (GFOIC) in Flint, Michigan.

The OIG questioned \$540,663 of \$1,514,385 paid to GFOIC during Program Years 1987 and 1988. The audit found that GFOIC received \$449,571 for improper contract modifications. In Program Year 1987, GFOIC requested a \$292,000 contract change 5 months

after the original contract expired without stipulating additional consideration. In Program Year 1988, GFOIC received \$157,571 it would not have earned had fixed unit price, performance based contracts not been converted to cost reimbursement 2 months prior to expiration.

GFOIC also could not support or justify payment received of \$28,500 for 95 referrals to the SDA and \$65,592 for 32 unverified payments.

The OIG also found that GFOIC needs to improve its accounting system and internal controls to safeguard funds received. The OIG found amounts claimed and expensed to contracts could not be reconciled to books and records. Also, there were no written policies and procedures to assure that GFOIC's operation was administered in a manner whereby program objectives could be achieved.

Legal arguments disputing OIG's position on questioned costs of \$449,571 for improper contract changes were submitted in response to the draft report. The auditee also maintained that it has an effective monitoring system.

The OIG still believes the auditee entered into improper contracts only to shore up GFOIC's cash flow. The findings and recommendations remain unchanged.

#### **Big Five Community Services, Inc.**

(Audit Report No. 06-90-001-03-340, issued 9/28/90)

The Big Five Community Services, Inc. (Big Five), a nonprofit corporation located in Durant, Oklahoma, serves as the JTPA SDA for southern Oklahoma. The OIG conducted a review to determine whether JTPA funds were expended in accordance with applicable laws and regulations.

The review revealed serious program abuses and apparent conflicts of interest at the SDA. The SDA used its close relationship with companion programs and another local nonprofit organization in the community to award contracts which overcharged the JTPA program for office space, rental costs, equipment usage, and other administrative costs. In addition, the OIG found unallowable or inappropriate program activities performed which were unnecessary for the proper administration of the JTPA program. Other State and Federal programs run by Big Five were being similarly overcharged.

Even though there were audits purchased by Big Five from local CPA firms and numerous monitoring visits by the State, these abuses were not discovered. Total questioned costs amounted to \$137,514.

#### **ONGOING AUDIT WORK**

As promised in the last *Semiannual Report*, the OIG currently is developing information about JTPA program results by measuring the specific benefits that JTPA participants receive and the relationship between those benefits and the JTPA training. The OIG also is reviewing the effectiveness of existing skills and needs assessment techniques and the relationship between those assessments and the training or services provided the participants.

The OIG is presently reviewing JTPA'S impact on reported placements. This assignment is a continuation of the audit of JTPA Title II-A program accomplishments developed and conducted at the Ventura County, California SDA. Field work has started at the Tacoma-Pierce County Employment and Training Consortium in Tacoma, Washington, and at the Berks County, Pennsylvania, SDA.

In compliance with auditing standards which require that the OIG work with interested parties to agree on appropriate audit criteria when criteria do not exist, ETA officials were requested to assist us in more precisely defining audit objectives and criteria. The OIG also believes it is in the Department's best interest to assist in developing audit criteria for DOL programs when criteria are lacking. However, ETA officials have advised that ETA is not currently in a position to develop specific policies/criteria in areas of OIG interest; there is no legislative requirement to impose such requirements; and the Private Industry Councils (PIC) are responsible for determining who is to be served and how.

#### **SPECIAL TARGETED PROGRAMS**

Title IV of JTPA covers federally-administered programs which provide job training to economically disadvantaged, unemployed, or underemployed special target groups. It also authorizes job training programs or services which are most appropriately administered at the national level and which are operated in more than one State.

During this period, work was completed in Indian and Native American programs, Job Corps, and National Activities.

## INDIAN AND NATIVE AMERICAN PROGRAMS

Title IV, Part A of JTPA authorizes programs for Indian and Native Americans. Contrary to programs under JTPA Titles II and III, these programs are directly administered at the national level by ETA.

While grantees are covered under the auspices of the Single Audit Act, the OIG continues to respond to management requests for reviews of program results, economy and efficiency, or because of complaints of program abuse. In work completed this period, the OIG questioned \$440,318 in expenditures from grants awarded to Indian and Native American programs.

### **National Urban Indian Council (NUIC)** (Audit Report No. 18-90-033-03-355, issued 9/28/90)

In an audit of NUIC, doing business both as the Georgia Association of Native Americans and the Delaware Indian Council, covering July 1987 through June 1989, the OIG questioned 33 percent (\$322,702) of the total JTPA expenses reported (\$978,534), primarily for less-than-arms-length transactions (*i.e.*, each party is acting in his/her own self-interest to the matter at hand) and improper expenses.

NUIC contracted with six firms to provide various training services and materials to JTPA participants at a cost of \$128,717. All of these contracts violated the JTPA conflict of interest regulations and consisted of less-than-arms-length transactions with business associates of NUIC's Chief Executive Officer.

NUIC also entered into lease agreements which were less-than-arms-length transactions for office space and word processors. Total questioned costs are \$22,000. Finally, NUIC improperly used Federal funds for unspecified purposes, undocumented travel costs for its Board members, and unsupported retainers to its attorney. Total questioned costs are \$116,593.

From 1983 to the present, ETA's Division of Indian and Native Americans entered into grant agreements with NUIC and the National Indian Business Council (NIBC), a related entity, to provide various training and employment services to Native Americans. The Chief Executive Officer of NUIC was also the President of NIBC. In

addition NUIC and NIBC have interlocking Boards of Directors.

In prior reports, the OIG identified serious and flagrant program abuses and conflicts of interest by NUIC, in general, and by NUIC's Chief Executive Officer, in particular. Prior audits of NUIC, based on ETA requests, coupled with the results of the most current audit, now bring total audit findings to over \$1.1 million. ETA has already disallowed more than \$1 million, relating primarily to conflict of interest issues. ETA terminated its grant relationship with NUIC in 1989.

## TECHNICAL ASSISTANCE AND TRAINING RESEARCH AND DEMONSTRATION PROJECTS: NATIONAL ACTIVITIES

JTPA authorizes funds for research and demonstration projects, pilot projects and technical assistance and training programs. During this period, the OIG completed projects related to Opportunities Industrialization Centers of America, Inc. (OIC/A) at both the national and local levels. The most serious findings in the national grants are reported below. The results of the Greater Flint (Michigan) OIC/A audit are reported above.

OIC/A is a nonprofit organization established in 1964, chartered to provide training and job creation services to the poor and unemployed. It accomplishes this task primarily via 70 affiliates, or job training centers, throughout the United States. Each affiliate is autonomous and is incorporated independently.

Under two ETA national grants covering the period between December 1983 and June 1989, OIC/A provided technical assistance and training to OIC/A's affiliates through several mechanisms including workshops and classes, on-site visits, preparation and dissemination of technical "how to" manuals and information bulletins concerning various aspects of JTPA and other job training materials and legislation. In addition, OIC/A also received a grant from the Women's Bureau covering September 1987 through November 1989, to support a "demonstration job training project" for low-income women.

In a draft financial audit report issued in August 1990 to OIC/A and a management report issued to ETA, the OIG noted that OIC/A has longstanding serious financial and cash management weaknesses, despite repeated ETA monitoring.

## Draft Financial Audit Report

Of the \$7.9 million in direct costs claimed by OIC/A for the three grants during the audit period, \$802,761 was questioned primarily because OIC/A improperly charged DOL for the labor costs of its management and administrative personnel while they worked on non-DOL programs. OIC/A officials stated that they could not allocate overhead costs to all programs because their non-DOL grants and contracts were written in such a manner that those funding sources would not pay for overhead costs. The OIG is particularly concerned because so many of the costs incurred had no relationship to the grant and believes that it is highly improper for DOL to absorb such costs.

### Management Report

(Audit Report No. 18-90-031-07-735, issued 8/16/90)

The OIG's management report recommended that ETA continue its suspension of the letter of credit privilege until a followup audit is conducted in December 1990 to determine whether OIC/A has properly reconciled and accounted for the differences noted.

### Recurring Deficiencies

In December 1988, ETA identified several financial and cash management areas in which OIC/A was found to be deficient in meeting Federal requirements for the management of grant awards to nonprofit organizations. Since then, two followup reviews by ETA found that only minimal activity had occurred to correct the issues raised in the December 1988 review.

### High-Risk Grantee

After discussion with ETA, the OIG recommended that OIC/A be designated a "high-risk" grantee and that, as specified in 29 CFR 97.12, ETA impose special conditions or restrictions. ETA agreed with the findings and recommendations, while OIC/A generally disagreed with them. However, OIC/A stated that it was willing to develop final indirect cost rate proposals for the years 1984 through 1989.

In August 1990, OIC/A appointed a new president. ETA representatives have already met with him and enumerated the specific areas of concern for which they have required OIC/A to develop and submit a corrective action plan within 30 days. The president advised that he shared DOL's concern about the gravity of the situation.

## Seattle OIC/A and King County Employment and Training

In September 1990, after exhausting departmental collection efforts, ETA referred cases against Seattle OIC/A and King County Employment and Training to the Department of Justice for debt collection. The total amount involved, which exceeds \$500,000, is the result of two OIG audits in 1983.

### JOB CORPS

The Job Corps program is operated under Title IV Part B of JTPA and is designed to serve primarily impoverished and unemployed youth between ages 16 and 21. Comprehensive training in basic and vocational education, work experience, counseling, and enrichment activities are provided at both Federal and contractor administered centers. After training, corpsmembers are provided placement assistance for up to 6 months. Job Corps Fiscal Year 1990 budget is approximately \$767 million. In Program Year 1989, an estimated 113,573 corpsmembers were served.

### Job Corps Program Result Statements and Auditors' Compilation Report for Program Years 1987 and 1988

(Audit Report Nos. 03-90-062-03-370 and 03-90-065-03-370, issued 9/24/90)

As part of the OIG's continuing audit efforts in the Job Corps program, the OIG compiled consolidated program result statements for the Job Corps program as a whole and for each Job Corps center for Program Years 1987 and 1988.

The statements have not been audited and, accordingly, the OIG expressed no opinion nor provided any other assurances on them. However, the OIG is auditing Program Years 1988 and 1989 statements during current fieldwork at 31 Job Corps centers.

The compilation reports contain the following statements:

1. *Statement of Human Resources* presents the total number of participants being served and their average length of time in the program.
2. *Statement of Program Outputs* categorizes the participants that have left the program by placement and non-placement. Placement categories include entering employment, school, or the military. Nonplacement categories include those participants who have not been

placed or whose placement status is unknown. Also presented for each placement and nonplacement category are the number of students with learning gains and GEDs attained during participation in Job Corps' educational programs.

3. *Statement of High School or GED Attainment and Program Outputs* categorizes the participants who have left the program by placement and nonplacement categories and whether the participant had a high school diploma or GED at enrollment or attained them at the center.

4. *Statement of Learning Gains and Program Outputs* presents the number of students with learning gains attained during their participation in Job Corps' educational programs by the participants' placement and nonplacement categories.

5. *Statement of Training Received and Employment Matches* presents the number of participants trained at the Job Corps centers by occupation. Also included are the number of participants placed in employment and in an occupation related to the training received.

6. *Statement of Performance Standards Accomplishments* presents Job Corps performance standards for placement, retention, reading and math gains and GED attainment.

#### **Job Corps Basic Education Review**

(Audit Report No. 03-90-032-03-370, issued 7/24/90)

At Job Corps' request, the OIG performed a survey to determine the reliability of the Performance Measurement System (PMS) statistics for the Basic Education Program. Based on limited review, the OIG believes the reading and math gains and GED attainment reporting system is adequate to ensure reporting accuracy, except for the following weaknesses.

#### *Record Retention Policies Need To Be Revised*

Based on limited review at four centers, the OIG found that documentation supporting the reading and math learning gains and GED attainment was not always available for review and the test results could not always be verified to the ETA Form 6-40, Student Profile, used by Job Corps to record students' achievements in the program. Similar findings were noted earlier by OIG's special program abuse reviews. Job Corps had varying record retention policies for maintaining reading and math learning gains and GED attainment documenta-

tion at the centers. While the centers were following Job Corps record retention policies, the retention period was not long enough to cover the period audited.

In addition, Job Corps did not have consistent record retention policies for its financial and programmatic records. Job Corps agreed with the recommendation and plans to revise the *Job Corps Policy and Requirements Handbook* to establish clear, consistent record retention policies and procedures.

#### *Data Verification Is Needed In Center Review Procedures*

Job Corps directives do not require regional offices to verify reported reading and math learning gains with their source documentation (ETA Form 6-40, test answer sheets and GED transcript) during annual center reviews. Without such periodic reconciliations, simple errors, omissions or inaccurate reporting can go undetected. The potential effect is distortion of center performance statistics and overall program outcomes recorded by the Performance Measurement System.

Job Corps agreed with the recommendations and will revise its *Center Review Guide* accordingly.

#### **Cost Allocation Plans and Indirect Cost Rates**

A potential indirect cost savings to the Government of \$3.5 million could result from indirect cost audits of Job Corps contractors which were completed by the OIG in the last 6 months. The current audit exceptions can be attributed primarily to unallowable expenses (or unallocable costs under applicable Federal regulations) contained in the indirect cost pools and inappropriate allocation bases. Examples of questioned costs follow.

#### **Homebuilders Institute (HBI)**

(Audit Report Nos. 18-90-010-07-735, issued 7/16/90, and 18-90-028-07-735, issued 7/30/90)

The audit of HBI, a not-for-profit corporation under the aegis of the National Association of Homebuilders (NAHB), covered direct and indirect costs for Fiscal Years 1987 and 1988. In addition, the OIG completed a followup review on HBI's Fiscal Year 1986 costs. The Job Corps contract with HBI calls for HBI to conduct training and coordinate job placement programs for Job Corps students in homebuilding trades and skills. HBI (or its parent organization, NAHB) has been

performing these types of services for several years. Costs have amounted to more than \$8 million per year and the current contract is \$10,400,000.

For the 1987-1988 period, the combined effects of costs questioned, the reclassification of direct costs of the Job Corps contract to indirect costs, and a change in the allocation base (from direct personnel costs to total direct costs) total over \$1.7 million. As a result, the CPA issued an adverse opinion, stating that the Statement of Costs do not fairly present the claimed costs for Fiscal Years 1987 and 1988. This opinion on questioned costs is being challenged by HBI.

In June, the OIG alerted ETA to the questioned costs which warranted appropriate action to preclude their continued incurrence under HBI's follow-on contract.

In July, ETA entered into a 1-year contract (with 2 renewal option years) with HBI which addressed the audit findings in negotiating the new contract and incorporating restrictive clauses to deter further abuses. The new contract was reduced by almost \$1 million a year. In addition, it is estimated that ETA avoided incurring \$500,000 to \$800,000 in expenditures as a result of cost containment during the 1-year contract extensions while the followon contract was being negotiated. These actions should result in cost recoveries and cost avoidance totaling about \$5 million.

HBI disagreed with most of these audit findings and the audit resolution process is under way.

In the followup review of HBI's Fiscal Year 1986 indirect costs, the OIG questioned \$276,723, of which \$246,095 relates to indirect costs and \$30,628 to direct costs of the Job Corps contract. Because the review was limited to agreed-upon procedures, it did not identify all the questioned costs that might have been included in the costs incurred by HBI during Fiscal Year 1986. The findings are similar to those reported above: professional services, unapproved salary increases and bonuses, travel, meal functions, and income not credited to the indirect cost pool, as required.

**Career Systems Development Corporation (CSDC)**  
(Audit Report No. 18-90-013-07-735, issued 7/30/90)

Under contract with DOL, CSDC operates 12 Job Corps centers, providing education, vocational training and related support services for approximately 6,400 students at any one time. These are cost reimbursement contracts containing a provision for indirect costs.

For 1986, 1987, and the first 7 months of 1988, CSDC was the Education Division of the Singer Company. In July 1988, the division was sold to Integrated Resources, Inc. With the exception of minimal general oversight assistance provided by Integrated Resources, Inc., CSDC operates as a stand-alone corporation.

The OIG audited CSDC's indirect cost rate for Calendar Year 1988, and audited selected costs for Calendar Years 1986 and 1987, related to the indirect cost rates for those years.

Audit exceptions for the 3 years totaling \$1,212,916 consisted of questioned costs of \$987,916; reductions to indirect costs of \$26,000 for the 1986 Defense Contract Audit Agency (DCAA) audit; and \$199,000 for Calendar Years 1987-1988 costs pending a DCAA audit. The OIG also recommended an increase to the base for direct costs improperly claimed as indirect costs of \$590,000. The dollar impact of the findings is \$1.17 million on Job Corps and \$42,000 on JTPA.

Major findings include CSDC improperly including in its indirect cost pool costs: resulting from the sale of Singer's Education Division to Integrated Resources, Inc.; for specific contracts; for parent corporation overhead; and for bonuses which were unallowable either because they pertained to fixed price contracts, were chargeable to specific contracts, represented bonuses applicable to prior years, or the bonus plan was not approved. CSDC disagrees with most of the reported findings and the audit resolution process is under way.

Due to these findings, the auditors issued an adverse opinion, stating that the indirect costs proposed for CYs 1986-1988 do not fairly represent indirect costs.

**DMJM/HTB-JV**

(Audit Report Nos. 18-90-025-07-735 and 18-90-026-07-735, issued 7/19/90)

DMJM/HTB-JV is a joint venture organized by the two joint venture partners, Daniel, Mann, Johnson, and Mandenhall (DMJM) and HTB, Inc., and its operations are wholly dedicated to providing architectural and engineering management services to Job Corps. The joint venture is staffed by employees of DMJM, HTB, and two subcontractors of the joint venture. Office of Job Corps (OJC) awarded a 1 year cost reimbursement, fixed fee contract to DMJM/HTB-JV with an option to extend the contract for four additional 1-year periods. The total contract, if all option years are exercised, will exceed \$40 million.

The OIG evaluated the reasonableness of DMJM/HTB-JV's methodology to charge direct and indirect costs under the OJC contract. Based on the review, the OIG has serious concerns about the methodology used by DMJM/HTB-JV to (1) allocate certain costs such as fringe benefits, indirect costs, and general administrative expenses; and (2) appropriately separate DOL work from other work for indirect cost allocations. The review results were provided to the Department.

**Technical Assistance Group, Inc. (TAG)**  
(Audit Report No. 18-90-022-07-735, issued 9/28/90)

TAG provided real estate management support services to Job Corps under a cost-plus-fixed-fee contract estimated to cost \$1,277,305 over 3 years. The OIG audited the direct costs claimed for reimbursement covering the period between August 1986 and September 1989 and also audited TAG's indirect cost submissions for Calendar Years 1986-1988.

The audit resulted in \$112,480 of indirect costs (61 percent of the proposed final indirect costs) and \$75,805 of the direct costs being questioned. Most of the questioned costs resulted from a number of situations and transactions which, taken collectively, revealed what the OIG concluded to be a pattern of program abuse by TAG. Those questioned costs accrued directly to the benefit of TAG's president and his family, such as the costs of family vacations and other personal expenses being run through corporate expense accounts.

Due to the reported findings, the auditors issued an adverse opinion for the direct costs claimed and the indirect costs proposed for the audit period. In addition, based on the audit results, ETA terminated TAG's new "follow-on" contract in September 1990 by not exercising the first option year under the contract.

TAG disagrees with most of the findings and the audit resolution process is under way.

## **Unemployment Insurance Program**

The Social Security Act of 1935 authorized the Unemployment Insurance (UI) program which is a unique Federal-State partnership that is based upon Federal law, but is implemented through individual State legislation.

This program is administered by the State Employment Security Agencies (SESAs). At the Federal level, the

Unemployment Insurance Service (UIS) of ETA is charged with ensuring proper and efficient administration of the UI program.

**SESA Investment of Unemployment Insurance Funds**  
(Audit Report No. 04-87-030-03-325, issued 8/8/88)

In August 1988, the OIG reported that the States' Unemployment Trust Funds are losing as much as \$15 million annually in potential interest income because ETA prohibits States from investing "float" generated in the unemployment benefits disbursement process. "Float" is the period between the time that benefit disbursements are made by the States and the time that the payment instruments are returned to the bank or State treasury for redemption. Float, even if available only overnight, has significant earnings potential.

The OIG affirms its recommendations that ETA allow the States to take advantage of more effective cash management alternatives, including investment of benefit payment account float, and establish systems and/or regulations which will assure that investment earnings are returned to the Trust Fund. ETA and the OIG have yet to reach agreement on this issue.

In May 1990, ETA published for comment a Federal Register Notice outlining a revised cash management program for State unemployment funds, including the use of overnight float in conjunction with other funds in a system of controlled compensating bank balances established by the State to defray banking costs.

ETA has been considering the extensive comments that resulted from this Notice. In the interim, Congress enacted governmentwide cash management legislation (H.R. 4279), authorizing the investment of benefit payment account float and requiring the return of investment earnings less related banking costs. Authorization for investment of float, long recommended by the OIG, should provide a legal framework for the resolution of this longstanding disagreement. In view of this legislation, ETA will reexamine entirely its proposed approach as published in May.

## **UI QUALITY CONTROL MONITORING**

The UI Quality Control (UI-QC) was envisioned as a major vehicle for the Department to aid the Secretary of Labor in fulfilling the statutory responsibility for UI program oversight. The UI-QC program is designed to measure the performance of States in meeting their

individual laws, policies and procedures. UI-QC was intended to be comprehensive in scope to include benefit payments, denied claims and tax collections.

To date, only benefit payments (benefits QC) is fully operational. Annual reports for Calendar Years 1988 and 1989 have been issued presenting the error rates and corrective actions by each State. Denied claims (denial QC) has had various pilot activities but presently is on hold awaiting resource and policy decisions by UIS. Tax collections (revenue QC) is presently being refined and the OIG has been asked by UIS to comment on its revenue QC procedures. UIS plans to test revenue QC in several States in 1991 or 1992.

Due to tightening of available resources, UIS is proposing a study which would develop the future direction for UI-QC.

While funding resources will have a major impact upon the UI-QC program's expansion (or contraction), the OIG's overriding concern is whether UI-QC will evolve into the comprehensive system encompassing the entire UI program. The OIG believes that UI-QC is the primary vehicle for measuring the accuracy and efficiency of State UI administrative procedures to aid the Secretary of Labor in carrying out her responsibilities for UI program oversight.

The OIG's efforts are directed at ensuring an effective and comprehensive UI program. The OIG will continue to work with UIS to review the benefit QC program and to develop the denial and revenue QC procedures.

#### **STATE EMPLOYMENT SECURITY AGENCIES (SESAS)**

SESAs administer Federal and State unemployment compensation laws and programs and operate the public employment service, a national system providing no-fee employment services to individuals seeking employment and employers seeking workers. The unemployment compensation program operates through a Federal-State cooperative relationship in which the major functions performed by the States are the collection of State taxes from employers, determination of benefit entitlement, and payment of benefits. Federal funds to administer the labor exchange system are provided by statutory formula to the States.

#### **User Charges Could Recover Full Costs of Foreign Labor Certifications**

During a review of ETA's foreign labor certification functions, the OIG noted that ETA did not impose user fees for processing and issuing all labor certifications for foreign workers. Such a fee is authorized by 31 U.S.C. 9701, "Fees and charges for Government services and things of value," and required by Presidential policy, prescribed by OMB Circular A-25, "User Charges."

Program costs for the foreign labor certification functions exceeded \$102 million from Fiscal Years 1988 through 1990. During this same period, it is estimated ETA's recovery of program costs was less than \$2 million, via nominal service fees charged in one of the certification programs. ETA's failure to impose user fees to the extent authorized by law and required by Presidential policy resulted in the Treasury not collecting an estimated \$100 million in revenues between Fiscal Years 1988 through 1990.

The OIG has recommended that ETA immediately implement full cost recovery service fees for all foreign labor certification programs to prevent significant revenue losses in the future and to make the labor certification programs self-sustaining.

ETA responded that the recommendation:

... fails to recognize political reality. ETA's experience in implementing an employer fee for the H2A program is illustrative of the problem. The statute creating the H2A program specifically authorizes DOL to charge a fee. During the regulation drafting process, DOL conducted a survey of regional offices to determine time and expenses involved in processing and granting labor certifications. After the survey and analysis of costs, DOL derived an average for the administrative costs involved in handling an H2A application. This "average" cost (based on realistic expenses) was included in a draft of program regulations circulated to Key Congressional staff and interest groups for reaction and comment. The reaction was extremely negative, and DOL was forced to considerably scale back the level of the fee in order to accommodate political concerns which threatened more important worker protection provisions of the regulations.

**ETA Fiscal Year 1989 Financial Statements**  
(Audit Report Nos. 12-90-009-03-001, issued 3/30/90, and  
12-90-017-03-001, issued 9/28/90)

ETA's consolidated statements of operations for the Fiscal Years ended September 30, 1989, and 1988, were audited. The audit covered: \$6.1 billion each year in expenses for grants, subsidies and contributions, primarily with various state and local governments and nonprofit organizations; and expenses for unemployment benefits incurred by SESAs in the amounts of \$17 billion and \$13.7 billion, respectively.

The independent auditors' report on consolidated financial statements, issued in March, contains a qualified opinion for the lack of accounting records to determine accrued state and Federal unemployment insurance taxes due at September 30, 1989, and the lack of subsidiary records to support advances made to the public, grantees and contractors.

During this period, the OIG issued the independent auditors' report on internal controls and on compliance with laws and regulations. This report complements the final report on ETA's Fiscal Year 1989 financial statements. The report notes four material internal control deficiencies relating to (1) cash management controls over grantee advances, (2) grant and contract management, (3) procedures for valuing Unemployment Trust Fund (UTF) receivables, and (4) accounting controls over the Federal Employees' Compensation (FEC) Account. Deficiencies regarding grant and contract management, UTF receivables and the FEC Account have continued from prior years.

**Cash Management Controls Over Grantee Advances**

Based on ETA's accounting records at September 30, 1989, the departmental general ledger advance account indicated outstanding advances of \$954 million after audit adjustments, 87 percent of which had been advanced to JTPA grant recipients. These accumulated JTPA advances had increased 84 percent from the \$449 million reported in Fiscal Year 1988 and appear to indicate that the grantees retained cash far in excess of their immediate cash needs, resulting in interest losses to the Federal Government.

As a result of this finding, ETA further analyzed the advance account balance and tentatively concluded that accrued expenses for grants, subsidies and contributions were understated at September 30, 1989, and that, consequently, advances were overstated.

While the information presented by ETA, if substantiated, would reduce the advance account balance, it points to an absence of effective internal accounting controls. Since 1986, the auditors' reports on ETA's financial statements contained a qualification due to ETA's failure to reconcile the general ledger advance balance with subsidiary records. Auditors' reports on ETA's internal accounting controls have contained findings relating to this deficiency.

In the Fiscal Year 1990 audit, the OIG will verify the additional information provided by ETA.

**Accountability for Fiscal Year 1982  
Disabled Veterans' Outreach Program (DVOP)**

In the March 1988 *Semiannual Report*, the OIG reported that several States did not fill mandatory DVOP specialist staffing levels for Fiscal Year 1982. A total of 14 audits questioned approximately \$2.7 million for this and other compliance issues.

Fiscal Year 1982 was the last year in which ETA administered DVOP; it was subsequently transferred to the Veterans' Employment and Training Service in Fiscal Year 1983.

During audit resolution of these reports, the OIG disagreed with ETA's proposed management decisions. As a result, GAO's Office of General Counsel was requested to clarify the States' responsibilities under the DVOP statute, P.L. 96-466.

The issue was whether the States should be accountable for repaying monies to the Department for funds made available to create DVOP specialist positions but expended on non-DVOP activities.

GAO concluded that, although the law required States to hire a particular number of DVOP specialists, Department regulations instructed the states to finance DVOP using the base Employment Service grant and did not earmark a specific funding level for DVOP. Further, grantees were only constrained to use grant funds in a general sense, *i.e.*, for a variety of employment services competing for limited funds. Although the DVOP specialist positions went unfilled, the Fiscal Year 1982 grant funds did not lapse and were used for grant activities. Accordingly, GAO saw no basis to recoup the expenditures, as long as the funds were expended for otherwise eligible grant activities.

In a separate audit of the Virginia Employment Commission's (VEC) DVOP (Audit Report No. 11-6-061-03-325, issued 9/18/86), ETA originally agreed with OIG's conclusions. VEC appealed, then settled and paid \$179,124 in August 1988. However, the result of GAO's subsequent finding -- that, for DVOP, no basis exists for questioning the expenditure of funds spent for otherwise eligible activities -- would have relieved VEC of liability for the misspent funds. As a result, ETA revised its management decision on VEC and has since returned \$179,124 to Virginia.

ETA's accountability over the States' use of DOL funds, particularly during transitional periods or when new programs are being established, is essential to achieving policy goals. Specifically, ETA needs to ensure when starting up new programs that (1) grantee responsibilities are clearly delineated within grant agreements and supplemented by regulation; (2) funding amounts are specified in the grant agreement; and (3) program goals are specified in level of services to be provided.

The OIG requested that ETA advise what controls are planned to ensure that accountability is maintained in future agreements with grantees and contractors.

## **PENSION AND WELFARE BENEFITS ADMINISTRATION (PWBA)**

PWBA carries out the Department's responsibilities under Title I of the Employee Retirement Income Security Act (ERISA) and certain provisions of the Federal Employees' Retirement System Act of 1986. PWBA is responsible for regulatory, enforcement, research, and reporting and disclosure functions. PWBA's oversight of employee benefit plans impacts on the protection of over 65 million individuals and over \$2 trillion in assets, about one third of the nation's investment capital. For Fiscal Year 1990, PWBA's authorized staffing is 505 and its budget is \$43.8 million.

### **Draft ERISA Audit Guide Issued Other Problems with Plan Audits Still Unresolved (Audit Report No. 09-90-001-12-001, issued 11/9/89)**

The AICPA issued the draft of the proposed "Audit and Accounting Guide - Audits of Employee Benefit Plans" for comment on August 31, 1990. This is a culmination of the combined efforts among the AICPA, the OIG, and PWBA during the past year to produce a revised ERISA audit guide. The OIG and PWBA are reviewing the exposure draft and providing comments to the AICPA.

The revised guide makes significant progress toward providing a full generally accepted auditing standards (GAAS) audit for pension and benefit plans by reflecting requirements contained in recent Statements on Auditing Standards (SASs). These SASs relate to the auditor's responsibility to detect and report errors, irregularities and illegal acts, and to examine internal controls.

The OIG and PWBA are currently working to resolve the remaining issues surfaced in the November 1989 report on pension plan audits: (1) establishing parties separate from plan management to oversee plan audits on behalf of participants; and (2) direct reporting of significant ERISA violations and events by plans.

### **Positive Response Continues From Prior OIG Report on Quality of IPA Audits of Employee Benefit Plans**

Work performed during the OIG's review of the quality of IPA audits of pension and welfare benefit plans covered by ERISA identified substandard work performed by the IPAs. The IPAs were referred to PWBA for appropriate action, including further referral to the AICPA. PWBA has made significant progress and we commend the AICPA for taking appropriate actions on those referrals. In August 1990, the OIG and PWBA met with the AICPA and were able to discuss the disposition of the first 10 of these referrals. In general, the AICPA agreed with the OIG's findings of substandard work. The AICPA's objective in the resolution of the referrals was one of rehabilitation, by requiring the IPAs to complete 40 or more hours of continuing education in ERISA audits and other related audit areas. Some of the referrals were recommended for suspension.

Also, the AICPA recently announced the Inaugural AICPA/DOL Conference on Employee Benefit Plans. This is a direct result of positive combined efforts of the AICPA and PWBA.

## **EMPLOYMENT STANDARDS ADMINISTRATION (ESA)**

ESA coordinates a variety of programs protecting the basic rights of workers, including minimum wage and hour standards, various workers' compensation programs, and equal employment opportunity and affirmative action programs for employees of Government contractors. ESA includes the Wage and Hour Division, the Office of Workers' Compensation Programs (OWCP), and the Office of Federal Contract Compliance Programs (OFCCP).

ESA is the second largest program agency in the Department in terms of expenses. For Fiscal Year 1990, budgeted positions and dollars for ESA salaries and expenses were 4,043 and \$246 million, respectively. Approximately \$1.459 billion was paid out in Federal employees' compensation benefits and \$573 million in Black Lung disability benefits.

The OIG completed work on FECA Third Party Recoveries and continued investigations into potential Program Fraud Civil Remedies Act cases relating to the Federal Employees' Compensation Act and Davis Bacon and Related Acts (DBRA) during this semiannual period. After the end of the period, the Deputy Secretary responded to the OIG's February 1990 request for resolution of one recommendation from the OIG's nationwide OFCCP report. The point of contention was whether "underutilization," which is critical to many OFCCP enforcement activities, should be precisely defined by regulation. The Deputy Secretary's response can be found in the Appendix to this report.

## **Wage and Hour**

Of ESA's \$246 million budget for Fiscal Year 1990, Wage and Hour uses the largest portion to enforce a wide variety of labor standards.

### **PROGRAM FRAUD CIVIL REMEDIES ACT CASES IN FEDERAL CONTRACTOR FRAUD**

The Program Fraud Civil Remedies Act of 1986 (PFCRA) created a tool which agencies can use to prosecute administratively false claims and statements. Prior to the PFCRA, the remedies used by agencies which had investigated false claims and statements were generally the Civil False Claims Act for false claims, and criminal prosecution for false statements and claims. If the potential recovery was small, U.S. Attorneys were often reluctant to prosecute. With the PFCRA, however, agencies need only obtain Department of Justice approval before initiating their own administrative procedure to prosecute "smaller" (up to \$150,000) false claims and statements.

Under the Act and the Department's implementing regulations, the OIG is assigned the role of Investigating Official, while the Solicitor of Labor is designated as Reviewing Official. Cases are heard before the Department's Administrative Law Judge (Presiding Official).

To date, the OIG has investigated and submitted 12 cases to the Solicitor of Labor for prosecution (with a

maximum penalty potential of \$2.4 million) -- 7 DBRA, 3 FECA, and 2 JTPA. Of these cases, the Solicitor has completed its legal sufficiency review and referred 5 of the 12 cases to the Justice Department. Justice has approved prosecution on 4 of these cases.

During this period, the first DOL PFCRA case was settled. On September 21, a verbal settlement agreement (subsequently finalized in October 1990) was reached with the defendants in one of the DBRA PFCRA cases: a California construction firm performing work under a U.S. Navy contract. Under the agreement, the defendants admitted guilt and agreed to pay \$40,000 in penalties. The firm submitted false payrolls to conceal the underpayment of prevailing wages and fringe benefits in violation of wage and hour laws.

This semiannual period, the OIG referred its seventh Wage and Hour fraud case to the Solicitor for prosecution under PFCRA. In this case, a contractor is alleged to have used a scheme involving false statements in order to defraud employees of a portion of their wages and fringe benefits for work performed on a construction project.

## **Office of Workers' Compensation Programs**

### **FEDERAL EMPLOYEES' COMPENSATION ACT (FECA) PROGRAM**

FECA is the sole form of workers' compensation available to Federal employees who suffer on-the-job traumatic injury or occupational disease. DOL administers the Act, but all Federal agencies influence how effectively it operates. In Fiscal Year 1990, FECA's staffing level was 878 with a \$51.2 million budget. ESA will pay out approximately \$1.467 billion for injured Federal employees using appropriated funds collected through chargebacks to other Federal agencies. Approximately 57,000 claimants received long-term benefits and another 78,000 Federal employees filed for continuation of pay for traumatic, job-related injuries.

### **Management Advisory Comments - FECA Payment Systems**

(Audit Report No. 06-90-002-04-431, issued 7/6/90)

Internal controls over the FECA compensation and medical bill payment systems were reviewed as part of the audit of ESA's financial statements for Fiscal Year 1989.

As a result of the review, the OIG identified and reported to management weaknesses in payment controls over both FECA compensation payments to claimants and payments to medical or other service providers. Similar weaknesses were reported in ESA's Fiscal Year 1988 financial statements. OIG also reported problems with the weekly audit of the Bill Payment System.

ESA management has taken or plans to take prompt action on the recommendations.

### **FECA Third Party Liability**

In this semiannual period, the OIG completed work on an audit of the Division of Federal Employees' Compensation (DFEC's) systems to identify, process and recover funds from third parties responsible for injuries to Federal employees.

DFEC's systems are generally effective in recovering funds from third parties identified as liable for injuries to Federal employees. DFEC recovered \$5.8 million in Fiscal Year 1988, \$10.6 million in Fiscal Year 1989, and \$13.2 million in Fiscal Year 1990 from third parties. However, the initial identification process could be improved. For example, more effective use of the agency's automated systems and available management information may have identified an additional \$1.8 million in Fiscal Year 1988 FECA disbursements attributable to third parties. While it was not possible to determine what proportion of the \$1.8 million might have been recoverable, identifying third party liability is a prerequisite for any recovery of FECA disbursements.

DFEC is evaluating the recommendations.

### **Program Fraud Civil Remedies Act (PFCRA) Cases in FECA**

This semiannual period, the OIG referred a third FECA case to the Solicitor of Labor (SOL) for civil prosecution under PFCRA. The case involves an individual who worked and received earnings while receiving FECA compensation payments from OWCP for "total disability" and failed to notify OWCP, as required, of employment.

## **OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)**

OSHA administers programs designed to assure the safety and health of workers at their worksites. This includes setting workplace regulations and standards for a safe and healthful working environment, enforcing compliance by inspecting places of employment, and providing occupational safety and health training and education. To administer the program for Fiscal Year 1990, OSHA had a staffing level of 2,425 and a \$267 million operating budget.

During this semiannual period, the OIG completed an audit of OSHA's Fiscal Year 1989 financial statements. The OIG also completed two audits of OSHA New Directions grantees.

### **Audit of OSHA's Fiscal Year 1989**

#### **Financial Statements**

(Audit Report No. 05-90-035-10-001, issued 6/28/90)

The financial statement audit covered \$239 million in Fiscal Year 1989 expenses. As part of the financial audit, an examination was made of OSHA's internal accounting controls, status of prior years' reported material weaknesses, and compliance with applicable laws and regulations. The auditors' opinion on the financial statements contained a qualification because records documenting property costs and accumulated depreciation were incomplete.

The report on internal accounting controls disclosed that OSHA's report to the Treasury on accounts receivable due from the public (SF 220-9) did not include \$7.9 million in receivables. This amount included \$5.8 million of penalties due from contested cases that had been settled. The remaining \$2.1 million represented penalties due where only a portion of the citation was being contested.

The report on compliance disclosed that 22 percent of the payments sampled were not paid within the 30-day period required by the Prompt Payment Act.

OSHA's planned corrective actions were responsive to our recommendations except for those relating to improvements needed to more accurately report accounts receivable to the Treasury. OSHA staff will work with us to develop mutually acceptable procedures for accounts receivable reporting.

**Furniture Workers Division, International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers, AFL-CIO, Nashville, Tennessee**  
(Audit Report No. 03-90-043-10-101, issued 9/28/90)

The OIG issued an audit report on OSHA New Directions funds granted to the Furniture Workers Division (FWD). The audit was for the period of August 1, 1981 through September 30, 1986. The entity has not received OSHA grants since 1986.

The audit questioned \$126,100 based on missing invoices or other inadequate supporting documentation for disbursements, lack of documentation on the non-Federal matching fund requirements and insufficient documentation on travel costs charged to OSHA programs.

**International Union of Operating Engineers, Washington, D.C.**  
(Audit Report No. 03-90-043-10-101, issued 9/28/90)

At the request of OSHA, the OIG conducted a financial and compliance audit of the OSHA New Directions grants issued to the International Union of Operating Engineers.

Out of \$1,115,000 received in Federal funds, OIG questioned \$313,263 consisting of \$257,974 not expended in accordance with budgeted cost categories, \$19,289 in unsupported costs, and \$36,000 in undelivered products.

## DEPARTMENTAL MANAGEMENT

Departmental management refers to those activities and functions of the Department which formalize and implement policies, procedures, systems and standards to ensure efficient and effective operations of administrative and managerial programs. The Assistant Secretary for Administration and Management has oversight responsibility.

During this audit period, the OIG reviewed activities in three major areas within departmental management: (1) Grants and Contracts Management, (2) Financial Management, and (3) Information Resources Management (IRM). The Fiscal Year 1989 DOL Consolidated Financial Statements were also issued.

**Financial Statements and Opinion**  
(Audit Report Nos. 12-90-004-07-001, issued 9/21/90, and 12-90-019-07-001, issued 7/30/90)

The consolidated statement of financial position and the related statements of operations, changes in financial position and reconciliation to budget reports for Fiscal Year 1989 were audited. The statements provide a summary-level financial report. Supplementary financial statements are presented for DOL's program agencies and for the various types of funds administered by DOL.

In the auditors' opinion, the consolidated statement of financial position fairly presents DOL's financial position at September 30, 1989, in conformity with Federal generally accepted accounting principles (GAAP), except for the following qualifications:

1. Accrued State and Federal unemployment insurance taxes due from employers totaling \$3.4 billion was recorded. The validity of this amount could not be verified since neither ETA nor the individual states find it practicable to maintain subsidiary records for individual employers.
2. The general ledger advance account could not be reconciled to subsidiary records of grantee and contractor advances. Confirmation of individual account balances was not possible and we were unable to attest to grantee advances of \$954 million shown on the statement of financial position.

Audit tests are restricted to the Federal level. State and local costs will be tested under the Single Audit Act.

### "Value-For-Money" Audits

Much of the OIG's current work is focused on whether the public is receiving "value-for-money" from investment in departmental programs and the services that are derived from those investments. Performing "value-for-money" audits is based on a premise of accountability, which rests with management and is spelled out in GAO's Government Auditing Standards.

This concept of accountability is further reinforced through various OMB circulars on internal controls, productivity and quality improvements, and the management of Federal information resources, as well as the legislatively mandated Federal Managers' Financial Integrity Act.

Outside the Federal community, accountability for services of states and local governments is also on the rise. The Government Accounting Standards Board (GASB) has undertaken a project to define program accomplishments for various public services (e.g., education, police, road maintenance). Program accomplishment information would be reported to the public along with the financial statements to fully account for the responsibilities entrusted to public officials.

Reviews of the Department's oversight and management of contractors and grantees continue to identify areas in which the Department can improve both its accomplishment reporting and its accountability over various program activities.

### **CONTRACTED USE OF ADVISORY AND ASSISTANCE SERVICES (CAAS)**

In compliance with Public Law 97-258, the annual evaluation on the use of advisory and assistance services within the Department was conducted.

CAAS activities are still being misclassified, this time because they are not being identified as the predominate activity under the contract. Therefore, they are being underreported through the Federal Procurement Data System.

Evaluations of closed contracts are not performed consistently. Such evaluations are required by OMB Circular A-120, Guidelines on the Use of Advisory and Assistance Services.

An issue of continuing concern is the dated guidance provided by the Office of Management and Budget (OMB). The current circular was issued in January 1988. A draft clarifying interpretation was issued in January 1989 requesting agency comments. To date, although needed, further guidance or a revised circular has not been issued by OMB.

### **Inadequate Contract and Grant Management and Administration**

As reported in the March 1990 *Semiannual Report*, a variety of issues (e.g., untimely performance monitoring, inadequate contract administration, and vague work statements) are impacting the effective delivery of goods and services. These concerns are at the center of the "value-for-money" approach used to audit departmental procurement activities.

Performance audits of procured goods and services finalized during this reporting period indicated that contracted studies and demonstration projects are not consistently evaluated to ensure that expected benefits were achieved; contracted services are not clearly related to the funding sources; contract administration practices are weak; and utilization of products of the contracts by the program and public are not clearly demonstrated.

In ETA, the OIG found inadequate monitoring of contracts and grants, vague contract/grant reporting requirements, limited distribution of successful projects models, and deliverables that were of limited use to ETA.

ETA concurred with the findings and agreed to: develop a course outline designed for the formal training of monitors; introduce new reporting requirements in the statement of work for certain contracts/grants and direct procurement staff to ensure that statements of work contain appropriate reporting language; realign staff to provide a distribution resource to the public and examine methodologies for developing a management information system to assist in distributing project results; and prepare a policy directive to incorporate the procedures for compliance with reporting requirements. (Audit Report No. 17-90-014-03-380, issued 7/6/90)

In the Office of the Veterans' Employment and Training Service (VETS), the OIG found a demonstration project that was not evaluated and the improper accounting by the National Capital Service Center (NCSC) for funds received from ETA. VETS agreed to ensure that evaluations and monitoring are performed as required. (Audit Report No. 17-90-012-02-001, issued 8/23/90)

An interagency agreement between the Bureau of International Labor Affairs (ILAB) and ETA resulted in using ETA funds to satisfy an obligation to the International Labor Organization (ILO). The OIG concluded that this does not clearly relate to ETA's mission. The Assistant Secretary for Administration and Management (ASAM) indicated that the Secretary should have the flexibility to use departmental funds to achieve program goals as long as appropriation principles are not violated. He agreed with ETA that these projects are consistent with both the spirit and the letter of JTPA. However, the ASAM issued guidance to the Department on obtaining approval for activities funded by more than one agency's appropriation and has included in ILAB's Fiscal Year 1992 budget a request for

funds for ILO initiatives. (Audit Report No. 17-90-013-07-001, issued 9/28/90)

The Bureau of Labor Statistics (BLS) procures data collection and dissemination services for the Current Population Survey (CPS) and the National Longitudinal Survey (NLS) at yearly costs of about \$18 million and \$5 million, respectively. With regard to the CPS, the review found that the interagency agreement with the Bureau of Census, which conducts the CPS, served BLS' need and that the CPS was effectively utilized.

Conversely, the review of the two NLS contracts issued to Ohio State University Research Foundation (the NLS contractor) concluded that they lacked sufficiently specific goals, measures and results to ensure that these nonstatutory program expenditures were an effective use of public funds.

Over the last 24 years, \$95 million has been expended on the NLS, \$81 million of that by DOL. Originally, the NLS was started by ETA on a program-specific basis to gather longitudinal information on retirement and poverty issues. The NLS was transferred to BLS during 1987. BLS now views it as a general purpose survey, primarily targeted for academic and long-term research on labor market experience issues, and considers it an important national resource for research.

The Commissioner agreed with most of the OIG's recommendations to reassess the NLS and improve BLS' contract administration.

BLS disagreed with the recommendation on user fees. The OIG will continue to negotiate with BLS to encourage them to ask for user fees which are consistent with appropriation law. (Audit Report No. 17-90-015-11-001, issued 9/28/90)

ETA's current closeout procedures require grantees to make necessary adjustments when final indirect cost rates are negotiated and/or when grantees receive refunds as a result of audits of their subgrantees. In the OIG's audit of ETA's grants to the National Council on the Aging (NCOA), discussed below, NCOA was found not to have complied with the above requirements.

**National Council on the Aging, Inc. (NCOA)**  
(Audit Report No. 18-90-034-07-735, issued 9/28/90)

As a result of an audit of the costs claimed by NCOA under its ETA grants and immediate followup by ETA's Office of Grants and Contract Management, ETA

should recover about \$350,000 plus interest. In a management letter to ETA's Assistant Secretary, the OIG noted that NCOA failed to submit revised closeout packages and return funds to ETA as a result of (1) recoveries from subgrantees for audit disallowances, and (2) finalization of indirect cost rates. NCOA has already sent refund checks to ETA totaling \$364,671 for recoveries from subgrantees for the period July 1984 through June 1988. In addition, NCOA voluntarily refunded \$374,867 to ETA for the same time period on the same grants.

## Information Resources Management

### ECN: Its Uses and Impact

(Audit Report No. 19-90-010-07-720, issued 9/27/90)

The Executive Computer Network (ECN), initiated in 1987, is to provide electronic mail, document exchange, and office automation functionality to DOL executive staff offices. An audit was conducted in conjunction with the Directorate of Information Resources Management (DIRM) to determine DOL executives' satisfaction with the ECN and whether it accomplished its objectives. The OIG also reviewed the security and cost of the ECN.

The OIG found that DOL executives are satisfied with system performance and the software provided by the ECN.

Security over the ECN needs improvement in the areas of access controls, personnel security, and risk analysis. Access controls were inadequate. Users fail to change passwords, fail to use any password, and use improper passwords. Some users routinely share accounts and passwords. Other individuals, no longer employed by DOL, still had valid user accounts on the system. DIRM has agreed to establish and maintain a higher standard of internal controls surrounding system access.

Personnel security also needs improvement since three contractors who are LAN Administrators have not received security clearances. DIRM said that future contracts for computer services will provide for appropriate contract staff to have security clearances.

While DIRM has a Disaster Recovery Plan, it has not performed an ECN risk analysis. Conversely, it has rated the system as "sensitive." DIRM needs to clarify this apparent contradiction.

# OFFICE OF AUDIT

## Section 2

### Financial Management in DOL

The OIG financial statement audits continue to focus on the Department's stewardship and accountability over DOL programs. In a related area, the OIG is building on the results of financial and program statistics audits to construct an accountability model for assessing the return on social programs' investments in human capital.

Endorsement of the Administration's initiatives and congressional proposals for a government-wide and agency level Chief Financial Officer to improve Federal financial management continues to be supported by the results of 4 years of financial statement auditing at the Department.

Reviews of the Department of Labor Accounting and Related Systems (DOLAR\$) have provided comprehensive audit oversight of the Department's new general ledger accounting system. Four reports assess the compliance of DOLAR\$ with regulations, standards and other requirements. Adverse conditions identified prevent the Secretary of Labor from reasonably assuring that the Department is in compliance with the reporting and internal control requirements of the Federal Managers' Financial Integrity Act (FMFIA). In addition, if these conditions persist, the OIG may be required either to render an adverse opinion or disclaim an opinion on the Department's financial statements for the Fiscal Year ended September 30, 1990. (When the auditors have not been able to obtain sufficient competent evidential matter to form an opinion, they must state that they are unable to express an opinion, *i.e.*, they issue a disclaimer.)

#### **Audit of Department of Labor Consolidated Financial Statements**

(Audit Report No. 12-90-004-07-001, issued 9/21/90)

During this audit period, the OIG issued an audit report on the consolidated financial statements of the Department for Fiscal Year 1989.

The final report on the consolidated financial statements reflects assets of \$68.6 billion, liabilities of \$25.9 billion, and expenses of \$26.1 billion. The report contains the opinion that, except for the scope restrictions concerning taxes receivable of \$3.4 billion and grantees' advances of \$954 million, the statements present fairly the consolidated financial position of the Department of Labor as of September 30, 1989, in conformity with

generally accepted accounting principles for Federal Government agencies.

#### **Constructing an Accountability Model for Human Resource Investment**

Financial statements present all financial activity (costs, assets, and liabilities) of an agency in accordance with established accounting practices. The OIG believes that Federal accounting, in the broadest sense, should include program as well as financial results.

Utilizing a financial statement framework, the Department, working with the OIG, has achieved this level of reporting and auditing for one of its major programs -- Job Corps. JTPA, under which Job Corps operates, emphasizes that job training is an investment in human capital. The report, entitled "Compilation and Analysis of Costs Invested in Human Capital in the Job Corps Program," independently analyzed financial input (costs invested) in relation to program output (statistics on program results) for Program Years 1987 and 1988. These analyses build on previous work for Program Year 1986. For Fiscal Year 1991, the OIG plans to audit this and related information at selected Job Corps Centers.

This accountability model provides a reliable framework for evaluating the return on the expenditure of Federal dollars.

The OIG believes all Federal programs should meet this level of accountability as a meaningful basis for managing the Federal Government. Producing audited financial statements is a necessary first step to achieve such an accountability level.

The Job Corps project is consistent with current Governmental Accounting Standards Board (GASB) initiatives in the area of service efforts and accomplishments indicators.

## **Service Efforts and Accomplishments**

The GASB is researching ways to provide information for assessing not only how much and on what an organization is spending its resources, but also what we are getting from the use of public funds and how effectively and efficiently they are spent. The trend clearly is toward more and better accountability, which the GASB conceives as "being obliged to explain one's actions, to justify what one does; being required to answer to the citizenry -- to justify the raising of public resources and the purposes for which they are used."

## **Endorsement of CFO Legislation**

Several recent legislative and administrative proposals point to continuing improvement in Federal financial management. Legislative proposals endorsing the concept of Chief Financial Officer for the U.S. and Federal agencies and annual audited financial statements have been introduced in the Congress. In addition, the Administration has announced a five point plan containing the same concepts.

The OIG believes strong legislation is preferable and OIG has supported such legislation, *e.g.*, H.R. 5492 and S. 2840. The OIG believes that top level program and fiscal managers must be held accountable for accurate and complete financial reporting. However, top program and fiscal managers will not be held fully accountable in the absence of such strong legislation mandating a Chief Financial Officer having sufficient authority, responsibilities, qualifications, and resources.

## **Audit Oversight of DOL's General Ledger System Implementation**

Recent assessments of the Department's new general ledger system, DOLAR\$, found new and continuing problems. If the Comptroller does not develop corrective strategies, the Department will not be able to reasonably assure completeness and reliability of various general ledger account balances and related financial statements and reports.

In prior years, OIG audits have identified consistent weaknesses in accounting, internal controls and financial reporting. The Department promised that these deficiencies would be corrected by DOLAR\$.

In April 1990, the Assistant Secretary for Administration and Management asked the OIG to evaluate whether the new system complies with Federal government-wide requirements and standards and whether it represents an improvement over DOL's prior accounting system, the Integrated Accounting System. Four related but separate projects provided this interim evaluation: (1) an internal control review, (2) an external financial reports evaluation, (3) an acceptance testing review, and (4) a user satisfaction survey.

Both the internal control review and the external financial reports evaluation show that the Department's general ledger system (including the internal control structure surrounding the system) does not comply, in certain material respects, with the General Accounting Office's (GAO), the Department of Treasury's (Treasury) or the Office of Management and Budget's (OMB) regulations and standards.

This condition prevents the Secretary of Labor from providing reasonable assurances that the Department is in compliance with the reporting and internal control requirements of the FMFIA. In addition, if these conditions persist, the OIG may be required to render an adverse opinion or disclaim an opinion on the Department's financial statements for the fiscal year ended September 30, 1990.

The acceptance testing review and user satisfaction survey demonstrated that the Department had made significant progress in implementing and testing DOLAR\$ in the last 6 months.

A description of each of these four reports follows.

### **INTERIM INTERNAL CONTROL REVIEW**

In an interim assessment of the internal control system, the following weaknesses were noted:

#### **Reconciliation to Treasury Records**

During Fiscal Year 1990, the Department has not reconciled disbursement and receipt transactions to Treasury records. Consequently, the Department cannot assure the accuracy of the general ledger cash and expenditure balances. The Department is also exposed to unnecessary increased risks of duplicate payments of invoices and unrecorded "obligate and pay" transactions that could cause an overobligation or expenditure of appropriations, resulting in an Anti-Deficiency Act violation.

### **Reconciliation to Program and Subsidiary "Feeder" Systems**

The Department has not reconciled the general ledger to major program or subsidiary systems (Automated Procurement and Payment System, Payroll, Property, BLS Grant Payment System, and ETA's Regional Automated System) on a monthly basis, as required. Therefore, the Department has no reasonable assurance the general ledger balances affected by these systems are reliable and complete.

### **Reconciliation to Supporting Detail**

The Department has not implemented adequate internal control procedures for the periodic and systematic review of travel advances and contract obligations. As a result, the Department cannot ensure the accuracy of asset and liability balances in the general ledger which are not substantiated against source documents.

### **INTERIM EVALUATION OF DOLAR\$ FINANCIAL REPORTING CAPABILITY**

In the evaluation of DOLAR\$'s capability to produce financial reports in compliance with Treasury and GAO requirements, the OIG concluded that while the system met Treasury's minimum compliance requirements for implementing the U.S. Government Standard General Ledger, the general ledger and financial reports produced by DOLAR\$ did not completely or accurately account for all assets and liabilities of the Department's programs and activities in compliance with Treasury requirements and GAO standards.

The Department's general ledger and financial reports at July 31, 1990, failed to account for major DOL program and other activities including the Unemployment Trust Fund, the Black Lung Disability Trust Fund, certain Federal Employees' Compensation Act accounts, and property. These omitted activities accounted for approximately 78 percent of the Department's assets and 98 percent of the Department's liabilities. The interim reports used for our evaluation would not necessarily include all adjusting entries for departmental assets and liabilities that would be included for a final, year-end closing.

Nevertheless, the OIG is concerned that these assets and liabilities will continue to be left out of DOLAR\$ because, at the time of our evaluation, the Department did not have documented policies and procedures for integrating them into DOLAR\$.

Further, although DOLAR\$ implementation of the SGL represents a significant improvement over the former Integrated Accounting System (IAS), DOLAR\$ has not corrected many of the IAS general ledger accounting and financial reporting weaknesses consistently identified in the annual audits of the Department's financial statements and in the Secretary of Labor's 1988 and 1989 FMFIA reports to the President and Congress.

Should these conditions persist, substantial reconstruction and integration of records would be required to produce the necessary financial reports and render an opinion on the Department's Fiscal Year 1990 annual financial statements.

The OIG recommended specific corrective actions and advised the Assistant Secretary for Administration and Management that immediate management attention is necessary to correct these deficiencies. The OIG also recommended that DOL continue to report on general ledger accounting and reporting deficiencies in the 1990 FMFIA Report to the President and the Congress.

### **ACCEPTANCE TESTING REVIEW**

During the last 6 months, DOL has progressed significantly in implementing and testing DOLAR\$. DOL has met several critical objectives by expanding system testing, increasing user involvement, producing more output reports, and improving control and coordination of implementation efforts.

Although the Department has made considerable progress, the OIG reported continuing problems with DOLAR\$ meeting Joint Financial Management Improvement Program (JFMIP) and contractual requirements and user needs, incomplete testing, and inadequate ADP internal controls.

### **JFMIP and Contractual Requirements and User Needs**

The Department has made progress in all three areas. In August 1990, the Department implemented a new schema that meets additional JFMIP and contractual requirements. DOL is modifying the contract to clarify some of the ambiguous contractual terms and negotiating to clarify others.

However, the Department has not verified that DOLAR\$ meets all JFMIP and contractual requirements, user needs, nor have contract negotiations been completed.

The Department advised that issues would be evaluated against the contract as they arise. The OIG believes DOL should perform a complete review to determine valid contractual requirements.

### **Incomplete Testing**

The Department has not completed acceptance testing. Current testing efforts do not include evaluating whether DOLAR\$ meets all Federal financial management and contractual requirements. The Department concurs that effective testing is needed and is performing extensive system testing. This testing should be extended, however, to serve as the basis for acceptance testing.

DOL still does not have sufficient systems documentation. In March 1990, the OIG recommended that DOL request this documentation from the contractor. In response to DOL's request, the contractor offered to negotiate costs for system documentation or source code. In September 1990, the OIG again recommended that DOL determine the cost effectiveness of acquiring the documentation.

### **Inadequate ADP Internal Controls**

In March 1990, the OIG recommended that DOL both modify DOLAR\$ to remove procedures which weaken internal controls and document that DOLAR\$ includes adequate input, processing, communication, and output controls. The Department is modifying the contract to remove these procedures and agreed to document the internal controls.

In September 1990, the OIG again recommended DOL improve internal control weaknesses by identifying and documenting potentially incorrect Fiscal Year 1990 production data that, by bypassing edits, was reposted to the new schema and may not have been fully corrected; reviewing DOLAR\$ tables for accuracy; and improving input control reports to assure the accuracy and completeness of data input.

In addition, DOL has not certified DOLAR\$ security as required by OMB Circular A-130.

In general, the Department agreed with the recommendations.

### **DOLAR\$ User Satisfaction**

(Audit Report No. 19-90-009-07-710, issued 9/27/90)

Overall, respondents rated DOLAR\$ reports as "satisfactory but needing improvement." The survey showed several areas where reports themselves could be improved. In response to the draft report, DOL generally agreed with the recommendations and, in some cases, has already begun corrective action.

Respondents indicated that they want more information about the new system. They were dissatisfied with the new schema planning effort and responded to our survey with a number of questions about DOLAR\$. DOL needs to communicate regularly with the user community.

# OFFICE OF AUDIT

## Section 3

### The Department's Enforcement Program

Historically, the Department has suffered chronic internal conflict between enforcing the statutes under its authority while simultaneously trying to achieve cooperation through voluntary compliance.

The Department's resources and energies are diffused and critics charge that the results fall short at both ends of the enforcement spectrum. Further, since the Department has not viewed itself primarily as a strong law enforcement agency, its credibility as such suffers in the regulated community.

In previous Semiannual Reports and in testimony before the Congress, the OIG criticized the Department's longstanding reluctance to recognize and use all the tools available for workforce- and workplace-related criminal enforcement at the Federal level. The OIG believes that, while some significant statutory weakness exists (e.g., the requirement of a fatality before certain criminal penalties can be imposed using the OSH Act), there are other ways to protect American workers through the criminal enforcement system. However, the Department's history has been to avoid the use of alternative enforcement mechanisms, such as general criminal (Title 18) statutes, and State and local enforcement.

In the last *Semiannual Report*, we noted that there were two major ongoing reviews within the Department, the results of which were promised in June 1990: one by the OIG and one by a special task force to the Secretary.

#### **OIG's Report on DOL Criminal Enforcement** (Audit Report No. 09-90-202-01-001, issued 6/5/90)

The general objective of the OIG's review was to determine the extent to which departmental agencies implemented criminal enforcement strategies. We looked at the role played by criminal enforcement in the context of the Department's overall enforcement process and examined the criminal enforcement activity generated from that role. We believed that the information in our report would be germane to the work of the Department's Enforcement Task Force which was compiling agency data about their respective enforcement problems.

The OIG's report concluded that the Department lacks a framework for evaluating future criminal enforcement achievements. Currently, there is no standard framework used to capture and report data about criminal investigations. One limitation is that criminal enforcement information produced by the agencies cannot be compared because agency processes used to initiate and pursue criminal investigations differ significantly. Regardless of the role departmental management defines for criminal enforcement, there must be a means to evaluate the resources applied to, and results obtained from, its criminal enforcement effort.

The OIG report concluded that if the Department contemplated a standard framework, it should apply to all departmental entities which pursue criminal investigations and should include, at a minimum:

- (1) well-defined guidelines describing when criminal investigative activity should be considered;
- (2) identification of all potential instances of criminal violations;
- (3) documentation showing when situations meeting the defined guidelines were not pursued with a criminal investigation;
- (4) accumulation of staff resources (hours and dollars) applied by all participants to investigations;
- (5) periodic evaluation of long-term investigations to determine if they warrant continuation;
- (6) identification of why U.S. Attorneys decline referred investigations; and
- (7) accumulation of prosecution results in common reporting categories.

It is obvious that if this information were collected and analyzed, the Secretary would be in a much stronger position to evaluate the effectiveness of criminal enforcement and its relationship to the other enforcement options at her disposal.

In addition, the report urged the Department to revisit the issues raised by two Department of Justice (DOJ) opinions for reasons of departmental independence and policy. By acceding to DOJ's view of the OIG's and the Department's investigative authority, the Department has limited the utilization of significant resources for criminal investigation which would be available to the Secretary through the OIG.

Apparently the Department does not contemplate establishing an overall enforcement framework nor will it be challenging the jurisdictional authority issues raised by the DOJ opinions. At least, these issues were not addressed in the "Report to the Secretary of the Task Force on Enforcement" which was issued in September 1990.

The Secretary needs to be cognizant of the extent to which her Task Force report ignores OIG findings and conclusions on criminal enforcement.

## Chapter 2

### OFFICE OF INVESTIGATIONS

From April 1 through September 30, 1990, the Office of Investigations (OI) opened 304 cases nationally; closed 521; referred 138 for prosecution; and referred 79 to DOL agencies for administrative action. During this period, there were 97 indictments, 154 successful prosecutions and over \$8.5 million in recoveries, cost efficiencies, restitutions, fines, and settlements.

As reported in the previous *Semiannual Report*, OI initiated "Project SESA Assist" to ensure continuity and a smooth transition for the State Employment Security Agencies (SESAs) to assume a more vigorous criminal enforcement role related to non-federally-funded Unemployment Insurance (UI) activities. On a regional basis, OI contacted all SESAs and many U.S. Attorney offices in a liaison capacity to ensure the success of this transition.

In one instance, OI worked with a western SESA to take corrective action in addressing a systemic weakness in its UI fictitious employer/employee scheme detection procedure. As a direct result, an ongoing multi-State fraud scheme was identified. One individual has already pled guilty and was sentenced.

In another case, OI worked with the office of the U.S. Attorney for the District of Columbia and the SESA in establishing a policy to facilitate the prompt referral of UI claimant cases for prosecutive consideration. Also, OI assisted in the formulation of a standard methodology for routing UI related restitution tendered by convicted offenders to the District of Columbia courts, but intended for the SESA.

During this period, OI has continued to focus its resources on cost efficient investigative activity to support the integrity of the Department's administered programs and Acts. The following investigative cases are examples.

## **Federal Employee Compensation Act (FECA)**

1. On July 17, Hastings T. Toma, a former U.S. Navy civilian ship-fitter at Pearl Harbor, was arrested on a criminal complaint filed in the District of Hawaii which charged him with six counts of altering FECA benefit checks. On September 4, he entered a guilty plea to all counts. Toma's sentencing is scheduled for December. The scheme netted him \$220,000. A bank caught him trying to negotiate another altered FECA check for \$50,000. *U.S. v. Toma* (D. Hawaii)

2. In a case detailed in the last report, Alfred E. Cullum, a former civilian U.S. Army sheet metal worker who had pled guilty on February 7, was sentenced on April 12 for submitting a false claim to the Office of Workers' Compensation Programs (OWCP) and illegally receiving over \$217,000 in FECA benefits by not reporting his self-employment. As part of a joint criminal and civil plea agreement, he relinquished any further entitlement to Federal disability and Civil Service Retirement benefits and had paid \$100,000 of a \$150,000 settlement prior to his plea. Cullum was imprisoned for 6 months, ordered to make the additional \$50,000 payment, and fined \$25,000. This was a joint investigation by the OIG and the U.S. Army Criminal Investigation Command. *U.S. v. Cullum* (D. District of Columbia)

3. In Federal District Court in Massachusetts on August 28, a former U.S. Navy Department plumber was indicted and charged with making false statements to OWCP and mail fraud. He had received approximately \$150,000 in FECA benefits since 1978 and allegedly did not report to OWCP that he was operating his own plumbing firm. His trial is pending. *U.S. v. Borden* (D. Massachusetts)

4. Louis P. McKenna, a former U.S. Navy pipe-fitter, was indicted in the District of New Hampshire on June 21, charged with making false statements to OWCP. He did not report that he was employed as a general contractor. Since 1976, McKenna collected in excess of \$149,000 in FECA benefits. On September 6, he pled guilty to the charges and agreed to make full restitution, after admitting to an income exceeding \$60,000 per year. Sentencing is pending. This was a joint investigation by the OIG, the Postal Inspection Service and the U.S. Naval Investigative Service. *U.S. v. McKenna* (D. New Hampshire)

5. On September 26, Cecil H. Broyles, a former Air Force civilian apprentice repairer, was indicted for theft of government property, making false statements, and use of a false Social Security Administration number, by a federal grand jury in the Eastern District of Virginia. Allegedly, he fraudulently obtained nearly \$147,000 in FECA benefits from OWCP. From January 1, 1979, to September 23, 1988, the defendant allegedly worked as an appliance technician for S & J Appliance Center, Lightfoot, Virginia, where he used an alias and a false social security number and did not report his employment to OWCP. The investigation was conducted by the OIG and the U.S. Air Force's Office of Special Investigations. *U.S. v. Broyles* (E.D. Virginia)

## **Black Lung Benefits Program (BL)**

1. On August 1, Larry Sligh, Sr., a former co-owner of Home Medical Rentals, Inc., in Paintsville, Kentucky, signed a stipulation and order consenting to a judgment in the amount of \$580,000. He had been sued pursuant to the False Claims Act. Also named in this civil action were his son, Larry Sligh, Jr., and father, Ralph E. Sligh.

Larry Sligh, Sr. and others participated in a conspiracy to defraud the BL program by submitting false Certificates of Medical Necessity to DOL for oxygen concentrators they leased to coal miners. BL test results were falsified so that certain ineligible miners would appear qualified for the leased concentrators. *U.S. v. Sligh, Sr. et al.* (D. South Carolina)

2. An extensive investigation, conducted by OI and the Drug Enforcement Administration, disclosed that Dr. Robert H. Cullen, M.D. and his wife, Luzon D. Cullen, unlawfully distributed controlled substances through his medical practice and Mercury Drug Corporation, a pharmacy they operated. The couple also conspired to defraud DOL's BL program by submitting false claims for reimbursement for drugs not provided to BL claimants. Controlled substances not used in the treatment of black lung disease were dispensed. Claims sent to DOL were supported with fictitious prescriptions. Additionally, the costs for many of these drugs were inflated in reimbursement claims.

Dr. Cullen pled no-contest to one count of illegal drug distribution in July. He was sentenced to 3 years probation, fined \$8,000 and ordered to make \$15,000 in restitution. The Virginia Board of Medicine revoked his license to practice. Mrs. Cullen pled no-contest to

one count of conspiracy to defraud the BL program and was sentenced to 5 years probation and fined \$7,500. As a corporation, the pharmacy pled guilty to ten counts of false claims against the BL program and was ordered to make \$15,000 restitution. *U.S. v. Mercury Drug Corporation et al.* (W.D. Virginia)

## **Davis-Bacon and Related Acts (DBRA)**

1. On August 21, Consort, Inc., Thomas J. Barnes, President and Burton J. Slatnick, Jr., Vice President were named in an indictment handed down in Baltimore, Maryland, charging them with conspiracy to commit offenses against the United States, false statements, and aiding and abetting. While under contract with the U.S. Department of Health and Human Services, National Institute of Health, to conduct certain renovations, prior to 1985 and continuing through 1986, the defendants allegedly entered into a conspiracy not to pay their employees prevailing wages required by DBRA. They stand accused of falsifying certified payroll reports, also required by DBRA. As a result of the OIG investigation, the Government has withheld over \$200,000 from the defendants to preclude any loss by Consort's employees. Trial is pending. *U.S. v. Consort, Inc. et al.* (D. Maryland)

2. On May 2, Melba Guerra, President and Controller of F. & P., Inc., was sentenced in the Southern District of Florida to 3 years probation, ordered to pay \$150,000 restitution and fined \$10,000. She had been convicted of filing false certified wage reports pertaining to a federally funded \$1 million, Miami-Dade Metrorail System contract. She fraudulently reported employee wages and job titles to conceal the fact that her company was not meeting DBRA requirements. *U.S. v. Guerra* (S.D. Florida)

3. On May 10, Douglas Diez, owner of Arcadian Builders of Gonzales, Louisiana, pled guilty to a criminal information, charging him with false statements. On July 20, in U.S. District Court in the Middle District of Louisiana at Baton Rouge, he was sentenced to 6 months in a half-way house, 5 years probation, fined \$20,000, and ordered to pay approximately \$100,000 in restitution. Diez falsified wage certifications pertaining to a U.S. Postal Service contract, claiming employees were paid in accordance with the DBRA. *U.S. v. Diez* (M.D. Louisiana)

## **Job Corps**

On July 11, in the District of Arizona, an indictment was handed down charging a Tucson Job Corps center purchasing specialist with one bribery count. He is alleged to have received cash and personal items from the Midland Chemical Company in return for purchasing approximately \$30,000 in chemicals and supplies on behalf of the center. The prices were allegedly grossly inflated. He is awaiting trial. *U.S. v. Jagers* (D. Arizona)

## **Job Training Partnership Act (JTPA)**

On June 21, Carl DuShane, a former job developer of JTPA contractor Wayne Metropolitan Community Service Agency, Wayne County, Michigan, was indicted on four counts of larceny by false pretense. On June 28, defendants Magdaline Johnson, Bonnie Johnson, Henry Johnson, Irene Sandra Johnson, Ronald Johnson, and Delores Bajcz were also indicted on numerous counts of larceny by false pretense. The charges stem from a scheme in which the defendants formed bogus companies to claim JTPA on-the-job placements for which they were paid but not entitled. They allegedly netted in excess of \$80,000. They are awaiting trial. *Michigan v. DuShane et al.* (Michigan)

## **Trade Adjustment Act (TAA)**

On April 10, an initial determination was issued by the Employment and Training Administration (ETA) to the Employment Security Department (ESD), State of Washington, disallowing approximately \$606,000. These were TAA funds disbursed by the State to VANALCO Co., a Seattle-based aluminum manufacturer. The disallowance was predicated upon OIG's investigative findings that, from about April 1987 through about September 1988, ESD had, among other things, approved TAA OJT contracts for job categories substantially identical to those previously held by the participants; written second and third OJT contracts for employees who had already moved into unsubsidized employment; and failed to adequately administer the TAA contracts.

## **Occupational Safety and Health Administration (OSHA)**

In the District of Connecticut, Paul Tavana and Salvatore Rizza, co-owners of L & T Construction, were indicted on July 11 for conspiracy and offering a \$500 bribe to an OI undercover agent who was posing as an OSHA compliance officer. The defendants allegedly tendered the bribe to reduce the potential number of safety violation findings at their Wethersfield, Connecticut, construction site. They are awaiting trial. *U.S. v. Tavana and Rizza* (D. Connecticut)

## **Unemployment Insurance (UI)**

On July 26, in the District of Massachusetts, Irene D. Dietz pled guilty to seven counts of an indictment, which included mail fraud, conspiracy, false statements and false representation of a Social Security Administration number. Concurrently, her daughter-in-law, Lisa Dietz, pled guilty to three counts of the same indictment charging conspiracy and bank fraud. On September 24, Christopher Dietz, Irene's son, pled guilty to seven counts of the indictment, charging conspiracy and mail fraud.

They conducted a scheme which defrauded seven States of more than \$220,000 in unemployment insurance benefits, beginning in 1978. The conspiracies entailed false applications for UI benefits, the rental of post office boxes in fictitious names, the forgery of UI checks, some of which were cashed by Lisa when she was a bank teller and assistant manager. On September 25, Irene was sentenced to 21 months house detention, 3 years probation, ordered to pay \$23,000 restitution,

and assessed \$350. Coinciding, Lisa was sentenced to 6 months house detention, 2 years probation, and ordered to pay approximately \$16,000 in restitution. Christopher's sentencing is pending. This was a joint investigation by the OIG, the Postal Inspection Service, OIG/Department of Health and Human Services and the Division of Employment Security for the State of Massachusetts. *U.S. v. Dietz et al.* (D. Massachusetts)

## **Employee Integrity**

1. As noted in the last report, Daryle E. Ratliff, the former director of OWCP's BL program office at Pikeville, Kentucky, used his position to embezzle nearly \$231,000. On May 3, he was sentenced to serve 3 years imprisonment, fined \$10,000, and ordered to pay almost \$281,000 in restitution which included the cost of the OIG's investigation. *U.S. v. Ratliff* (E.D. Kentucky)

2. On August 22, Delia A. Lewis, a former employee of the Occupational Safety and Health Administration, pled guilty to forgery of DOL Recreation Association checks and submitting false payroll claims to DOL. She illegally obtained over \$21,000 from these activities, of which about \$3,500 has been administratively recovered by DOL. Sentencing is pending. *U.S. v. Lewis* (D. District of Columbia)

3. An OIG investigation was conducted in response to an anonymous complaint concerning the falsification of travel vouchers and time and attendance reports by three of its employees. Following an investigation, the matter was referred to the U.S. attorney for consideration. All three have resigned their positions.

## COMPLAINT HANDLING ACTIVITIES

The OIG Complaint Analysis Office and the OIG regional offices serve employees, other agencies, and the general public who report suspected incidents of fraud, waste, and abuse in DOL programs and operations.

Sources:	Number:
Walk-in .....	2
IG Hotline .....	54
Other Telephone Calls .....	13
Letters from the Congress .....	6
Letters from individuals or organizations .....	75
Letters from DOL agencies .....	132
Letters from Non-DOL agencies .....	140
Incident Reports from DOL agencies .....	84
Reports by Special Agents and Auditors .....	37
Referrals from GAO .....	2
Total .....	545

Disposition:	Number:
Referred to Office of Audit or Office of Investigations .....	123
Referred to DOL program management .....	28
Referred to other agencies .....	7
No further action required .....	116
Pending disposition at end of period .....	121
Total .....	545

## Chapter 3

### OFFICE OF LABOR RACKETEERING

Fulfilling its historical mission of identifying and reducing labor racketeering and corruption while addressing the emerging problem of fraudulent multiple employer welfare arrangements (MEWAs) has fully occupied the Office of Labor Racketeering (OLR) during this reporting period.

“Traditional” labor racketeering, more sophisticated than in years past, is still prevalent in various areas of the country. Our investigation of the Painters District Council 9 in New York City has revealed that the sweetheart contract, the bribe for labor peace, and outright extortion by organized crime continue to characterize certain segments of the construction industry in the Northeast. Investigation of the garment industry in New Jersey has led to indictments alleging payoffs for labor peace, bribes, and kickbacks. In Cleveland, a Teamsters official was convicted of embezzling benefit plan funds to pay legal fees stemming from a prior racketeering conviction. In a Philadelphia case, a demolition contractor made weekly payments to organized crime members to permit him to violate his union contract.

While these and similar cases put first claim on OLR resources, a re-emergence of fraudulent MEWAs that masquerade as legitimate providers of group health coverage (discussed in our last *Semiannual Report*) has resulted in a significant investigative effort. Working in cooperation with State insurance regulators, OLR has been at the forefront in attacking the MEWA problem. Numerous cases involving apparently fraudulent MEWAs have been initiated and are being actively pursued; OLR has referred even more to other investigative agencies.

OLR’s strategy in addressing the MEWA problem is to activate the resources of other investigative agencies at the Federal and State level, educate the public to the fraud being perpetrated, and undertake active investigation in those cases where fraud is flagrant and egregious. OLR intends to bring the MEWA problem into manageable proportions within the next year and to work closely with regulatory agencies to ensure that fraudulent operators are kept out of business.

Examples of significant cases follow.

## EMPLOYEE BENEFIT PLANS

### American Federation of State, County, and Municipal Employees District Council 33

Earl Stout, former president of the American Federation of State, County, and Municipal Employees Union (AFSCME) District Council 33 in Philadelphia, was convicted by a Federal jury on May 4, on 40 counts that included racketeering, conspiracy, theft, and mail fraud. The charges involved the theft of approximately \$750,000 from programs receiving Federal funds.

An August indictment had charged Stout with using the council and its legal services and health and welfare funds to defraud AFSCME members. Federal funds involved in this conviction were Medicare funds from the U.S. Department of Health and Human Services (HHS).

Stout was found guilty of conspiring to use the council for his personal benefit and that of his family, friends, and council members who supported him. As part of the conspiracy, five persons on a union-affiliated hospital payroll who performed no work were paid a total of approximately \$90,289.

He was also found guilty of paying \$100,000 a year to an attorney who was a public trustee of the legal services fund. The lawyer, a former Commonwealth court judge, performed no services for the plan.

Stout and his son were found guilty of using hospital funds totaling \$87,782 to purchase two prepaid whole life insurance policies on Stout himself. The money was withdrawn from hospital funds on the day Stout lost his re-election bid for presidency of the union.

On September 19, Stout was sentenced to 3 years, 10 months incarceration in Federal prison and ordered to pay \$448,762 in restitution to the union.

These convictions are a result of a joint investigation by OLR, the FBI, and the HHS/Office of Inspector General. *U.S. v. Earl Stout et al.* (E.D. Pennsylvania)

### Laborers Local 332

Ralph Costobile, a Philadelphia demolition and construction company owner, was sentenced on May 3, to serve 3 years in prison for racketeering involving Laborers Local 332 benefit funds.

Costobile, owner of Costo, Inc., had been indicted by a Federal grand jury in Philadelphia in September 1989 in a 33-count indictment. He pled guilty in February to one count of racketeering. In his guilty plea, Costobile admitted defrauding the Laborers Local 332 Health and Welfare Fund and violating the collective bargaining agreement that he had with the local.

Costobile has agreed to make restitution of \$482,469 due as a result of underreporting man hours to the fund. Under forfeiture provisions of the Racketeer Influenced and Corrupt Organizations (RICO) statute, Costobile will forfeit real property that was used in the racketeering enterprise.

The racketeering count to which Costobile pled guilty charged that he used Costo, Inc., in furtherance of his scheme and listed the following specific racketeering acts: (1) making payoffs of \$70 per laborer per week to Philadelphia organized crime figures so that they would prevent Local 332 officials from harassing him when he employed non-union laborers; (2) causing assaults on laborers who threatened to expose his use of non-union laborers; (3) paying a 1985 candidate for union business manager \$4,300 to withdraw and enable the incumbent, Samuel Staten, to run unchallenged; and (4) bribing a former employee of a home improvement chain store to ensure the awarding of demolition and construction contracts to his company.

This case is illustrative of organized crime's relationship with corrupt labor officials. The payoff scheme was arranged by La Cosa Nostra (LCN) soldier Nicholas Caramandi, who is now in the Department of Justice's Witness Protection Program. It was approved by Philadelphia LCN boss Nicodemo Scarfo. Steven Traitz, head of the Roofers Union in Philadelphia, who was convicted of racketeering in 1988 in an unrelated investigation, was used by the LCN to intercede with Staten on behalf of Costobile to allow the use of non-union labor.

The 18-month investigation leading to Costobile's prosecution and sentencing was conducted jointly by OLR and the FBI with assistance from the U.S. Environmental Protection Agency. *U.S. v. Ralph Costobile* (M.D. Pennsylvania)

### Teamsters Local 436 Benefit Plans

On April 2, Salvatore "Sam" Busacca Sr., a currently incarcerated former official of Teamsters Local 436 in Cleveland was sentenced to serve an additional 4 years

in Federal prison as a result of a December 1989 racketeering and embezzlement conviction. He must also make restitution of \$258,435 he embezzled from the local's welfare fund.

Busacca embezzled the money to pay attorney fees accrued in an unsuccessful defense of racketeering and embezzlement charges brought in 1986. For this earlier conviction he is currently serving 10 years in Federal prison.

At the time of both embezzlements, Busacca was president of the local and chairman of the Board of Trustees for the employee benefit funds.

Both embezzlements were uncovered by OLR during its investigation of corruption in Teamsters Local 436 and its benefit plans. Busacca is the 17th person to be convicted and sentenced in this investigation. *U.S. v. Salvatore Busacca et al.* (N.D. Ohio)

### **International Medical Centers**

Three men have pled guilty to charges involving a kickback scheme to acquire a health care contract from a south Florida welfare fund.

Jorge Recarey, former employee of the now defunct International Medical Centers (IMC); Antonio Fernandez, former president of the Hotel Employees and Restaurant Employees (HERE) Union Local 355; and Mariano Villa Del Rey, former personnel director for Doral Properties of south Florida had been indicted in April 1987. They were charged with participating in a kickback scheme involving approximately \$115,000 in payments from Recarey to Del Rey and Fernandez for their influence in helping IMC obtain a 5-year contract to provide health care to Local 355 union members.

Del Rey pled guilty February 9, 1990, to one count of receiving a kickback; he was sentenced to 3 years probation.

On May 10, both Recarey and Fernandez pled guilty to one-count criminal informations. Fernandez pled guilty to accepting money and things of value; he was sentenced to 6 months in prison and 3 years probation. Recarey pled to making a kickback; he was sentenced to 4 months in prison and 3 years probation and fined \$10,000. The investigation was conducted by OLR. *U.S. v. Miguel Recarey, Jr. et al.* (S.D. Florida)

## **INTERNAL UNION AFFAIRS**

### **United Steel Workers District Council 31 and Local 1014**

Six former and current local officials of the United Steel Workers of America (USWA), five bingo game operators, and a Catholic priest were indicted by a Federal grand jury in Hammond, Indiana, on April 10, on violations involving illegal gambling and embezzlement of union funds. The 25-count indictment charged four of the union officials with violating the Racketeer Influenced and Corrupt Organizations (RICO) statute. To date, three defendants have pled guilty.

The indictment charges that between approximately May 1983 and March 1986, the defendants ran an illegal gambling operation at the local's union hall in Gary. The defendants allegedly maintained the appearance of a charitable, tax-exempt, church fundraiser.

General "Jack" Parton, USWA District Council 31 director and trustee of the international union; Phillip Cyprian, former local 1014 president; Harry Piasecki, district council employee and former local 1014 president; and Ezell Cooper, former local 1014 treasurer and financial secretary were charged with running the affairs of the local from approximately March 1971 to February 1987 through a pattern of racketeering activity. The RICO count mentions 12 specific racketeering acts, including embezzlement of union funds by requiring 10 percent kickbacks from vendors for work done for the district council and the local and kickbacks from the bingo operators who rented the union hall.

The four defendants mentioned above and Enrique Montemayor, former local 1014 treasurer, were also charged with 10 underlying union embezzlement violations contained in the racketeering count.

These five as well as Leroy V. Williams, a former employee of the local, were charged with making false entries in the union's books and records to cover up questionable transactions. Montemayor pled guilty on July 31, to one count each of embezzlement and falsifying union records.

Cyprian, Cooper, Williams, and the five bingo operators--Seymour Klein, Seymour Levin, Louis Del Grosso, Kathleen Rainey, and Mardell Grandy--were charged

with operating an illegal gambling business and conspiracy to defraud the Government by attempting to obstruct the collection of Federal income taxes. Klein, Levin, Grandy, and Del Grosso were also variously charged with removal of evidence, Federal tax violations, and perjury.

Rainey pled guilty on July 19, to one count each of illegal gambling and conspiracy. Grandy pled guilty on August 1, to one count each of conspiracy and perjury.

Monsignor John F. Morales was charged with causing false entries to be made in union records, operating an illegal gambling business, conspiracy, perjury, making false statements, and Federal tax violations.

Investigation of this case was conducted jointly by OLR and the IRS and is part of a continuing probe into alleged labor racketeering in northwest Indiana. *U.S. v. Philip Cyprian et al.* (N.D. Indiana)

### **Operating Engineers Local 101**

The president of Operating Engineers Local 101 in Kansas City, Missouri, and a Missouri State representative were convicted by a Federal jury in Kansas City on September 27, on charges of conspiracy, embezzlement of union funds, and interstate transportation of stolen property. A State senator was acquitted of similar charges.

Sam F. Long, business manager of Local 101; Elmer E. Cantrell, a state representative who is president of the Missouri State Building and Construction Trades Council; and Edward Quick, a State senator who is vice-chairman of the State legislature's Labor and Industrial Relations Committee had been indicted on June 14. The indictment charged that the defendants caused the interstate transportation of two checks totaling \$10,000 that they fraudulently obtained from the International Union of Operating Engineers in Washington, D.C. Long and Cantrell were charged with additional counts of conspiracy, embezzlement, and interstate transportation of stolen funds for allegedly concealing the original \$10,000 theft by embezzling from Local 101 to reimburse the International Union in Washington. Edward Quick was acquitted of all charges.

Investigation was conducted jointly by OLR, the FBI, and the Department of Labor's Office of Labor Management Standards and is part of a continuing joint in-

vestigation by OLR and the FBI. *U.S. v. Samuel F. Long et al.* (W.D. Missouri)

### **New York District Council of Carpenters**

The District Council of New York and Vicinity of the United Brotherhood of Carpenters and Joiners of America, its top four officials, and six reputed members of the Genovese organized crime family are the subjects of a civil racketeering suit filed by the U.S. Attorney for the Southern District of New York on September 6.

The civil racketeering complaint charges the defendants with conducting the affairs of the council and its constituent locals and affiliated benefit funds through a pattern of racketeering activity. This racketeering activity includes illegal labor and benefit fund payoffs, mail fraud, and extortion.

The suit marks the fourteenth time the Government has brought legal action under the civil provisions of the Racketeer Influenced and Corrupt Organizations (RICO) statute to eliminate organized crime influence over unions or industries. The suit is based largely on a series of investigations into corruption in the construction industry in New York. At the State level, investigations were conducted jointly by the Office of Labor Racketeering, the New York County District Attorney's Office, and the New York State Organized Crime Task Force. Federal investigations involved the joint efforts of the Office of Labor Racketeering and the FBI.

The complaint alleges that, despite many successful criminal prosecutions since 1981 involving the District Council of Carpenters, the Genovese organized crime family continues to influence the council. Allegedly, the corrupt union officers and the Genovese crime family derived immense profits through entrenched racketeering, including illegal labor payoffs by contractors to union officers and Genovese crime family figures in return for labor peace. According to the complaint, contractors who made payoffs were often permitted to violate collective bargaining agreements or to avoid unionization altogether. Union members who opposed this state of affairs were intimidated into silence by economic coercion, threats, violence, and the known ties between union officers and organized crime.

The Government is asking the court to remove from office all District Council officers having violated the RICO statute and to place the union under trusteeship.

The following union officials are included in the complaint: Paschal McGuinness, president; Irving Zeidman and Frederick W. Devine, vice presidents; and Francis J. P. McHale, secretary-treasurer. Reputed members of the Genovese organized crime family named in the complaint are: Anthony Salerno, former boss; Vincent DiNapoli, Peter Defeo, and Liborio Bellomo, capos; and Louis DiNapoli and Alexander Morelli, members. *U.S. v. District Council of New York and Vicinity of the United Brotherhood of Carpenters and Joiners of America et al.* (S.D. New York)

## LABOR-MANAGEMENT RELATIONS

### Painters District Council 9

Eight top officials of the Painters Union in New York City, two reputed major figures of the Luchese organized crime family, and two businessmen were indicted by a County of New York Grand Jury on June 20, following a joint investigation by OLR and city law enforcement agencies into corruption in the construction industry in New York.

Three indictments were returned. One indictment includes the current leadership of District Council 9 of the International Brotherhood of Painters and Allied Trades and a businessman. This 153-count indictment charges them under the New York State Organized Crime Control Act with the crime of enterprise corruption, bribing a labor official, receiving bribes, grand larceny, coercion, and conspiracy. The indictment charges that for the past 12 years the defendants, along with members and associates of the Luchese crime family and various painting contractors, were members of a criminal enterprise. This enterprise controlled the affairs of District Council 9 and extracted hundreds of thousands of dollars in bribes and kickbacks on painting contracts in the New York metropolitan area.

Defendants in this indictment are: Edward Capaldo, Painters Local 1486 business manager; Paul Kamen, council secretary-treasurer; Aaron Lefkowitz, Salvatore Savarese, Joseph Candiano, Edward Filancia, council business agents; William Courtien, general business representative of the international union; and Daniel Rech, a project supervisor of Leeds Painting and Decorating, a major painting contractor.

The indictment alleges that the criminal enterprise was directed at various times by reputed Luchese crime family members, including family boss Vittorio Amuso,

underboss Anthony Casso, former consigliere Christopher Furnari, capo Peter Chiodo, the late District Council 9 secretary-treasurer James Bishop, and defendants Kamen and Capaldo. Allegedly, the activities of the enterprise were coordinated by Bishop and Frank Arnold, president of Huber Decorating, Inc., and an alleged associate of the Luchese organized crime family, together with defendants Capaldo, Kamen, Rech, and Courtien.

The alleged criminal enterprise used its control over the district council to solicit bribes and extort money from painting contractors in return for allowing violations of the council's collective bargaining agreement. This included using non-union painters, ensuring the assignment of compliant job and shop stewards, and other favors.

Defendants Capaldo, Kamen, and Courtien are specifically charged with controlling the awarding of three painting contracts of the New York City Transit Authority from June 1989 through March 1990. They allegedly did so by demanding large kickbacks from contractors before they would agree to supply them with productive painters to work on the job or to allow cost-saving spray painting on the job, and by strictly enforcing the union agreement to force disfavored contractors to give up the job to a company designated by the criminal enterprise.

Allegedly, the defendants policed their enterprise by identifying it with the Luchese crime family and through violence and threats of violence. Specifically, Capaldo, Kamen, and Rech are charged with threatening Bishop's life to force him from office after he fell out of their favor so that Kamen would succeed him and run the council under their control. They also allegedly controlled elections to council positions by threats and intimidation.

A second indictment names reputed Luchese underboss Casso, reputed Luchese capo Chiodo, and businessman Frank Arnold, all mentioned as unindicted co-conspirators in the first indictment. They are charged with grand larceny by extortion and coercion in connection with the ouster of James Bishop from his position as secretary-treasurer of District Council 9 in 1989.

Bishop was murdered gangland style by unknown assailants on May 17.

On September 24, Chiodo pled guilty to grand larceny by extortion, a felony. He admitted coercing Bishop

into relinquishing his union position using his LCN associations to instill fear. Arnold also pled guilty on September 24 to coercion, a misdemeanor. He admitted threatening to injure Bishop if he did not vacate his union position.

In a third indictment, Seymour Strelzik, coordinator of the Joint Apprentice Committee, is charged with receiving bribes. The Committee is an organization staffed by representatives of District Council 9 and the Association of Master Painters and Decorators.

This lengthy investigation was conducted jointly by OLR, the Manhattan District Attorney's Office, and the New York City Police Department's Organized Crime Control Bureau. *New York v. Anthony Casso et al.*

### **Philadelphia-South Jersey International Ladies Garment Workers Union District Council**

Three executives of a cardboard box and display manufacturing company in New Jersey were indicted on April 24, 1990, by a Federal grand jury in Newark in connection with an alleged 6-year pattern of racketeering involving the Philadelphia-South Jersey International Ladies Garment Workers Union (ILGWU) District Council.

A 21-count indictment charged Michael Sarbello, Clifford Stafford, and Joseph John Centurione, owners and officers of Associated Packaging Company, Inc. (API), of Gloucester County, with 2 counts of racketeering, 1 count of racketeering conspiracy, and 18 counts of bribery.

The defendants allegedly made illegal labor peace payoffs to Harry Benn, who was an ILGWU district manager and assistant manager for 25 years. They also negotiated contracts with Benn that included favorable provisions such as a 13-week waiting period before new employees would become eligible for health and welfare benefits and a 40-hour work week. The ILGWU contract calls for a 35-hour work week with any time worked after that paid as overtime. Allegedly, Benn, who has not been indicted, received 25 percent of the savings derived from this arrangement as kickbacks. The indictment lists nearly 80 payments to Benn ranging from \$350 to \$3,125 from June 1980 to June 1987.

Also included in the indictment are charges that the defendants paid kickbacks of over \$87,000 to a glass

products manufacturer in return for his purchasing API products. They also allegedly received nearly \$130,000 from a glass bottle manufacturer by mailing invoices for goods that had not been ordered by or shipped to the company. On June 29, Stafford pled guilty to making illegal payments.

The indictment of Sarbello, Stafford, and Centurione is related to another recent prosecution in OLR's 2-year investigation of corruption in the garment industry in New Jersey. In March, Victor Fabietti, part-owner of Atlantic Dress Manufacturing Company, a women's clothing manufacturer, pled guilty to a federal misdemeanor information charging him with conspiracy to make illegal labor payments to Benn. He was sentenced to 2 years probation and fined \$5,000. *U.S. v. Michael Sarbello et al.* (D. New Jersey)

### **OTHER CASES**

#### **Asphalt Specialist, Inc.**

On April 24, 1990, a Federal grand jury in Cleveland charged Anthony R. Bucci and Asphalt Specialist, Inc. (ASI), of Youngstown, Ohio with making false claims to the government and mail fraud. Allegedly, Bucci and ASI had submitted approximately \$10,000 in false claims for compensation for employing veterans.

In a second indictment, returned May 23, Anthony R. Bucci, his brother Robert T. Bucci Sr., and ASI were charged with conspiring to make false statements in certified payrolls during construction in 1985 and 1986 of Interstate 80, State Route 225, and County Highway 117 in the Youngstown area. Three additional substantive counts charge them with making false statements regarding wages paid.

Allegedly, the Bucci brothers, who are notorious in the Youngstown area, paid some of their employees one-half of the required prevailing wage, but submitted certified payrolls that indicated they had paid full wages. They also allegedly completely omitted numerous employees from the certified payroll. The counts charged involve an approximate \$60,000 loss to ASI employees.

The investigation leading to the two indictments was conducted jointly by OLR, the Department of Transportation Office of Inspector General, the FBI, and the IRS. The Department of Veterans Affairs also participated in the investigation leading to the April indictment. *U.S. v. Anthony R. Bucci et al.* (N.D. Ohio)

## Consolidated Edison Company of New York

Seventeen former and current employees of New York's Consolidated Edison Company (ConEd) were charged on August 9, in Federal and State criminal complaints with bribery and extortion. The complaints allege extortion and bribery involving cash from ConEd customers, electrical contractors, and others in return for, among other things, overlooking safety hazards such as natural gas leaks, allowing illegal gas and electrical hookups to go unreported, and expediting the provision of gas or electrical service.

Complaints filed against seven defendants in federal district court in Brooklyn charge extortion and fraud. Specifically, the complaints allege that five employees of ConEd's Bedford/Bushwick Branch regularly extorted money from electrical contractors and others by threatening to delay provision of electrical service, or promising to expedite service. Leonard Calone, Ronald Saviano, Thomas Baylor, Richard Boyle, and Robert Strunk and their supervisor, ConEd district manager Michael Schultz, were responsible for arranging the provision of electrical service in the Bedford-Stuyvesant and Bushwick areas. Schultz allegedly shared in the money extorted by the others and also personally extorted cash from ConEd customers.

The Federal complaints also charge that ConEd manager Joseph DeGratto obtained payoffs from ConEd commercial customers in low-income Brooklyn neighborhoods in return for unauthorized reductions in their electric bills. He allegedly arranged for approximately \$164,000 in unauthorized reductions.

On September 7, a Federal grand jury in Brooklyn charged Schlutz, Calone, Baylor, Saviano, and Strunk with conspiracy to commit extortion. The criminal

complaints against DeGratto and Boyle were dismissed without prejudice on September 11.

Ten defendants charged in State court with extortion and bribery were responsible for arranging the provision of gas and electrical service to Manhattan ConEd customers, conducting inspections to ensure that the service was provided safely, arranging repairs of gas leaks or other safety hazards, and preventing and halting thefts of service through illegal hookups. Dennis Connell, Kon Troy, John Lombardo, Peter Poggioli, Patrick Cawley, and Luis Hernandez allegedly extorted or were bribed by individuals receiving gas or electrical service through illegal hookups. Allegedly, some of the defendants permitted illegal hookups at a restaurant, an auto repair shop, a laundromat, and an apartment building in return for cash.

William Cutler, Cornelius Healey, and John Ryan are charged with obtaining cash from ConEd commercial customers by threatening to delay the provision of gas or electrical service or by promising to expedite service. Cutler allegedly attempted to extort cash from a restaurant owner after he had been suspended by ConEd. All three have pled guilty in New York State court to receiving commercial bribes.

ConEd supervisor James Macioce allegedly extorted cash and accepted bribes in return for allowing delays in repairs of gas leaks at a Barrow Street apartment building and a Christopher Street restaurant.

The charges follow a lengthy investigation of corruption among ConEd employees by OLR. This investigation is part of a probe by OLR into corruption in the construction industry in New York City. *U.S. v. Joseph DeGratto, et al.* (E.D. New York) and *New York v. John Ryan et al.*

## Chapter 4

# OFFICE OF RESOURCE MANAGEMENT AND LEGISLATIVE ASSESSMENT

The Office of Resource Management and Legislative Assessment supports the OIG by fulfilling several responsibilities mandated by the Inspector General Act of 1978, including legislative and regulatory review, reporting to the Congress, representing the OIG on various committees and initiatives of the President's Council on Integrity and Efficiency, and performing general management and support activities to achieve the mission of the OIG.

Section 4(a) of the Inspector General Act of 1978 requires the Inspector General to review existing and proposed regulations and to make recommendations in the Semiannual Report concerning the impact on the economy and efficiency of the administration of the Department's programs and on the prevention of fraud and abuse.

### **Clarification of OIG's Authority Continues to be Needed**

The Justice Department's Office of Legal Counsel's March 1989 opinion severely limits the OIG's Office of Investigations' ability to investigate criminal fraud and abuse in major Department of Labor areas.

On July 17, 1990, after meetings and discussions among a few OIGs and the DOJ which was facilitated by the President's Council on Integrity and Effectiveness (PCIE), the DOJ issued what it considered to be a "clarification" of the opinion. This was in the form of a letter from OLC to OMB referencing the DOJ/PCIE committee agreement. In a July 18, 1990, memorandum to PCIE members, the PCIE Vice Chair stated, "[O]f course, no statutory IG is bound by a PCIE committee agreement or, for that matter, any PCIE agreement...."

Although the "clarification" to the OLC opinion seems to resolve some of the confusion created by the original opinion for other OIGs, it does not resolve many of the specific problems identified within the Department of Labor. The original opinion continues to limit the ability of OIG's Office of Investigations to conduct criminal investigations into fraud relating to the specific areas of employee benefit abuse, reckless endanger-

ment of employee safety and health, and wage and hour standards where neither Federal funds or employees are involved.

The OIG has advised the Department that these matters remain in need of resolution.

### **Delay of Department's Pension Welfare Benefits Administration (PWBA) Legislative Proposals**

On September 18, 1989, in a letter to Congressman Tom Lantos, following an Employment and Housing Subcommittee hearing concerning ERISA enforcement, the Department promised legislative enforcement proposals to redress concerns about ERISA enforcement. On June 8, 1990, the Department sent legislative proposals to the Office of Management and Budget (OMB) for approval. As of September 30, 1990, OMB clearance of the Department's proposals had not been obtained.

The OIG strongly recommends that the Labor Department push for introduction of these proposals early in the next legislative session to assure that action is not deferred for another full year.

## LEGISLATIVE CONCERNS

### **S. 2080 and H.R. 4149, "Office of Inspector General Law Enforcement Act of 1990."**

This bill was introduced by Senator Rudy Boschwitz in the Senate and Congressman Harley Staggers in the House. The OIG has strongly supported any legislation which would provide for full law enforcement authority for OIG criminal investigators (GS-1811s). The lack of such authority impedes the ability of OIG special agents to perform many traditional law enforcement responsibilities and presents a real problem of safety for witnesses and agents.

While DOJ's temporary deputization of some of the OIG's criminal investigators has proved beneficial in the past, it has only been a palliative remedy and does not adequately meet the need for permanent law enforcement powers necessary to ensure success and credibility; moreover the renewal process has proved to be burdensome and inefficient.

Full law enforcement authority includes making arrests, issuing search warrants, and carrying firearms--in essence, the ability for OIG criminal investigators to conduct their investigations with the same tools and safeguards granted to the traditional law enforcement agencies such as the FBI, DEA, IRS, Customs, and the Secret Service (all GS-1811 investigators). Neither bill had received committee action as of the close of the reporting period. We will continue to support the introduction of similar legislation in the next Congress.

### **H.R. 2039, "Job Training Partnership Act and Youth Employment Amendments of 1989"**

The OIG has supported this bill which would alleviate some longstanding problems about serving those most in need, adequately accounting for costs charged the Government, and greater fairness and specificity in contracting for JTPA services. This bill was passed overwhelmingly by the House and sent to the Senate on October 1, where it died without being introduced. The OIG will continue to support the need for similar legislation in the next Congress.

## LEGISLATIVE AGENDA

The following represent several of the items included by the OIG in its portion of the Department's CY 1991 legislative agenda.

### **Exemption of Undercover IG Operations from Certain Limitations**

While the OIG's Office of Labor Racketeering (OLR) has budgeted funds for undercover operations, it lacks the authority to carry out some of the wide range of activities necessary to conduct effective undercover operations. The FBI and the Department of Treasury have a statutory exemption of undercover operations from certain laws. OLR is seeking a similar exemption.

Undercover operations, by their nature, require a certain amount of deception. It is frequently necessary to set up a business as part of the operations. It is also often necessary to lease office space, open a checking account, etc., in the fictitious name of a bogus business. It is essential that the existence of the fictitious business and false name used by the undercover agent remain secret to ensure the success of the undercover operation and to protect the safety of the undercover agent.

Federal statutes and regulations in the areas of procurement of space, establishing corporations, and depositing funds in banks require procedures which are incompatible with operational security, serve to impede undercover operations and could put both the operation and the undercover agent at risk. OLR needs an exemption from these laws if it is to maximize the investigative potential of its undercover operations.

Legislation proposed should also permit the OIG to use the proceeds from undercover operations to offset necessary and reasonable expenses. Without an exemption, OLR is prohibited under federal law from using these proceeds. The use of the proceeds would add credibility to the operation while saving taxpayer money. Effective stringent internal controls and audit oversight would be incorporated into the process.

**Additions to the Department's Draft Bill,  
"To Provide for More Effective Enforcement  
of the Labor-Management Reporting and  
Disclosure Act of 1959 (LMRDA) and for  
Other Purposes"**

The OIG suggests the following items be incorporated into the Department's proposed bill:

1. Amend Section 504 of the LMRDA so that the disabling offenses under the more inclusive Section 1111 of ERISA be applicable to LMRDA so that the disabling crimes under both laws would be identical. Proposed legislation should also unequivocally reassert that disability under Section 504 of the LMRDA or Section 1111 of ERISA shall not be stayed pending appeal of the disqualifying conviction or otherwise set aside except as provided by these sections.
2. Amend Section 209 of the LMRDA to make it a felony to fail to report on or falsely report union financial activities.

**Hobbs Act Amendment**

The OIG recommends that the Department support legislation that would nullify the effect of the Supreme Court's decision in *United States v. Enmons* 410 U.S. 396 (1973).

Such legislation would make clear that the Hobbs Act punishes the actual or threatened use of force or violence to obtain property as part of a labor-management dispute. The Department of Justice has long sought this result, and, in the 99th Congress, strongly supported S.1774, a bill that would accomplish this purpose without banning incidental picket line violence and threats of violence.

## Chapter 5

### AUDIT RESOLUTION

Audit Resolution Activity (\$ millions)				
<u>Period Ending</u>	<u>Audit Reports Resolved</u>	<u>Amount</u>		<u>Total Resolved</u>
		<u>Disallowed</u>	<u>Allowed</u>	
3/31/89	344	\$46.6	\$74.2	\$120.8
9/30/89	327	\$72.7	\$45.5	\$118.2
3/31/90	350	\$15.4	\$3.0	\$18.4
9/30/90	263	\$344.0	\$3.6	\$347.6

Detailed information about audit resolution activity for the period may be found in Chapter 7.

#### SIGNIFICANT RESOLUTION ACTIONS

##### Management's Commitment to Recover Funds

The following are examples of significant resolution actions taken by program officials resulting in the disallowance of costs claimed by the Department's contractors and grantees.

##### Teledyne Economic Development

(Audit Report No. 18-89-021-07-735, issued 9/29/89)

Teledyne Economic Development (TED), a subsidiary of Teledyne, Inc., operates five Job Corps centers for the Department of Labor. The Division of Cost Determination upheld \$145,613 of questioned indirect costs and increased Services Administration. The Division of Cost Determination upheld \$40,436 of questioned indirect costs and reduced the allocation base by \$314,446 as a result of our audit of MTC's Calendar Year 1988 indirect costs. Questioned costs consisted of unreasonable management bonuses and corporate reorganization expenses. The base was reduced for nonreimbursable expenses directly associated with Corporate Headquarters.

##### Mississippi SDA Fixed Unit Price Contracts

(Audit Report No. 04-90-003-03-340, issued 1/26/90)

ETA disallowed all \$1,907,734 questioned in the OIG's audit of the Mississippi JTPA fixed unit price (FUP) contracts between the Mississippi Service Delivery Area and the Mississippi Employment Security Commission.

The questioned costs include \$906,721 in unnecessary and unreasonable profits retained by the Commission through PY 1987. ETA is seeking to recover \$369,334 of this amount, unless the State can provide documentation that these funds were expended by the end of PY 1989 for allowable JTPA activities. The remaining \$537,387 in profit is not subject to Federal debt collection since the State documented these funds were expended for permissible JTPA costs subsequent to the audit report.

Also included in the questioned cost was \$314,581 in interest income earned on JTPA profits through PY 1987. ETA disallowed this income and it remains subject to Federal debt collection. These funds are not reprogrammable and must be remitted by the State to the Department.

ETA disallowed and established a debt for the remaining questioned costs of \$686,432 which were profits used to fund a training program titled "Project Upgrade." These costs were questioned because the State failed to document the eligibility of the participants enrolled in the training program.

#### **Hudson Institute Workforce 2000 Book Sales**

(Audit Report No. 18-90-012-03-380, issued 2/2/90)

In a final management decision, ETA established a debt of all \$95,848 questioned by OIG in its limited scope audit of Hudson Institute's sales of the book *Workforce 2000*.

The Hudson Institute, under a \$2 million ETA noncompetitive grant, earned and inappropriately retained profits associated with the production and sale of its *Workforce 2000* publication.

#### **DOL Equity/Basis in State-Owned Real Property**

(Audit Report No. 04-90-002-03-325, issued 1/25/90)

In April 1990, ETA agreed in substance with the OIG's recommendations involving DOL's equity in state-owned real property. DOL's equity, which has an estimated basis of \$297 million, was acquired through amortization of cost with Federal funds provided for Employment Security (ES) programs' administration. We recommended that ETA establish and maintain an inventory of DOL's equity and create a real estate specialist position responsible for property management. We also recommended that ETA revise its real property management instructions to SESAs to include reinstatement of DOL's prior approval requirements for real estate transactions.

ETA has begun implementing our recommendations. Currently, ETA is testing a real property inventory management system. OIG will assist ETA's real estate specialist to implement our recommendations.

#### **Retention of DOL's Equity from Disposition of State-Owned Real Properties**

(Audit Report Nos. 04-90-008-03-325, issued 11/3/89; 04-90-009-03-325, issued 11/3/89; 04-90-010-03-325, issued 1/3/90; and 04-90-011-03-325 issued 11/29/89)

ETA instructed 4 States to make restitution of at least \$2,881,623 applicable to DOL equity in 11 properties which the ES programs of the respective States no longer occupied. ETA has also instructed two of the four States to make additional restitution for vacated properties once the value of DOL's equity is determined. The OIG estimates that the value of DOL's equity in the 2 additional properties will exceed \$3 million.

To date, 1 State has made restitution of \$565,559 by recognizing an equivalent amount of DOL equity in 2 replacement properties. The OIG will continue to work with ETA to ensure that acceptable restitution is made by the other 3 States for the remaining 11 properties no longer used for ES program purposes.

#### **MANAGEMENT'S COMMITMENT TO REMEDY ADMINISTRATIVE ACTIONS**

Nonmonetary audit recommendations are important because they direct attention to improving internal controls and operating procedures. They may propose shifts in program emphasis or policy direction and make legislative or regulatory changes. Corrective actions constitute reasonable remedies and include descriptions and timetables of specific actions taken, completion dates, and evidence to prove recommendations were implemented.

Following is one example of significant resolution actions by program officials to remedy administrative deficiencies.

#### **UI Experience Rating and UI Trust Fund Internal Controls**

(Audit Report Nos. 03-83-203-03-315, issued 8/16/85 and 03-90-086-03-315, issued 1/25/90)

We are pleased to report that, during this period, we have resolved two outstanding audit reports related to the operation of experience rating in the States' unemployment insurance programs' tax systems. Achieving

effective experience rating in these systems and providing the Secretary of Labor with adequate and accurate experience rating information has been a major goal of the OIG since 1985. We believe that, with ETA's agreement on the points made in these two audits, we will have made significant progress toward this goal.

The first of these reports, "Financing the Unemployment Insurance Program Has Shifted From a System Based On Individual Employer's Responsibility Towards a Socialized System," had been previously resolved except for our recommendation that ETA implement a mechanism for validating the accuracy of reported experience rating data. ETA's agreement to establish such a validation system over the next 16 months resolves this last recommendation.

Plans submitted by ETA call for a two-step process of validation. In the short term, ETA will work to get the most complete Forms 204 from the States. In a longer term effort, ETA proposes use of a combination of Benefits and Revenue Quality Control efforts to assure that SESAs systematically develop sufficient information to enable them to assess whether or not existing systems properly make and account for benefit charge decisions.

Closure of the recommendation will occur upon ETA's implementation of these information systems which will allow ETA to validate experience rating information. This is expected to occur in concert with implementation of Revenue Quality Control in Calendar Year 1992.

The second experience rating report resolved this period, "The UI Program Needs to Improve Internal Controls over Trust Fund Accounting and Reporting Activities" was undertaken originally to establish the feasibility of developing an experience rating validation system through the SESAs' systems of Unemployment Trust Fund (UTF) accounting. While we did establish this feasibility, we also established that the SESAs' UTF accounting systems were seriously deficient, not only in collecting and accounting for experience rating data, but also in supporting program and financial information routinely reported to the Department.

ETA's agreement to facilitate SESA efforts to improve UTF accounting systems through guidance letters, technical assistance and direct funding of related automation grants, and their agreement to review Federal reporting requirements to ensure integration between

the UTF accounting systems and the reporting structure, both to be accomplished over the next 2 years, will resolve this audit completely. Closure of the recommendations will occur upon implementation of a revised reporting system.

#### **OFCCP Needs to More Effectively and Consistently Enforce Federal EEO Regulations**

(Audit Report No. 04-86-079-04-410, issued 9/8/88)

The OIG reported on a nationwide review aimed at strengthening OFCCP's program enforcement and improving its operational efficiency and effectiveness.

OFCCP has broad-ranging responsibility for ensuring nondiscrimination and affirmative action by more than 215,000 Federal contractor establishments, employing more than 30 million workers and doing more than \$167 billion worth of business with the United States Government. To administer the programs for Fiscal Year 1990, OFCCP was authorized a budget of \$53 million and a total of 970 positions.

By January 1990, we were able to resolve all but 1 of the 46 original recommendations. The unresolved issue centered on "underutilization and availability" of minorities or women in both the Federal contractors' workforce and the general population. Current Federal regulations define underutilization as having "fewer minorities or women than would reasonably be expected based upon availability." OIG maintained that the ambiguities in determining "underutilization" should be clarified by regulation. OFCCP contended that the decision to address clarification by regulatory change was a policy question to be answered by the Secretary.

DOL's designated Audit Followup Official is the Deputy Secretary. Among other duties, the Audit Followup Official is required to ensure that disagreements between the OIG and the program agency involved are resolved. In February 1990, we requested that the Deputy Secretary act in his capacity as the Department's Audit Followup Official, as defined in OMB Circular A-50, to resolve the one remaining recommendation.

The Deputy Secretary responded in October 1990 in a memorandum "OIG's Recommendation Regarding New OFCCP Regulations to Define Underutilization." The text of this document is reproduced in the Appendix to this report.

The OIG considers this issue resolved.

## Chapter 6

### MANAGEMENT DECISIONS

The Department's management evaluates audit findings and recommendations and issues final decisions in response to them. Management decisions should include necessary corrective action.

The OIG is required to report on any significant management decision with which the OIG is in disagreement. Further, the OIG is also required to provide a description and explanation of the reasons for any significant revised management decisions made during the reporting period.

During this reporting period, revised management decisions were issued on eight audit reports, all by ETA.

#### **SIGNIFICANT REVISED MANAGEMENT DECISIONS**

##### **SDA Procurement Practices (Oregon)**

(Audit Report No. 09-88-548-03-340, issued 9/27/88)

In September 1990, ETA entered into a settlement agreement with the State of Oregon on the OIG's audit of JTPA training and services' procurement by The Oregon Consortium. The settlement covered the audit period and two additional Program Years.

Of the \$5.9 million in profits acknowledged by the state (as realized by The Oregon Consortium via improperly procured contracts during the five Program Years between 1984 and 1988), ETA allowed \$2.6 million as having been spent on JTPA activity; allowed \$1.6 million to be reprogrammed before the end of Program Year 1992; and required \$1.7 million to be remitted by the State of Oregon to the Department over the next three years. The first installment (\$100,000) of the repayment required by the settlement agreement was submitted by Oregon in October 1990.

##### **Missouri Department of Social Services**

(Audit Report No. 05-88-075-03-345, issued 5/10/88)

The grantee filed two ALJ appeals on \$498,144 in disallowed CETA costs and \$3,559,128 in disallowed JTPA costs. The two cases were consolidated and a negotiated settlement was reached prior to the hearing

date. In an agreement dated July 6, 1990, ETA and the grantee stipulated that a total of \$2,014,061 in costs were disallowed. The grantee made a cash repayment of \$200,000 and was allowed to offset the remaining \$1,814,061 with costs that had been expended from state appropriated funds. Accordingly, the appeals in both cases were dismissed on July 20.

##### **Commonwealth of Puerto Rico**

(Audit Report No. 02-86-010-03-340, issued 5/27/88)

The audit report questioned \$2,038,633 in JTPA costs and contained a number of administrative findings. ETA's final decision issued in November 1988 allowed \$1,326 and disallowed \$2,037,307. The Commonwealth appealed and, based on ETA's subsequent reviews of documentation on several occasions, ETA allowed an additional \$269,305. As of September 1990, costs of \$270,631 were allowed and disallowed costs stood at \$1,768,002.

##### **Operative Plasterers and Cement Masons**

(Audit Report No. 13-87-003-03-370, issued 6/10/88)

Based on this report, ETA questioned \$706,879 in Job Corps costs. Although ETA issued a final decision on that report in March 1989, a subsequent audit provided information which addressed a major issue of the original report. Accordingly, ETA issued a revised final decision in June 1990 which allowed \$123,058, disallowed \$3,401 and set aside \$580,420.

**Florida Department of Labor and  
Employment Security**  
(Audit Report No. 04-89-193-50-598, issued 9/11/89)

The grantee appealed ETA's final decision. ETA subsequently reviewed additional documentation and, in a memorandum dated August 15, 1990, allowed \$906 and determined all administrative findings were corrected.

**South Carolina Board of Technical and  
Comprehensive Education**  
(Audit Report Nos. 04-89-131-03-340, and  
04-89-133-03-355, issued 4/26/89)

In these reports, auditors questioned and ETA subsequently disallowed \$2,247 because purchases were made without evidence of competition. The auditee appealed. Based upon further documentation and explanation, ETA allowed the costs in August 1990.

**North Dakota Job Service**  
(Audit Report No. 06-90-112-50-598, issued 1/30/90)

In this report, auditors questioned and ETA subsequently disallowed \$7,704 because of various irregularities regarding JTPA participant eligibility. ETA sustained the disallowance but amended its decision since it is inappropriate to pursue recovery of costs that were not subject to debt collection in ETA's initial determination on the audit. ETA waived the grantee's liability for all but \$3,198 for which a debt has been established.

## **Chapter 7**

# **AUDIT SCHEDULES AND TABLES**

# Money Owed the Department of Labor For the Period April 1-September 30, 1990

Program Name	Beginning Balance		Debt Established During Period				Collections During Period		Adjustments Due to:			Ending Balance				
	(A) In Collection	(B) Under Appeal	(C) From Beginning Appeals	(D) From New Appeals	(E) Other (Never Appealed)	(F) New Appeals	(G) In Collection	(H) Under Appeal		(I) Write-Offs	(J) Appeals		(K) Audit Resolution	(L) In Collection	(M) Under Appeal	
								(1) Prior Period	(2) Current Period		(1) Prior Period	(2) Current Period				
ESA	21,688,219	4,417,442	0	0	13,842,501	-184,358	11,263,937	0	0	1,577,265	0	0	1,309,296	13,536,728	7,843,494	4,233,084
FECA	6,078,600	124,892,279	6,093,401	0	15,186,483	0	12,846,556	0	0	8,790,252	0	0	152,265	5,569,411	0	118,798,878
Black Lung Disability Trust Fund	53,740,449	54,892,024	371,842	0	9,161,650	640,733	6,213,051	371,842	0	435,004	0	0	1,700,565	50,216,911	3,285,742	53,738,247
CETA	2,395,661	19,891,365	0	0	3,414,582	64,418	3,549,060	0	0	0	0	0	-802,604	2,631,877	431,910	19,955,783
JTPA	11,719	88,481,596	18,937,143	0	-408,344	3,491,303	0	265,771	0	0	0	0	16,921,276	11,928	0	71,428,442
UI/SESA	8,713,245	1,349,375	0	620,121	8,422,187	2,458,391	7,456,624	507,011	476,286	1,404,871	0	143,835	0	6,206,315	2,180,732	2,060,513
MSHA Assessments/Mine Operator Civil Penalties	16,945,133	46,087,603	0	8,236,698	7,399,910	8,903,747	13,091,844	0	4,166,405	768,584	0	0	0	9,554,356	9,166,957	42,588,247
OSHA Civil Penalties	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
-From Business	41,895	0	0	0	454,692	0	462,721	0	0	0	0	0	0	22,261	11,605	0
-From State Grantees	261,324	0	0	0	199,012	0	146,464	0	0	0	0	0	0	264,647	49,225	0
BLS	109,876,245	340,011,684	25,402,386	8,856,819	57,672,673	15,374,234	55,030,257	1,144,624	4,642,691	12,975,976	2,392,369	143,835	19,280,798	88,014,434	22,969,665	312,803,194
OASAM																
Total																

**Explanations:**

Figures provided by agencies are estimates and are unaudited. Differences between beginning balances on this schedule and ending balances on the prior period schedule result from adjustments made during the period. Almost all delinquent debt has either been referred to DOJ for collection action or is in the process of referral.

Collections during the period includes: money which had been under appeal, subsequently had a debt established, and money collected.

**Definitions:**

- Collections: Includes cash, offsets, property, repayment agreements; any amount more than 30 days overdue is delinquent
- Under appeal: Formal process in which program recipient/auditee appeals program agency's determination; amounts are "contingent" receivables--not available for collection
- Write-Offs: Result from agency administrative procedures to write off uncollectible receivables, a/k/a bad debt
- Adjustments due to appeals: Adjustments of contingent receivables which result from ALJ/Judicial process (includes agency actions overturned & compromises)
- Adjustments due to audit resolution: Adjustments of contingent receivables which result from reclassification of disallowed costs based on documentation submitted after audit resolution

**Summary of Audit Activity of DOL Programs  
April 1 - September 30, 1990**

Agency	Reports Issued	Grant/Contract Amount Audited	Unsupported Costs <sup>1</sup>	Amount Recommended Disallowance
OSEC	2	\$2,141	0	0
VETS	6	\$3,562,615	0	0
ETA	169	\$57,738,454,273	\$118,766,405	\$46,273
ESA	2	\$600,941,971	0	0
MSHA	4	\$430,795	0	0
OASAM	18	\$131,196,431,385	\$11,527,549	\$188,912
OIG	1	\$137,827	0	0
OSHA	14	\$246,251,402	\$441,224	\$32,814
BLS	1	0	0	0
Multi	27	\$2,251,251,733	\$189,796	0
Other Agencies	1	0	0	0
<b>Totals</b>	<b>245</b>	<b>\$192,037,464,142</b>	<b>\$130,924,974</b>	<b>\$267,999</b>

<sup>1</sup>Unsupported Costs include \$99,314,000 in Funds Recommended for Better Use as reported in "Federal Employees' Compensation Account," Audit Report No. 12-90-012-03-315.

**Summary of Audit Activity of ETA Programs  
April 1 - September 30, 1990**

Program	Reports Issued	Grant/Contract Amount Audited	Unsupported Costs	Amount Recommended Disallowance
ADMIN	2	\$57,000,000,000	0	0
Comptroller	1	\$188,000	0	0
UIS	2	\$121,338,687	\$99,314,000	0
SESA	2	\$292,281,356	\$1,673	0
JTPA	12	\$37,360,103	\$17,006,643	0
CETA	9	\$24,020,001	\$1,699,727	0
DINAP	76	\$36,478,092	\$439,339	\$979
DOWP	13	\$137,847,566	\$40,712	0
DSFP	24	\$28,903,558	\$1,780	\$45,294
OJC	15	\$50,276,859	\$43,507	0
BAT	3	\$4,492,008	0	0
OSPPD	10	\$5,268,043	\$219,024	0
<b>Totals</b>	<b>169</b>	<b>\$57,738,454,273</b>	<b>\$118,766,405</b>	<b>\$46,273</b>

**Summary of Audits Performed Under the Single Audit Act  
April 1 - September 30, 1990**

Agency	Entities Audited	Reports Issued	DOL Grant/Contract Amount Audited	Amount of Unsupported Costs	Amount Recommended Disallowance
OSEC	0	1	\$2,141	0	0
VETS	3	5	3,562,615	0	0
ETA	65	130	\$675,608,821	\$262,916	\$45,294
MSHA	1	4	\$430,795	0	0
OSHA	3	10	\$5,769,104	\$1,861	\$32,814
Multi Agency	14	27	\$2,251,251,733	\$189,796	0
Other Agencies	1	1	0	0	0
<b>Totals</b>	<b>87</b>	<b>178</b>	<b>\$2,936,625,209</b>	<b>\$454,573</b>	<b>\$78,108</b>

**Note:** DOL has cognizant responsibility for specific entities under the Single Audit Act. More than one audit report may have been transmitted or issued for an entity during this time period. Reports are transmitted or issued based on the type of funding and the agency/program responsible for resolution. During this period, DOL issued reports on 87 entities for which DOL was cognizant; in addition, DOL issued 91 reports which included direct DOL funds for which DOL was not cognizant.

**Summary of Audits Performed Under the Single Audit Act  
Multi-Agency Reports  
April - September 30, 1990**

Program	Number of Recommendations	Amount of Unsupported Costs	Amount Recommended Disallowance
ETA:			
UIS	4	\$5,465	0
USES	1	\$1,606	0
SESA	3	\$50,062	0
WIN	1	\$22,291	0
JTPA	2	\$4,662	0
BAT	1	\$40,520	0
OASAM:			
OPGM	1	\$6,597	0
BLS:			
BLSG	2	\$58,593	0
Totals	15	\$189,796	0

**Note:** Multi-Agency Programs reports relate to Single Audit reports only. The report may be on a statewide audit where DOL has accepted "lead" cognizancy or it may be on a single entity under the direct responsibility of DOL. If multiple DOL programs were audited, the multiple-agency designation was used. Individual recommendations within the report designate which agency/program is responsible for resolution. Fifteen recommendations are contained within the 27 multiple-agency reports issued this period.

**Summary of Audit Resolution Activity  
April 1 - September 30, 1990**

Agency Program	April 1, 1990		Issued (Increases)		Resolved (Decreases)		Sept. 30, 1990	
	Balance Unresolved	Reports	Reports	Dollars	Reports	Allowed	Reports	Dollars
OSEC	0	0	2	0	2	0	0	0
VETS	19	\$3,083,190	6	0	19	\$1,762,450	6	\$957,454
ETA:								
ADMIN	2	\$467,666	2	0	2	0	2	\$467,666
COMPTROLLER	0	0	1	0	1	0	0	0
UIS	6	0	2	\$99,314,000	4	0	4	\$99,314,000
SESA	10	\$305,150,489	2	\$1,673	8	\$64,111	4	\$7,063,931
JTPA	18	\$44,008,071	12	\$17,006,643	16	\$18,681	14	\$58,497,995
CETA	3	\$625,831	9	\$1,699,727	4	\$5,865	8	\$1,693,862
OSTP	0	0	0	0	0	0	0	0
DINAP	24	\$668,309	76	\$440,318	76	\$8,190	24	\$440,553
DOWP	2	\$454,718	13	\$40,712	12	\$62,221	3	\$14,940
DSFP	7	\$6,419	24	\$47,074	23	\$3,191	8	\$47,074
OJC	1	\$2,358	15	\$43,507	10	0	6	\$45,865
BAT	0	0	3	0	3	0	0	0
OSPPD	1	\$95,848	10	\$219,024	3	0	8	\$219,024
ESA	3	0	2	0	3	0	2	0
OLMS	0	0	0	0	0	0	0	0
MSHA	1	0	4	0	4	0	1	0
OASAM	10	\$14,289,867	18	\$11,716,461	17	\$900,296	11	\$24,182,301
SOL	0	0	0	0	0	0	0	0
OIG	0	0	1	0	1	0	0	0
OSHA	2	\$1,743	14	\$474,038	13	\$16,308	3	\$439,363
BLS	0	0	1	0	1	0	0	0
PWBA	2	0	0	0	1	0	1	0
Multi-Agency	31	\$2,512,084	27	\$189,796	37	\$743,472	21	\$952,115
Other Agencies	2	\$19,915,566	1	0	3	0	0	0
TOTAL	144	\$391,282,159	245	\$131,192,973	263	\$3,584,785	126	\$194,336,123

DOLLARS represent both unsupported (inadequately documented) costs and questioned (alleged violation of law, regulation, contract, etc.; or unnecessary or unreasonable) costs.

DOLLARS ISSUED include \$99,314,000 in recommendations that funds be put to better use.

DISALLOWED COSTS include additional claim amounts by ETA of \$19,461,308. Additional claim amounts occur when the grant/contract officer disallows an amount in addition to the finding amount.

AUDIT RESOLUTION occurs when the program agency and the OIG agree on action to be taken on reported findings and determinations. Thus, this table does not represent any activity subsequent to management's final action such as results of the appeals process or program agency debt collections. Information such as this may be found in the Secretary's Report to Congress. See Chapter 6 for discussion on revision of prior management decisions.

DIFFERENCES between the beginning balance of this schedule and the ending balance of the previous *Semiannual Report* result from adjustments during the period.

**Summary of Audit Resolution Activity**  
**Unsupported Costs**  
**April 1 - September 30, 1990**

Agency Program	April 1, 1990		Issued (Increases)		Resolved (Decreases)		September 30, 1990	
	Balance Unresolved Reports	Dollars	Reports	Dollars	Allowed	Disallowed	Balance Unresolved Reports	Dollars
OSEC	0	0	0	0	0	0	0	0
VETS	2	\$115,295	0	0	\$85,514	0	4	\$29,781
ETA:								
ADMIN	1	\$467,666	0	0	0	0	1	\$467,666
COMPTROLLER	0	0	0	0	0	0	0	0
UIS	0	0	0	0	0	0	0	0
SESA	4	\$6,215,094	1	\$1,673	\$10,339	\$32,063	2	\$6,174,365
JTPA	11	\$42,150,804	5	\$17,006,643	\$18,681	\$730,926	10	\$58,407,840
CETA	3	\$554,362	9	\$1,699,727	\$5,865	\$544,362	8	\$1,693,862
DINAP	12	\$668,308	9	\$439,339	\$8,190	\$660,303	9	\$439,554
DOWP	2	\$454,718	2	\$40,712	\$62,221	\$418,269	1	\$14,940
DSFP	3	\$3,299	1	\$1,780	\$3,191	\$108	1	\$1,780
OJC	0	0	3	\$43,507	0	0	3	\$43,507
OSPPD	0	0	5	\$219,024	0	0	5	\$219,024
ESA	0	0	0	0	0	0	0	0
MSHA	0	0	0	0	0	0	0	0
OASAM	8	\$13,779,569	7	\$11,527,549	\$608,545	\$705,184	7	\$23,993,389
OSHA	0	0	3	\$441,224	0	\$1,861	2	\$439,363
BLS	0	0	0	0	0	0	0	0
Multi-Agency	17	\$1,603,954	5	\$189,796	\$614,420	\$2,427,215	10	\$952,115
Other Agency	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>63</b>	<b>\$66,013,069</b>	<b>50</b>	<b>\$31,610,974</b>	<b>\$1,416,966</b>	<b>\$5,530,291</b>	<b>60</b>	<b>\$92,877,186</b>

These unsupported costs are incorporated into the "Summary of Audit Resolution Activity" schedule on the previous page. They are broken out as required by P.L. 100-504.

**Status of Resolution Actions on Beginning Balance  
and Unresolved Audits Over 6 Months**

Agency Program	April 1, 1990 Balance Unresolved		Resolved (Decreases) <sup>1</sup>		September 30, 1990 Balance Unresolved <sup>2</sup>	
	Reports	Dollars	Reports	Dollars	Reports	Dollars
OSEC	0	0	0	0	0	0
VETS	19	\$3,083,190	13	\$2,125,736	6	\$29,781
ETA:						
ADMIN	2	\$467,666	1	0	1	0
UIS	6	0	4	0	2	0
SESA	10	\$305,150,489	7	\$298,088,231	3	\$6,989,235
JTPA	18	\$44,008,071	12	\$2,516,719	6	\$3,040,742
CETA	3	\$625,831	3	\$625,831	0	0
DINAP	24	\$668,309	22	\$667,922	2	0
DOWP	2	\$454,718	2	\$454,718	0	0
DSFP	7	\$6,419	7	\$6,419	0	0
OJC	1	\$2,358	0	0	1	0
OSPPD	1	\$95,848	1	\$95,848	0	0
ESA	3	0	2	0	1	0
OLMS	0	0	0	0	0	0
MSHA	1	0	1	0	0	0
OASAM	10	\$14,289,867	9	\$1,476,232	1	\$12,813,635
SOL	0	0	0	0	0	0
OIG	0	0	0	0	0	0
OSHA	2	\$1,743	2	\$1,743	0	0
BLS	0	0	0	0	0	0
PWBA	2	0	1	0	1	0
Multi	31	\$2,512,084	25	\$1,749,765	6	\$106,190
Other Agencies	2	\$19,915,566	2	\$19,915,566	0	0
<b>TOTALS</b>	<b>144</b>	<b>\$391,282,159</b>	<b>114</b>	<b>\$327,724,730</b>	<b>30</b>	<b>\$22,979,583</b>

<sup>1</sup>Reflects resolution activity for reports which are unresolved at the beginning of the period.

<sup>2</sup>Includes only those reports whose unresolved status exceeds 180 days.

Beginning Balance Unresolved includes \$296,054,000 in recommendations that funds be put to better use. Sustained recommendations that funds be put to better use (Decreases) total \$296,054,000 for the period.

See next schedule for breakout of "unsupported costs."

Ending Balance Unresolved includes \$21,941,785 under litigative hold.

**Status of Resolution Actions on Beginning Balance  
and Unresolved Audits Over 6 Months  
Unsupported Costs**

Agency Program	April 1, 1990 Balance Unresolved		Resolved (Decreases) <sup>1</sup>		September 30, 1990 Balance Unresolved <sup>2</sup>	
	Reports	Dollars	Reports	Dollars	Reports	Dollars
OSEC	0	0	0	0	0	0
VETS	2	\$115,295	1	\$85,514	1	\$29,781
ETA:						
ADMIN	1	\$467,666	0	0	1	0
UIS	0	0	0	0	0	0
SESA	4	\$6,215,094	3	\$42,402	1	\$6,172,692
JTPA	11	\$42,150,804	6	\$749,607	5	\$2,950,587
CETA	3	\$554,362	3	\$554,362	0	0
DINAP	12	\$668,308	11	\$667,921	1	0
DOWP	2	\$454,718	2	\$454,718	0	0
DSFP	2	\$3,299	3	\$3,299	0	0
OJC	0	0	0	0	0	0
OSPPD	0	0	0	0	0	0
ESA	0	0	0	0	0	0
OLMS	0	0	0	0	0	0
MSHA	0	0	0	0	0	0
OASAM	8	\$13,779,569	7	\$965,934	1	\$12,813,635
SOL	0	0	0	0	0	0
OIG	0	0	0	0	0	0
OSHA	0	0	0	0	0	0
BLS	0	0	0	0	0	0
PWBA	0	0	0	0	0	0
Multi	17	\$1,603,954	12	\$841,635	5	\$106,190
Other Agencies	0	0	0	0	0	0
<b>TOTALS</b>	<b>63</b>	<b>\$66,013,069</b>	<b>48</b>	<b>\$4,365,392</b>	<b>15</b>	<b>\$22,072,885</b>

<sup>1</sup>Reflects resolution activity for reports which are unresolved at the beginning of the period.

<sup>2</sup>Includes only those reports whose unresolved status exceeds 180 days.

These unsupported costs are incorporated into the "Status of Resolution on Beginning Balance and Unresolved Audits Over 6 Months" schedule on the previous page. They are broken out as required by P.L. 100-504.

**Unresolved Audits Over 6 Months  
April 1 - September 30, 1990**

Agency	Program	Audit Report Number	Name of Audit/Auditee	No of Rec	Audit Exceptions
<b>Under Litigation:</b>					
ETA	SESA	05-90-014-03-325	OHIO BUREAU OF EMPL SERVICES	7	\$6,172,692
ETA	JTPA	06-89-002-03-340	HOUSTON JTPA GRANT FUNDS	1	\$511,884
ETA	JTPA	06-89-003-03-340	NEW ORLEANS JTPA	1	\$2,338,231
OASAM	OCD	05-83-065-07-742	CITY OF DETROIT <sup>1</sup>	11	\$12,813,635
MULTI	ALLDOL	03-89-083-50-598	COMMONWEALTH OF PA	5	\$105,343
<b>Awaiting Resolution:</b>					
VETS	CONTR	18-90-001-02-201	BLINDED VETERANS ASSN <sup>2</sup>	3	\$29,781
VETS	VETSPM	04-90-048-02-210	GULF COAST BUSINESS SVC <sup>3</sup>	5	0
ETA	UIS	03-89-063-03-315	MD UI EXPERIENCE RATING <sup>4</sup>	3	0
ETA	UIS	03-89-067-03-315	UT UI EXPERIENCE RATING <sup>4</sup>	4	0
ETA	SESA	04-87-030-03-325	SESA INVESTMENT OF UI FUNDS <sup>5</sup>	3	0
ETA	SESA	04-90-011-03-325	CALIF. SESA REAL PROPERTY <sup>6</sup>	2	\$816,543
ETA	JTPA	05-90-001-03-340	KANSAS CITY FULL EMPL CNCL <sup>7</sup>	5	\$186,241
ETA	JTPA	06-90-105-03-340	ASSN FOR RETARDED CITIZENS <sup>9</sup>	5	0
ETA	JTPA	06-90-106-03-340	ASSN FOR RETARDED CITIZENS <sup>9</sup>	4	\$4,386
ETA	DINAP	09-90-501-03-355	SO. CALIF. INDIAN CENTER <sup>9</sup>	1	0
ESA	OFCCP	04-86-079-04-410	EFFECTIVENESS & EFFICIENCY <sup>5</sup>	1	0
PWBA	ADMIN	09-90-001-12-001	IPA ERISA RPTS NEED CHANGES <sup>10</sup>	3	0
MULTI	ALLDOL	03-89-082-50-598	STATE OF DELAWARE A-128 <sup>8</sup>	1	\$457
MULTI	ALLDOL	05-89-083-50-598	MISSOURI DIV. OF EMPLOYMENT <sup>3</sup>	1	\$120
MULTI	ALLDOL	05-90-034-50-598	STATE OF WISCONSIN A-128 <sup>3</sup>	1	\$270
MULTI	ALLDOL	09-90-522-50-598	AMERICAN SAMOA A-128 <sup>9</sup>	1	0
<b>TOTAL AUDIT EXCEPTIONS:</b>				<b>68</b>	<b>\$22,979,583</b>

Notes are located on the following page.

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## Notes to "Unresolved Audits Over 6 Months Precluded From Resolution"

<sup>1</sup>In August, 1984, OIG issued an audit report on Detroit's indirect costs under CETA. The city appealed. After various interim orders, on October 12, 1990, the ALJ issued a Final Order requiring that the indirect costs allocable to CETA for Fiscal Years 1978-1981 total \$6,209,640 and that Detroit pay DOL an additional \$800,000, which is the amount owed as a result of direct cost disputes settled in May 1987. Detroit has indicated it plans to appeal.

<sup>2</sup>DOL has repeatedly requested documentation from this grantee. To date BVA has provided none. According to OASAM, BVA has no other DOL grants.

<sup>3</sup>Appropriate documentation was received from the Department in October 1990 to resolve the outstanding recommendations.

<sup>4</sup>OIG informed ETA that resolution of these reports will require ETA's contacting the states involved to obtain corrective action plans. So far, ETA has refused to request the states to provide corrective action plans.

<sup>5</sup>OIG was unable to agree with Management's Decision; therefore, a request for a final determination was elevated to the Deputy Secretary, the Audit Followup Official. After the end of the period, the Deputy Secretary responded and the reports were resolved.

<sup>6</sup>ETA's and OIG's respective Counsels are attempting to work out differences regarding methodology to determine equity in the real property at issue.

<sup>7</sup>The States have 180 days to issue a final management decision. ETA and the OIG have an additional 180 days to accept State-level decisions.

<sup>8</sup>All recommendations were resolved before the end of the period except one relating to OSHA. The OSHA recommendation was resolved and closed after the period, on October 11, 1990.

<sup>9</sup>ETA expects to issue Management Decisions on these recommendations within the next reporting period.

<sup>10</sup>A revised industry audit guide is being developed by AICPA with input from OIG and PWBA. See Chapter 1 for discussion. Also, OIG and PWBA are discussing new requirements to establish separate oversight for plan audits and implement direct reporting of certain issues to DOL.

**Summary of Final Action Activity  
April 1 - September 30, 1990**

Agency Program	Oct. 1, 1989		Resolved (Increases)		Final Action (Decreases)		March 31, 1990		
	Balance No Final Action	Disallowed	Reports	Disallowed	Reports	Write-Offs	Recovered	Balance No Final Action	
	Reports	Dollars						Reports	Dollars
OSEC	1	0	2	0	2	0	0	1	0
VETS	2	\$2,685	19	\$363,286	20	0	\$365,971	1	0
ETA:									
ADMIN	6	\$28,616	2	0	2	0	\$28,616	6	0
OFAM	2	\$46,848,211	1	0	1	0	0	2	\$46,848,211
UIS	12	\$90,941,289	4	0	3	\$161,546	\$392,103	13	\$90,387,640
SESA	27	\$11,646,019	9	\$298,096,642	11	\$291,141	\$495,827	25	\$308,955,693
OTAA	1	\$1,911,839	0	0	0	0	0	1	\$1,911,839
JTPA	33	\$12,980,104	17	\$2,238,527	14	\$519,652	\$566,360	36	\$14,132,619
CETA	74	\$67,899,309	7	\$3,781,470	13	\$3,887,082	\$4,660,371	68	\$63,133,326
OSTP	21	\$6,111,390	0	0	0	0	0	21	\$6,111,390
DINAP	110	\$12,163,082	81	\$1,372,458	96	\$1,145,659	\$407,448	95	\$11,982,433
DOWP	6	\$508,383	12	\$418,269	12	0	\$12,496	6	\$914,156
DSFP	47	\$7,997,018	24	\$73,596	26	\$91,612	\$74,188	45	\$7,904,814
OJC	28	\$1,678,712	11	\$9,805	19	\$5,494	\$25,811	20	\$1,657,212
BAT	0	0	3	0	3	0	0	0	0
OSPDP	2	\$410,373	3	\$95,848	2	0	0	3	\$506,221
ESA	8	0	3	0	3	0	0	8	0
OLMS	0	0	0	0	0	0	0	0	0
MSHA	1	0	4	0	4	0	0	1	0
OASAM	16	\$309,886	17	\$958,356	11	0	\$410,040	22	\$858,202
SOL	0	0	0	0	0	0	0	0	0
OIG	0	0	1	0	1	0	0	0	0
OSHA	9	\$173,902	13	\$20,110	12	\$1,200	\$19,449	10	\$173,363
BLS	1	0	1	0	0	0	0	2	0
PWBA	1	0	1	0	1	0	0	1	0
Multi-Agency	17	\$115,554	37	\$3,206,293	23	0	\$764	31	\$3,321,083
Other Agency	1	0	3	\$37,141,828	3	\$462,820	\$36,679,008	1	0
<b>TOTAL</b>	<b>426</b>	<b>\$261,726,372</b>	<b>275</b>	<b>\$347,776,488</b>	<b>282</b>	<b>\$6,566,206</b>	<b>\$44,138,452</b>	<b>419</b>	<b>\$558,798,202</b>

**AGENCY FINAL ACTIONS:** An audit report is considered closed when management completes all actions necessary with respect to the audit findings and recommendations and reports that action to the OIG. If management concludes that no action is necessary, final action occurs when a management decision is made.

Section 106(b) of the Inspector General Amendments of 1988 (P.L. 100-504) requires that the Secretary of Labor report semiannually on the status of final actions on OIG recommendations for which management decisions have been made.

The resolved column of this schedule does not agree with the resolved schedule reported by the OIG. The difference is due to adjustments made during the period.

In a separate report, management will report to the Congress actions taken based on management decisions on OIG reports on questioned costs and recommendations that funds be put to better use. Management will also include statements on audit reports on which decisions were made but for which final actions are still incomplete after one year.

## Final Audit Reports Issued April 1 - September 30, 1990

Audit Report Number	Agency	Program	Date Sent to Program Agency	Name of Audit/Auditee
02-90-222-01-010	OSEC	ASP	02-JUL-90	Nassau County Single Audit
02-90-219-02-210	VETS	VETSPM	02-JUL-90	Suffolk County Single Audit
02-85-044-03-345	ETA	CETA	23-JUL-90	Municipality of San Juan
02-85-045-03-345	ETA	CETA	01-AUG-90	Municipality of San Juan
02-86-026-03-345	ETA	CETA	22-MAY-90	City of Elizabeth
02-86-027-03-345	ETA	CETA	22-MAY-90	City of Elizabeth
02-90-205-03-345	ETA	CETA	07-AUG-90	Westchester/Putnam Consortium Closout
02-90-241-03-345	ETA	CETA	15-JUN-90	Buffalo, New York A-128
02-90-242-03-345	ETA	CETA	15-JUN-90	Essex County, N.J. A-128
02-90-244-03-345	ETA	CETA	02-JUL-90	Puerto Rico Office of Energy A-128
02-90-245-03-345	ETA	CETA	23-JUL-90	Municipality of San Juan A-128
02-90-230-03-355	ETA	DINAP	23-MAY-90	Rhode Island Indian Council A-128
02-90-232-03-355	ETA	DINAP	15-JUN-90	Seneca Nation of Indians A-128
02-90-234-03-355	ETA	DINAP	15-JUN-90	Saint Regis Mohawk Tribe A-128
02-90-249-03-355*	ETA	DINAP	17-SEP-90	Tribal Governors, Inc. A-128
02-90-251-03-355*	ETA	DINAP	17-SEP-90	Tribal Governors, Inc. A-128
02-90-225-03-365*	ETA	DSFP	02-JUL-90	Rural Opportunities, Inc. A-128
02-90-223-03-370	ETA	OJC	09-MAY-90	Puerto Rico Volunteer Youth Corps
02-90-208-50-598	MULTI	AL/DOL	26-JUN-90	State of Maine A-128
02-90-217-50-598	MULTI	AL/DOL	24-APR-90	City of Hartford A-128
02-90-220-50-598	MULTI	AL/DOL	02-JUL-90	City of Syracuse A-128
02-90-226-50-598	MULTI	AL/DOL	01-JUN-90	State of Rhode Island A-128
02-90-227-50-598*	MULTI	AL/DOL	11-APR-90	State of New Hampshire A-128
02-90-233-50-598	MULTI	AL/DOL	23-JUL-90	State of New York A-128
02-90-235-50-598	MULTI	AL/DOL	30-APR-90	State of Vermont A-128
02-90-238-50-598	MULTI	AL/DOL	04-SEP-90	City of New York A-128
02-90-252-50-598	MULTI	AL/DOL	25-SEP-90	State of Vermont A-128
03-90-042-03-340	ETA	JTPA	26-JUN-90	OIC of America, Inc.
03-90-055-03-340*	ETA	JTPA	27-SEP-90	Va. Governor's Employment & Training A-128
03-90-063-03-340*	ETA	JTPA	27-SEP-90	Mattaponi-Pamunkey-Monacan A-128
03-90-064-03-340*	ETA	JTPA	27-SEP-90	Mattaponi-Pamunkey-Monacan A-128
03-90-057-03-355	ETA	DINAP	27-SEP-90	Three Rivers Council A-128
03-90-031-03-360*	ETA	DOWP	02-APR-90	National Council of Senior Citizens A-128
03-90-033-03-360*	ETA	DOWP	16-MAY-90	National Caucus, Center on Black Aged A-128
03-90-034-03-360*	ETA	DOWP	16-MAY-90	National Caucus, Center on Black Aged A-128
03-90-066-03-360	ETA	DOWP	27-SEP-90	City of Baltimore FY 88 A-128
03-90-067-03-360	ETA	DOWP	27-SEP-90	Va. Department for the Aging A-128
03-90-074-03-360*	ETA	DOWP	28-SEP-90	American Association of Retired Persons A-128

## Final Audit Reports Issued April 1 - September 30, 1990

Audit Report Number	Agency	Program	Date Sent to Program Agency	Name of Audit/Auditee
03-90-032-03-370	ETA	OJC	24-JUL-90	Basic Education Review
03-90-044-03-370	ETA	OJC	18-JUN-90	Imprest Fund Procedures: Meal Tickets
03-90-062-03-370	ETA	OJC	24-SEP-90	Program Results Statement Compilation PY 87
03-90-065-03-370	ETA	OJC	24-SEP-90	Program Results Statement Compilation PY 88
03-90-036-03-375*	ETA	BAT	16-JUL-90	OIC of America A-128
03-90-037-03-375*	ETA	BAT	16-JUL-90	OIC of America A-128
03-90-038-03-375*	ETA	BAT	16-JUL-90	OIC of America A-128
03-90-002-03-380	ETA	SPPD	13-AUG-90	Goodwill Industries A-128
03-90-023-04-433	ESA	CMWC	18-JUN-90	Black Lung Comp/Medical Bill Payment System
03-90-054-06-601	MSHA	GRTEES	27-SEP-90	Va. Mines, Minerals, and Energy A-128
03-90-043-10-101	OSHA	OSHAG	28-SEP-90	OSHA New Direction Grant
03-90-059-10-101	OSHA	OSHAG	27-SEP-90	St. Mary's College of Maryland A-128
03-90-060-10-101	OSHA	OSHAG	27-SEP-90	St. Mary's College of Maryland A-128
03-90-061-10-101	OSHA	OSHAG	27-SEP-90	St. Mary's College of Maryland A-128
03-90-041-50-598*	MULTI	AL/DOL	01-AUG-90	State of West Virginia A-128
04-90-070-02-210	VETS	VETSPM	07-SEP-90	FY 89 Nashville/Davidson County A-128
04-90-053-03-355	ETA	DINAP	16-APR-90	FY 88 Seminole Tribe of Florida A-128
04-90-058-03-355*	ETA	DINAP	18-JUN-90	FY 89 Metrolina Native American Assn A-128
04-90-065-03-355	ETA	DINAP	30-AUG-90	FY 89 Seminole Tribe of Florida A-128
04-90-069-03-355	ETA	DINAP	06-SEP-90	FY 88 Miccosukee Tribe A-128
04-90-052-03-360	ETA	DOWP	13-APR-90	FY 87-88 S.C. Committee on Aging A-128
04-90-055-03-360	ETA	DOWP	21-MAY-90	FY 88 Georgia Human Resources A-128
04-90-071-03-360	ETA	DOWP	26-SEP-90	FY 89 Georgia Human Resources A-128
04-90-056-03-365*	ETA	DSFP	05-JUN-90	FY 89 Mississippi Delta Farmworkers A-128
04-90-057-03-365*	ETA	DSFP	13-JUN-90	FY 89 Homes in Partnerships A-128
04-90-060-03-365*	ETA	DSFP	09-JUL-90	FY 89 Delta Housing Development Corp. A-128
04-90-063-03-365*	ETA	DSFP	15-AUG-90	FY 89 Tennessee Opportunity Programs A-128
04-90-067-03-365*	ETA	DSFP	04-SEP-90	FY 88 Rural Alabama Development Corp. A-128
04-90-068-03-365*	ETA	DSFP	04-SEP-90	FY 89 Lee County Florida Housing Authority A-128
04-90-062-06-601	MSHA	GRTEES	26-JUL-90	FY 89 S.C. Midlands Technical College A-128
04-90-050-10-101	OSHA	OSHAG	08-MAY-90	AFL-CIO United Furniture Workers
04-90-066-10-101	OSHA	OSHAG	30-AUG-90	FY 88-89 University of Alabama/Tuscaloosa A-128
04-90-054-50-598*	MULTI	AL/DOL	01-MAY-90	FY 89 Georgia Department of Labor A-128

## Final Audit Reports Issued April 1 - September 30, 1990

Audit Report Number	Agency	Program	Date Sent to Program Agency	Name of Audit/Auditee
04-90-059-50-598*	MULTI	AL/DOL	26-JUN-90	FY 89 Youth Service U.S.A., Inc. A-128
04-90-064-50-598	MULTI	AL/DOL	06-SEP-90	FY 89 State of Mississippi A-128
04-90-061-98-599*	OT AGY	NO/DOL	12-JUL-90	FY 89 Brevard County, Florida A-128
05-90-059-03-325*	ETA	SESA	12-JUL-90	Illinois Employment Security A-128
05-90-041-03-340*	ETA	JTPA	19-APR-90	Cook County, Illinois A-128
05-90-045-03-340	ETA	JTPA	04-MAY-90	Kansas Administrative Service Center
05-90-058-03-340	ETA	JTPA	28-SEP-90	Greater Flint OIC and Jobs Central
05-90-044-03-355*	ETA	DINAP	30-APR-90	Indian Center, Inc. A-128
05-90-046-03-355*	ETA	DINAP	24-MAY-90	Potawatomi Indian Nation A-128
05-90-048-03-355*	ETA	DINAP	25-MAY-90	Milwaukee Area American Indian Manpower A-128
05-90-050-03-355*	ETA	DINAP	31-MAY-90	Michigan Indian Employ. & Training Services A-128
05-90-053-03-355*	ETA	DINAP	12-JUN-90	Kansas/Southeast Nebraska Tribes A-128
05-90-054-03-355*	ETA	DINAP	19-JUN-90	Minneapolis American Indian Center A-128
05-90-061-03-355*	ETA	DINAP	01-AUG-90	American Indian Fellowship Association A-128
05-90-047-03-365*	ETA	DSFP	23-MAY-90	Minnesota Migrant Council A-128
05-90-063-03-365*	ETA	DSFP	08-AUG-90	Rural Missouri, Inc. A-128
05-90-066-03-365*	ETA	DSFP	11-SEP-90	Nebraska Association of Farmworkers A-128
05-90-067-03-365*	ETA	DSFP	26-SEP-90	Illinois Migrant Council A-128
05-90-052-03-370	ETA	OJC	01-JUN-90	Vinnell Corporation
05-90-062-03-370	ETA	OJC	09-JUL-90	Hubert H. Humphrey Center
05-90-064-03-380*	ETA	SPPD	08-AUG-90	Preparation, Recruitment, and Employment A-128
05-90-065-03-380*	ETA	SPPD	08-AUG-90	Preparation, Recruitment, and Employment A-128
05-90-055-07-711	OASAM	OA	06-JUN-90	OASAM Imprest Fund
05-90-049-07-735	OASAM	OPGM	01-JUN-90	Illinois Central Management Services
05-90-035-10-001	OSHA	ADMIN	28-JUN-90	OSHA'S Annual Report to the President
05-90-056-10-001	OSHA	ADMIN	28-SEP-90	FY 89 Financial Statements
05-90-042-10-101*	OSHA	OSHAG	24-APR-90	Iowa Labor Services A-128
05-90-040-50-598*	MULTI	AL/DOL	11-APR-90	Iowa Economic Development A-128
05-90-043-50-598*	MULTI	AL/DOL	26-APR-90	Kansas Human Resources A-128
05-90-051-50-598*	MULTI	AL/DOL	06-JUN-90	Iowa Job Service A-128
05-90-057-50-598*	MULTI	AL/DOL	28-JUN-90	Indiana Employment & Training Services A-128
05-90-060-50-598*	MULTI	AL/DOL	26-JUL-90	Indiana Department of Labor A-128

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Audit Report Number	Agency	Program	Date Sent to Program Agency	Name of Audit/Auditee
06-89-006-03-340	ETA	JTPA	17-SEP-90	Louisiana Department of Employment
06-90-001-03-340	ETA	JTPA	28-SEP-90	Big Five Community Service
06-90-003-03-340	ETA	JTPA	30-APR-90	Louisiana Department of Employment
06-90-125-03-355*	ETA	DINAP	21-MAY-90	United Urban Indian Council A-128
06-90-127-03-355*	ETA	DINAP	07-JUN-90	Four Tribes Consortium of Oklahoma A-128
06-90-285-03-355	ETA	DINAP	02-APR-90	Comanche Indian Tribe A-128
06-90-286-03-355	ETA	DINAP	03-APR-90	United Sioux Tribes of South Dakota A-128
06-90-287-03-355	ETA	DINAP	05-APR-90	Ponca Tribe of Oklahoma A-128
06-90-288-03-355	ETA	DINAP	11-APR-90	Santa Clara Indian Pueblo A-128
06-90-289-03-355	ETA	DINAP	24-APR-90	Assiniboine and Sioux Tribes A-128
06-90-290-03-355	ETA	DINAP	24-APR-90	Rosebud Sioux Tribe A-128
06-90-291-03-355	ETA	DINAP	24-APR-90	Kiowa Tribe of Oklahoma A-128
06-90-292-03-355	ETA	DINAP	24-APR-90	Jicarilla Apache Tribe A-128
06-90-293-03-355	ETA	DINAP	23-MAY-90	Otoe-Missouria Tribe of Oklahoma A-128
06-90-295-03-355	ETA	DINAP	13-JUN-90	Pawnee Tribe of Oklahoma A-128
06-90-296-03-355	ETA	DINAP	15-JUN-90	Caddo Indian Tribe of Oklahoma A-128
06-90-298-03-355	ETA	DINAP	26-JUN-90	Oklahoma Inter-Tribal Council A-128
06-90-299-03-355	ETA	DINAP	21-JUN-90	Muscogee Creek Nation A-128
06-90-300-03-355	ETA	DINAP	27-JUN-90	Cheyenne River Sioux Tribe A-128
06-90-301-03-355	ETA	DINAP	26-JUN-90	Shoshone and Arapaho Tribes A-128
06-90-302-03-355	ETA	DINAP	01-AUG-90	Citizens Band of Potawatomi, Oklahoma A-128
06-90-303-03-355	ETA	DINAP	16-JUL-90	Seminole Nation of Oklahoma A-128
06-90-304-03-355	ETA	DINAP	11-JUN-90	United Tribes Technical College A-128
06-90-306-03-355	ETA	DINAP	02-AUG-90	Central Tribes, Shawnee Area A-128
06-90-307-03-355	ETA	DINAP	13-AUG-90	Lower Brule Sioux Tribe A-128
06-90-308-03-355*	ETA	DINAP	15-AUG-90	Dallas Inter-Tribal Center A-128
06-90-310-03-355	ETA	DINAP	15-AUG-90	Southern Ute Indian Tribe A-128
06-90-311-03-355	ETA	DINAP	22-AUG-90	Confederation of Salish and Kootenai A-128
06-90-313-03-355	ETA	DINAP	05-SEP-90	Chippewa Cree Tribe A-128
06-90-314-03-355	ETA	DINAP	28-SEP-90	Ramah Navajo School Board A-128
06-90-315-03-355	ETA	DINAP	28-SEP-90	Kaw Tribe of Oklahoma A-128
06-90-316-03-355	ETA	DINAP	14-SEP-90	Ute Mountain Ute Tribe A-128
06-90-317-03-355	ETA	DINAP	14-SEP-90	Ute Mountain Ute Tribe A-128
06-90-319-03-355	ETA	DINAP	25-SEP-90	Jicarilla Apache Tribe A-128
06-90-294-03-360	ETA	DOWP	31-MAY-90	Wyoming Health and Social Services A-128
06-90-297-03-360	ETA	DOWP	15-JUN-90	Arizona Human Services, Division of Aging A-128
06-90-312-03-360	ETA	DOWP	04-SEP-90	New Mexico Agency on Aging A-128
06-90-123-03-365*	ETA	DSFP	09-APR-90	Utah Rural Development Corporation A-128
06-90-124-03-365*	ETA	DSFP	09-APR-90	Utah Rural Development Corporation A-128
06-90-130-03-365*	ETA	DSFP	18-JUL-90	Oro Development Corporation A-128
06-90-131-03-365*	ETA	DSFP	19-JUL-90	Rocky Mountain SER Jobs for Progress, Inc. A-128
06-90-002-04-431	ESA	FECA	06-JUL-90	FECA/Medical Bill Payment System

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06-90-318-06-601	MSHA	GRTEES	10-SEP-90	New Mexico Energy, Mineral, Nat. Resources A-128
06-90-005-09-001	OIG	ADMIN	28-SEP-90	Dodd, Frazier, J&T Contract Billing
06-90-128-10-101*	OSHA	OSHAG	13-JUN-90	Wyoming Labor Statistics A-128
06-90-309-10-101	OSHA	OSHAG	16-AUG-90	North Dakota Health Consolidated Labs A-128
06-90-126-50-598*	MULTI	AL/DOL	15-MAY-90	Wyoming Employment Security Commission A-128
06-90-129-50-598*	MULTI	AL/DOL	21-JUL-90	Arkansas Department of Labor A-128
09-90-202-01-001	OSEC	ADMIN	05-JUN-90	DOL Criminal Enforcement
09-90-579-02-210*	VETS	VETSPM	05-JUL-90	San Francisco PIC A-128
09-90-609-02-210*	VETS	VETSPM	19-SEP-90	NORTEC Consortium A-128
09-90-610-02-210*	VETS	VETSPM	19-SEP-90	NORTEC Consortium A-128
09-90-603-03-315*	ETA	UIS	06-SEP-90	Alaska DOL Unemployment Comp. Fund A-128
09-90-597-03-325*	ETA	SESA	21-AUG-90	Cooperative Personnel Services A-128
09-90-200-03-340	ETA	JTPA	09-APR-90	Idaho JTPA "Profits"
09-90-201-03-340	ETA	JTPA	20-JUN-90	Program Outcomes-Ventura County
09-90-534-03-355	ETA	DINAP	22-AUG-90	San Carlos Apache Tribe A-128
09-90-556-03-355	ETA	DINAP	17-APR-90	Indian Center of Jan Jose A-128
09-90-564-03-355*	ETA	DINAP	18-APR-90	Alu Like, Inc. A-128
09-90-565-03-355	ETA	DINAP	19-APR-90	Nez Perce Tribe A-128
09-90-566-03-355*	ETA	DINAP	27-APR-90	Southern California Indian Center A-128
09-90-569-03-355	ETA	DINAP	11-MAY-90	Hopi Tribe A-128
09-90-570-03-355	ETA	DINAP	21-MAY-90	White Mountain Apache Tribe A-128
09-90-571-03-355*	ETA	DINAP	21-MAY-90	Western Wa. Indian Employment & Training A-128
09-90-572-03-355	ETA	DINAP	25-MAY-90	Association/Village Council Presidents A-128
09-90-574-03-355	ETA	DINAP	25-MAY-90	Kootenai Tribe of Idaho A-128
09-90-575-03-355*	ETA	DINAP	04-JUN-90	Candelaria American Indian Council A-128
09-90-576-03-355	ETA	DINAP	20-JUN-90	Tule River Tribal Council A-128
09-90-577-03-355	ETA	DINAP	20-JUN-90	Kodiak Area Native Association A-128
09-90-582-03-355	ETA	DINAP	19-JUL-90	Kenaitze Indian Tribe FY 82 A-128
09-90-583-03-355	ETA	DINAP	19-JUN-90	Kenaitze Indian Tribe FY 83 A-128
09-90-584-03-355*	ETA	DINAP	10-AUG-90	Ya-Ka-Ama Indian Education & Develop. A-128
09-90-585-03-355*	ETA	DINAP	07-AUG-90	Native Americans/Community Action A-128
09-90-589-03-355	ETA	DINAP	07-AUG-90	Hopi Tribe A-128
09-90-595-03-355	ETA	DINAP	10-AUG-90	Tanana Chiefs Conference A-128
09-90-596-03-355*	ETA	DINAP	21-AUG-90	Northern Ca. Indian Development Council A-128
09-90-598-03-355*	ETA	DINAP	21-AUG-90	California Indian Manpower Consortium A-128
09-90-600-03-355*	ETA	DINAP	21-AUG-90	Candelaria American Indian Council A-128
09-90-604-03-355*	ETA	DINAP	24-SEP-90	Kootenai Tribe of Idaho A-128

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09-90-606-03-355*	ETA	DINAP	13-SEP-90	Arizona Indian Centers A-128
09-90-607-03-355*	ETA	DINAP	13-SEP-90	Arizona Indian Centers A-128
09-90-608-03-355	ETA	DINAP	19-SEP-90	Colville Confederated Tribes A-128
09-90-586-03-360*	ETA	DOWP	07-AUG-90	Nacional Pro Personas Mayores A-128
09-90-548-03-365*	ETA	DSFP	22-JUN-90	Portable Practical Education Prep. A-128
09-90-560-03-365*	ETA	DSFP	11-APR-90	Portable Practical Education Prep. A-128
09-90-561-03-365	ETA	DSFP	10-APR-90	Rural Community Assistance A-128
09-90-568-03-365	ETA	DSFP	07-JUN-90	Alaska Department of Administration A-128
09-90-573-03-365*	ETA	DSFP	25-MAY-90	Idaho Migrant Council A-128
9-90-578-03-365*	ETA	DSFP	26-JUN-90	Center for Employment Training A-128
09-90-580-03-365*	ETA	DSFP	09-JUL-90	Proteus Training and Employment A-128
09-90-588-03-365*	ETA	DSFP	07-AUG-90	Central Valley Opportunity Center A-128
09-90-593-03-365*	ETA	DSFP	14-AUG-90	Ca. Human Development Corporation A-128
09-90-562-03-370	ETA	OJC	17-APR-90	University of Nevada, Reno A-128
09-90-567-03-370*	ETA	OJC	21-MAY-90	YWCA - Los Angeles A-128
09-90-594-06-601*	MSHA	GRTEES	10-AUG-90	Idaho DOL & Industrial Services A-128
09-90-590-10-101	OSHA	OSHAG	10-AUG-90	City of Portland, Oregon A-128
09-90-592-10-101*	OSHA	OSHAG	10-AUG-90	Arizona Industrial Committee A-128
09-90-587-10-101	OSHA	OSHAG	07-AUG-90	Boise State University A-128
09-90-557-50-598	MULTI	AL/DOL	07-MAY-90	State of Oregon A-128
09-90-563-50-598	MULTI	AL/DOL	20-APR-90	State of California A-128
09-90-591-50-598	MULTI	AL/DOL	10-AUG-90	State of Washington A-128
09-90-599-50-598*	MULTI	AL/DOL	23-AUG-90	Hawaii DOL/Industrial Relations A-128
09-90-601-50-598*	MULTI	AL/DOL	24-AUG-90	Alaska Department of Labor A-128
09-90-602-50-598	MULTI	AL/DOL	06-SEP-90	Federal States of Micronesia A-128
09-90-605-50-598*	MULTI	AL/DOL	11-SEP-90	City of Los Angeles A-128
12-90-017-03-001	ETA	ADMIN	28-SEP-90	FY 89 Internal Control/Compliance
12-90-012-03-315	ETA	UIS	16-MAY-90	Federal Employees' Compensation Account
12-90-027-03-355	ETA	DINAP	12-SEP-90	ACKCO, Inc.
12-90-013-03-370	ETA	OJC	21-SEP-90	PY 87 & 88 Financial Statements Review
12-90-021-03-370	ETA	OJC	26-SEP-90	Interactive Training, Inc.
12-90-029-03-370	ETA	OJC	27-SEP-90	Dau Walker and Associates
12-90-034-03-370	ETA	OJC	25-SEP-90	JTC, Inc.
12-90-036-03-370	ETA	OJC	28-SEP-90	PY 87 Analysis: Job Costs Invested
12-90-037-03-370	ETA	OJC	28-SEP-90	PY 88 Analysis: Job Costs Invested

## Final Audit Reports Issued April 1 - September 30, 1990

Audit Report Number	Agency	Program	Date Sent to Program Agency	Name of Audit/Auditee
12-90-028-03-380	ETA	SPPD	25-SEP-90	Berkeley Planning Association
12-90-030-03-380	ETA	SPPD	24-SEP-90	N.B. Kenney Co., Inc.
12-90-031-03-380	ETA	SPPD	26-SEP-90	SRI International
12-90-032-03-380	ETA	SPPD	27-SEP-90	CSR, Inc.
12-90-033-03-380	ETA	SPPD	25-SEP-90	Associate Consultants
12-90-035-03-380	ETA	SPPD	12-SEP-90	Macro Systems, Inc.
12-90-004-07-001	OASAM	ADMIN	21-SEP-90	FY 89 DOL Financial Statements
12-90-019-07-001	OASAM	ADMIN	30-JUL-90	FY 88 DOL Financial Statements
12-90-024-07-735	OASAM	OPGM	24-SEP-90	CSR, Inc.
17-90-012-02-001	VETS	ADMIN	23-AUG-90	Procured Goods and Services
17-90-014-03-380	ETA	SPPD	06-JUL-90	Procured Goods and Services
17-90-013-07-001	OASAM	ADMIN	28-SEP-90	Interagency Agreement: ILO
17-90-015-11-001	BLS	ADMIN	28-SEP-90	Procured Goods and Services
18-90-017-03-310	ETA	OFCMS	13-JUL-90	Discretionary Grants and Contracts
18-90-033-03-355	ETA	DINAP	28-SEP-90	National Urban Indian Council
18-90-010-07-735	OASAM	OPGM	16-JUL-90	Home Builders Institute
18-90-013-07-735	OASAM	OPGM	30-JUL-90	Career Systems Development
18-90-016-07-735	OASAM	OPGM	09-AUG-90	Teledyne Economic Development Corporation
18-90-018-07-735	OASAM	OPGM	11-SEP-90	AFL-CIO Appalachian Council Inc.
18-90-022-07-735	OASAM	OPGM	28-SEP-90	Technical Assistance Group
18-90-025-07-735	OASAM	OPGM	19-JUL-90	DMJM/HTB - Cost Methodology
18-90-026-07-735	OASAM	OPGM	19-JUL-90	DMJM/HTB
18-90-028-07-735	OASAM	OPGM	30-JUL-90	Home Builders Institute
18-90-031-07-735	OASAM	OPGM	16-AUG-90	OIC of America
18-90-034-07-735	OASAM	OPGM	28-SEP-90	National Council on the Aging, Inc.
19-90-005-03-001	ETA	ADMIN	02-MAY-90	Improvement Needed: LAN Management
19-90-009-07-710	OASAM	COMP	27-SEP-90	DOLAR\$ Reports: User Satisfaction
19-90-010-07-720	OASAM	DIRM	27-SEP-90	ECN: Its Uses and Impact

\*DOL has cognizant responsibility for specific entities under the Single Audit Act. Reports listed and asterisked above indicate those entities for which DOL has cognizance. More than one audit report may have been issued or transmitted for an entity during this time period. Reports are issued or transmitted based on the type of funding and the agency/program responsible for resolution. Multiple-agency reports with a designation of "50-598" relate to Single Audit reports only.

## **APPENDIX**

Memorandum concerning "Underutilization"  
(See Chapter 1)

U.S. DEPARTMENT OF LABOR  
DEPUTY SECRETARY OF LABOR  
WASHINGTON, D.C.  
20210

October 17, 1990

MEMORANDUM FOR JULIAN DE LA ROSA

FROM: RODERICK A. DEARMENT [signed]

SUBJECT: OIG's Recommendation Regarding New OFCCP Regulations to Define Underutilization

I have met with Solicitor Bob Davis, Assistant Secretary Bill Brooks, and Cari Dominquez, Director of the Office of Federal Contract Compliance Programs (OFCCP), to further review and discuss the Office of the Inspector General's (OIG) recommendation that OFCCP be required to issue regulations further defining the concept of "underutilization." This recommendation is contained in the OIG's Final Audit Report 04-86-079-04-410, entitled, "OFCCP Needs to More Effectively and Efficiently Enforce Federal EEO Regulations."

I believe that rulemaking is inappropriate at this time. Under the regulations implementing Executive Order 11246, Government contractors with a contract of \$50,000 or more must develop and implement written affirmative action programs (AAP). A key element of each AAP is goals and timetables to eliminate any "underutilization" of minorities or women. In developing its AAP, the contractor divides all the jobs in its establishment into "job groups" (groups of jobs having similar content, wage rates, and opportunities). Then, for each job group, the contractor compares the actual employment of minorities and women in the job group with the "availability" of minorities and women for employment in that job group (e.g., their representation in the appropriate feeder areas, such as the area population of entry-level labor jobs, or law school graduates for legal jobs). When fewer minorities or women are employed in the job group than "would reasonably be expected by their availability," the contractor must declare "underutilization" and establish goals and timetables. See 41 CFR 60-2.11(b).

The regulations do not further define the phrase "would reasonably be expected by their availability." Traditionally, OFCCP interpreted the phrase to mean that underutilization must be declared whenever there is "any difference" between job group employment and availability, and issued "Technical Guidance Memorandum No. 1" reflecting this position. The Memorandum was successfully challenged in Firestone v. Marshall, 507 F. Supp. 1330 (E.D. Tex. 1981), in which the court found that it amounted to a substantive rule that should have been published for notice and comment as required by the Administrative Procedure Act.

Since the time of the Firestone decision, OFCCP, without modifying its regulations or compliance manual, has accepted any 'reasonable' method used by a contractor to determine underutilization. Contractors have used three principal methods to determine underutilization, and they are mentioned in the OIG report: any difference rule; 80% rule; and the two standard deviations method.

The Firestone case did not invalidate Section 60-2.11(b). The regulation, accordingly, remains valid and, in OFCCP's judgment, viable. It also provides flexibility in an area that is coming under increasing judicial and legislative scrutiny. Moreover, the Office of the Solicitor has advised OFCCP that the regulation and the policy to which they adhere thereunder in applying the regulation are legally defensible.

The OIG maintains that OFCCP should promulgate a regulation "which will resolve the issues raised by the courts in defining underutilization." But, redefining underutilization is not amenable to the "easy fix" that the OIG report implies is possible.

The Firestone case was decided at the time the affirmative action debate between the Department of Justice and the Department of Labor was emerging but before it became public. The debate between the Departments of Justice and Labor regarding affirmative action effectively prevented all rulemaking under the Executive Order. Indeed, the Department of Labor's efforts to promulgate Executive Order regulations during 1981 and 1982 were overtaken by the debate. Since that time, the Supreme Court has entered into the area.

Thus, whether a regulation ultimately is needed to further address underutilization, and more importantly the content and timing of such regulation, are questions that do not exist in a vacuum. Underutilization is only one of a host of policy issues related to affirmative action and equal employment opportunity that require close consideration by OFCCP, ESA, and the Secretary.

OFCCP for some time has been considering comprehensive approaches to goals and affirmative action, and will continue to do so. Whether, and if so how, to redefine underutilization is an integral part of that consideration. For instance, were the Department to opt for a completely new approach to affirmative action, underutilization might no longer be a relevant concept.

In my view it does not make sense, and may not be practically feasible, to address this matter in a piecemeal fashion by redefining underutilization now and then proposing additional changes to the affirmative action rules at a later date. Instead, a well-reasoned, integrated strategy covering the entire affirmative action area is necessary.

Finally, Assistant Secretary for Policy Jennifer Dorn took a similar position on behalf of the Department. In a February 12, 1990, memorandum to Mr. Maria responding to suggestions made by Mr. Maria for items to be included in the Department's annual regulatory program, Ms. Dorn stated:

Finally, the issue of when, how, and if OFCCP's regulations should be revised is still under consideration. As you know, the Administration is reviewing the whole area of EEO requirements based on a number of Supreme Court decisions from last year. If either regulatory or statutory changes prove desirable, the issue you raise on 'underutilization' will be dealt with then.

## ABBREVIATIONS USED IN THIS REPORT

ADMIN	Agency Administration
AICPA	American Institute of Certified Public Accountants
AL/DOL	All DOL agencies involved in the audit
ASAM	Assistant Secretary for Administration and Management
BAT	Bureau of Apprenticeship Training (ETA)
BL	Black Lung Benefits Program (ESA)
BLDTF	Black Lung Disability Trust Fund (ESA)
BLS	Bureau of Labor Statistics
CETA	Comprehensive Employment and Training Act (ETA)
CMWC	Coal Mine Workers' Compensation (ESA)
COMP	Comptroller
DBRA	Davis Bacon and Related Acts
DFEC	Division of Federal Employees' Compensation (ESA)
DINAP	Division of Indian and Native American Programs (ETA)
DIRM	Directorate of Information Resources Management (OASAM)
DOJ	Department of Justice
DOL	Department of Labor
DOLAR\$	Department of Labor Accounting Related Systems (OASAM)
DOWP	Division of Older Workers Program (ETA)
DSFP	Division of Seasonal Farmworker Programs (ETA)
DVOP	Disabled Veterans Outreach Program (VETS)
ECN	Executive Computer Network
ERISA	Employee Retirement Income Security Act
ESA	Employment Standards Administration
ETA	Employment and Training Administration
FECA	Federal Employees' Compensation Act
FMFIA	Federal Managers' Financial Integrity Act
FLC	Foreign Labor Certification
GAO	Government Accounting Office
GAAP	Generally Accepted Accounting Principles
GRTEES	Grantees
ILO	International Labor Organization
ILAB	Bureau of International Labor Affairs
ILGWU	International Ladies Garment Workers' Union
JFMIP	Joint Financial Management Improvement Program
JTPA	Job Training Partnership Act (ETA)
LAN	Local Area Network
LMRDA	Labor Management Reporting and Disclosure Act
MEWA	Multiple Employer Welfare Arrangement
MSHA	Mine Safety and Health Administration
MSHAG	Mine Safety and Health Administration Grantees
NCOA	National Council on the Aging
NO/DOL	No DOL funds involved in the audit
OASAM	Office of Assistant Secretary for Administration and Management
OI	Office of Investigations (OIG)
OIC/A	Opportunities Industrial Centers of America, Inc.
OIG	Office of Inspector General
OJC	Office of Job Corps
OJT	On-the-Job Training
OLMS	Office of Labor-Management Standards
OLR	Office of Labor Racketeering (OIG)

OMB	Office of Management and Budget
OPGM	Office of Procurement and Grant Management (OASAM)
ORMLA	Office of Resource Management and Legislative Assessment (OIG)
OSEC	Office of the Secretary
OSHA	Occupational Safety and Health Administration
OSHAG	Occupational Safety and Health Administration Grantees
OT AGY	Agency other than DOL
OWCP	Office of Workers' Compensation Programs (ESA)
PFCRA	Program Fraud Civil Remedies Act of 1986
PIC	Private Industry Council
PWBA	Pension and Welfare Benefits Administration
SESA	State Employment Security Agency
SOL	Solicitor of Labor
SPPD	Strategic Planning and Policy Development Office (ETA)
TAA	Trade Adjustment Act
UIS	Unemployment Insurance Service (ESA)
VETS	Veterans' Employment and Training Services

Copies of this report may be obtained  
from the U.S. Department of Labor,  
Office of Inspector General,  
Room S-5506  
200 Constitution Avenue N.W.  
Washington, D.C. 20210

**DEPARTMENT OF LABOR  
OIG HOTLINE**

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U.S. Department of Labor  
Office of Inspector General  
Washington, D.C. 20210

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P116