



PHOTO: DEPARTMENT OF AGRICULTURE

MIGRANT WORKERS LOAD WATERMELONS FRESH FROM FIELDS NEAR RAYMONDVILLE, TEXAS. DOL IS RESPONSIBLE FOR ADMINISTERING AND ENFORCING THE MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT THAT ESTABLISHES MINIMUM STANDARDS FOR WAGES AND WORKING CONDITIONS FOR MIGRANT AND SEASONAL AGRICULTURAL WORKERS.

Outcome Goal 2.1 **Increase Compliance with Worker Protection Laws**

Overview

The Department of Labor administers and enforces more than 180 Federal laws. These mandates and their governing regulations cover over 10 million employers and 130 million workers in various workplace activities. DOL enters the 21st Century having recently celebrated both the 64th anniversary of the Fair Labor Standards Act, which established minimum wage, overtime standards and child labor restrictions, and the 28th anniversary of the Employee Retirement Income Security Act (ERISA), which protects the integrity of private pension, health, and other employee benefit plans. While these hallmark worker protection laws have endured, many new and difficult issues have arisen as dynamic and complex changes transform America's workforce.

Serving the Public

In furthering the economic security and welfare of workers and families, the Department utilizes a multi-pronged approach, which includes compliance assistance, education, private/public partnerships and, should this approach fail, a balanced, consistent enforcement program. The Department involves all segments of business and industry—contractors, manufacturers, retailers, consumers, worker advocacy groups, financial and health care communities, and unions—in advancing the economic well being of the Nation's workers. The DOL organizations dedicated to achieving this goal are the Employment Standards Administration and the Pension and Welfare Benefits Administration. Both agencies have developed programs that assist businesses and other organizations subject to DOL's regulations to comply with their provisions through public education and outreach, as opposed to limiting their efforts to traditional enforcement techniques that detect violations after workers have suffered harm.

The Department devotes significant resources to increasing public access to vital information that enables individuals and practitioners to better understand and monitor their rights under the law. Each year, the Department distributes thousands of publications and pamphlets that provide basic information about voluntary compliance, and staff participate in hundreds of

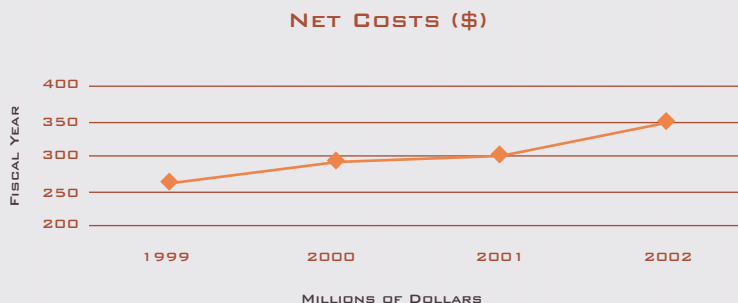
educational meetings, conferences, and seminars as part of the DOL outreach effort. More recently, the Department has experimented with voluntary correction programs that have been well received by the regulated community, such as the Voluntary Fiduciary Correction Program and the Delinquent Filer Voluntary Compliance program.

In support of the enforcement of laws designed to guarantee an honest day’s pay for an honest day’s work, DOL engages in strategic partnerships with employer associations, multi-establishment employers, commercial consumers, the States, and intermediaries – non-governmental agencies and organizations such as faith-based groups, unions, and other social service organizations with direct contact with workers, especially low-wage workers and those facing language barriers. DOL has an ongoing relationship with the National Interfaith Committee for Worker Justice, and projects—such as including labor and safety issues in church bulletin inserts—are underway.

In addition, the Department collaborates with the Small Business Administration, the U.S. Chamber of Commerce and Merrill Lynch by co-sponsoring an interactive website, www.selectaretirementplan.org, which is a tool to help small business owners determine what type of pension or retirement savings would best fit their companies’ needs. The Department also has a longstanding partnership with the American Savings Education Council in an effort to encourage Americans to better prepare for retirement through savings. Finally, DOL works closely with State insurance commissioners to educate health benefit plan professionals and employers on the changing health benefit laws, bringing together representatives of the Department, other Federal agencies, and the State insurance offices.

Program Costs

The FY 2002 net costs for Outcome Goal 2.1, at \$350 million, represent the compliance assistance and enforcement efforts of both the Employment Standards Administration, which is responsible for upholding minimum wage, overtime and other workplace standards and the safeguarding of union democracy; and the Pension and Welfare Benefits Administration, which is responsible for oversight of pension and health benefit plans. The increase in costs supported improving workers’ security in the following areas: responsibilities in the health care arena resulting from laws passed between 1996 and 1998; enhanced electronic filing and compliance assistance for the ERISA Filing Acceptance System; expansion of a nationwide toll-free help line offering information about Federal minimum wage, overtime, child labor, and record keeping requirements; enhancement of compliance assistance activities for low wage industries; and electronic filing and internet disclosure of union annual financial reports. In addition, the Department fully implemented the Orphan Plan initiative, which identifies pension plans that have been abandoned by fiduciaries through death, neglect, bankruptcy, or incarceration, and preserves the assets for the benefit of the plans’ participants.



DOL Challenges for the Future

The primary challenge for DOL’s worker protection agencies in the 21st Century will be to ensure that the protections are appropriate for and keep pace with the changes occurring in the American workforce. The private pension system is essential to the security of American workers, retirees and their families. The Department must raise the confidence of the American workforce in the security of their retirement savings by strengthening the pension system, without unnecessarily limiting employers’ willingness to establish and maintain plans for their workers or employees’ freedom to direct their own savings. Virtual workplaces, aging workers, increased numbers of women and minorities in the workforce, immigration, organized labor, the growth of small businesses, and the ongoing shift from a manufacturing to a service economy will all be important factors as U.S. businesses strive to comply with worker protection laws in the future. The use of technology assists the Department to more effectively inform employers of their obligations and to protect workers’ benefits and rights. Toll-free customer service “Help Desks” and on-line advisors provide new opportunities for interactive assistance between the Department and its customers.

Protect Workers' Wages

Covered American workplaces legally, fairly, and safely employ and compensate their workers as indicated by:

1. Reducing employer violation recidivism.
2. Increasing compliance in industries with chronic violations, i.e., garment manufacturing, long-term health care and agriculture.

Results: The goal has been substantially achieved. The two sub-objectives contain 18 indicators; performance for 16 indicators was fully achieved, and not achieved for two others. However, the two indicators not achieved involved the garment industry in New York City, which was significantly impacted by the terrorist attacks of September 11, 2001.

Program Description: DOL administers and enforces a number of Federal statutes that establish minimum standards for wages and working conditions, including the Fair Labor Standards Act (FLSA), the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), the Family and Medical Leave Act (FMLA), certain provisions under the Immigration and Nationality Act, and various government contract laws.

This goal includes two sub-objectives, with various indicators to measure progress. A specific analysis of the results, strategies, and future plans by indicator follows.

1. **Reduce employer violation recidivism. In FY 2002, establish baselines for the percentage of reinvestigations without violations; percentage of reinvestigations with any violation; and percentage of reinvestigations with identical violations.**

Results: This performance indicator was achieved.

Analysis of Results: In FY 2002, DOL completed 4,942 reinvestigations of employers who had been the subject of an earlier DOL enforcement action. The employers may or may not have violated DOL standards when previously investigated. Of the total reinvestigations, 1,677 (34 percent) found no violations. Of the remaining 3,265 reinvestigations in which violations were found, 1,242 (25 percent) of the employers continued to violate one or more of the statutes administered by DOL. Another 938 employers (19 percent) committed violations identical to those identified during the previous enforcement action.

DOL laws protect over 130 million workers in more than 7 million workplaces. Given available investigative resources, DOL is working to improve the effectiveness of its compliance assistance program and enforcement interventions to help ensure that employers subject to an investigation understand the law and compensate their employees as required. Recidivism data will assist the Department to develop more effective compliance assistance programs and materials, and will provide the opportunity for targeted enforcement interventions against serious and repeat violators.

Strategies: DOL is implementing a number of strategies to decrease the number of employers that fail to compensate employees according to the law, especially those that commit identical violations. For example, the Department will offer a revised comprehensive education program, including technology-based compliance assistance. DOL also provides compliance assistance on all applicable statutes during the conduct of an investigation; secures specific commitments for future compliance following an intervention; and obtains commitments for corporate-wide compliance by multi-establishment employers following a history of interventions. The Department assesses penalties, pursues litigation and prosecution, and publicizes the consequences of non-compliant behavior for willful and repeat violators.

Goal Assessment and Future Plans: DOL has set the following modest improvement goals for FY 2003:

- Increase the percentage of reinvestigations without any violations by two percentage points; and
- Decrease the percentage of prior violators with identical violations by two percentage points.

In recognition of the agency's core complaint work and to add a customer-focused goal to address the timely resolution of employee complaints, in FY 2003 DOL has established a new goal *to decrease the average number of days to conclude a complaint by two percent.*

2. **Increase compliance in industries with chronic violations, including garment manufacturing, the long-term health care industry, and agriculture.**

In FY 2002, the Department established a number of indicators on an industry-by-industry basis that, according to our performance data, relate directly to overall compliance in the industries. Successful achievement of the targets for these indicators will have a positive impact on overall industry compliance that will be measured in subsequent fiscal years.

Background: The indicators for this sub-objective measure progress toward improving conditions in industries with significant historical levels of non-compliance. The factors that originally led the Department to target these industries—increasing reliance on immigrant and minority workforces, intense external competitive pressures and high turnover rates—remain prevalent today, and continue to influence the compensation of workers in these industries.

The major garment centers in the U.S. are in New York City and southern California. According to BLS data, in July 2002 the garment industry employed approximately 525,000 workers in the U.S.—down from just over one million in January 1990. These garment workers are mostly immigrant (both legal and illegal), vulnerable to exploitation and unlikely to complain about unsafe working conditions and failure to receive wages. The 525,000 figure does not, however, include what is believed to be a relatively large number of workers in the underground economy in areas where the garment industry is most unstable.

Several investigation-based compliance surveys in garment manufacturing in recent years have determined that low levels of these employers compensate their workers as required by law. In southern California, the latest survey in 2000 found only 33 percent of the contractor shops in compliance; a 2001 survey in New York City found 52 percent in compliance. With respect to the employees, 63 percent of southern California and 62 percent of New York City garment workers received proper wages. The Department's surveys have also provided data showing that monitoring of contractor shops by manufacturers improves compliance, that new contractors are less likely to comply with the law, and that employees paid "off the payrolls" are more likely to be under-compensated.

The long-term health care industry—which employs 2.3 million workers—is one of the fastest growing in the country. BLS projects that the industry will add 1.1 million jobs in healthcare support occupations by 2010, in part because of the aging population. The nursing home industry has—over the last several years—suffered increasingly common staffing shortages, bankruptcies, and limits on government reimbursements, and these pressures contribute to overtime violations.

As in garment manufacturing, DOL has been conducting investigation-based compliance surveys in the long-term health care industry. A 2001 survey of residential care facilities found 60 percent of employers in compliance with the FLSA; a 2000 survey of nursing homes found 40 percent. These surveys found that 86 percent of the employees in residential care and 89 percent in nursing homes were paid or employed in compliance. Most employers that violated the law had failed to pay required overtime.

Since 1990, DOL has been targeting the agriculture industry in an effort to increase compliance. The U.S. is harvesting more labor-intensive crops, such as vegetables, fruits, nuts, and berries, than ever before. The workers' wages are low, and the work is seasonal and sporadic. Because of the migratory nature of the work, workers are often transported by others and housed in temporary quarters.

The Justice and Equality in the Workplace Partnership informs Latino workers about their rights in the workplace by raising awareness of U.S. labor laws and available remedies. DOL's Wage and Hour Division in partnership with the Equal Opportunity Commission, the Mexican Consulate, and the Mexican American Legal Defense and Educational Fund launched a very successful media campaign in the Houston area. A hot line staffed by the Mexican Consulate handles primarily Wage and Hour questions and issues, resulting in the restoration so far of nearly \$730,000 in wages to almost 1,400 workers. The success of the Partnership led to a recent expansion. New partners include DOL's Occupational Safety and Health Administration, several additional Consulates from Latin American nations, the Galveston-Houston Diocese, and the National Interfaith Committee for Worker Justice.



PHOTO: DOL

DOL's initial approach was to improve compliance in identified agricultural commodities, such as tomatoes, cucumbers, garlic, lettuce and onions. As in the other industries with chronic violations, DOL conducted investigation-based compliance surveys in these commodities. These surveys all found low levels of compliance with the disclosure, housing, wages and transportation provisions of MSPA, which have the greatest impact on agricultural workers. Throughout the 1990's, investigations in other commodities found similar violations, and DOL therefore changed its focus in FY 2002 from identified commodities to compliance with the disclosure, housing, wages and transportation provisions in labor-intensive agriculture.

For all three industries with chronic violations (previously identified as "low-wage industries"), DOL now measures the number of *employees* paid or employed in compliance as well as the number of *employers* in compliance.

An industry-specific analysis of the indicator targets follows.

Garment Manufacturing

Results: All three indicators for southern California were achieved; the two indicators for New York City were not achieved.

Southern California Garment Industry

Increase by 2 percentage points the number of manufacturers that monitor their contractor shops for compliance in southern California

Analysis of Results: In FY 2002, 53 percent of the manufacturers contacted were monitoring—an increase of 12 percentage points over the FY 2001 measure (41 percent). In the FY 2000 investigation-based compliance surveys in southern California, DOL found that the level of compliance for contractor shops effectively monitored by their manufacturers was 44 percent compared to 11 percent for shops not monitored.

Strategies: Several strategies were implemented to encourage manufacturers to monitor. DOL made face-to-face visits with manufacturers to discuss and obtain an agreement to implement an effective monitoring program or improve an existing program. If these manufacturers initiate or improve monitoring practices, an estimated 500 or more contractors in the Los Angeles Basin could be affected. DOL also conducted monitoring training sessions, including two in the Korean language.

Increase by 2 percent the average number of monitoring components used by manufacturers in monitoring their contractors for compliance

Analysis of Results: In addition to a higher level of compliance for contractors' shops monitored by their manufacturers, DOL's investigative surveys showed that more effective monitoring—especially payroll reviews and unannounced visits—improved the level of compliance even more. During the visits to manufacturers, training seminars, and investigations discussed above, DOL emphasized the effectiveness of monitoring. In FY 2001, the average number of elements was 5.5 (out of the possible eight). In FY 2002, the average number of elements used by those manufacturers that monitored their shops for compliance was 6.37 (a 15 percent increase), exceeding the target. A further analysis of the data shows that 84 percent of the manufacturers that monitored conducted unannounced visits (an increase from 67 percent in 2001) and 84 percent conducted payroll reviews (a decrease from 88 percent in 2001).

Increase by 2 percentage points the percentage of contractors in southern California that pay all employees on the payroll

Analysis of Results: The 2000 survey in southern California found that 63 percent of the contractors investigated paid all their employees on the payroll. The cases subject to measurement in FY 2002 found that 92 percent of the contractors were paying their employees on the payroll, exceeding the target. The 2000 survey found that those shops paying employees "on the payroll" were more likely to be in compliance. None of the shops paying employees "off the payroll" were found in compliance during the 2000 survey.

Strategies: The FY 2002 Contractor Compliance Assistance Program included visits to garment contractors employing 6,932 production workers. DOL also conducted compliance assistance seminars, emphasizing the benefits for paying workers "on the payroll." Enforcement included 25 investigations to gauge the effectiveness of the Contractor Compliance Assistance Program, and 48 percent of the shops were in compliance — higher than the level determined in the 2000 survey.

*New York Garment Industry***Increase by 4 percentage points the level of compliance of new contractors in New York City through compliance education**

Analysis of Results: The 2001 New York City compliance survey found 51 percent of new contractors compensated their employees in compliance with the law. In FY 2002, DOL found that six of 14 new contractors (43 percent) participating in the NYC Compliance Assistance Program for New Contractors were in compliance and the indicator, therefore, was not achieved. Although the target was not met, the findings represent an improvement over the 1999 survey, when contractors in business for 2 years or less had compliance rates of 25 percent compared to the rate of 52 percent for those in business longer than 2 years. Although not quantifiable, the terrorist attacks of September 11, 2001, significantly impacted the viability of the New York City garment industry and DOL's efforts to increase compliance.

Strategies: In conjunction with the payroll audit phase of the Compliance Assistance Program for New Contractors, DOL contacted shops newly registered by New York State. Only about half participated in an audit, during which DOL provided materials on compliance, reviewed payroll records, and recommended corrective action, if appropriate. Of the 14 shops randomly selected for investigation in the second phase, six (43 percent) paid their workers in compliance with the law. Other compliance assistance targeting new contractors included IRS and SBA outreach events in garment districts.

Increase by 2 percentage points the number of contractors in New York City that pay all employees "on the payroll"

Analysis of Results: The 2001 New York City compliance survey found 52 percent of the contractors paid employees "on the payroll." In FY 2002, only 43 percent (31 of 72 contractors) paid their employees "on the payroll," and the indicator was therefore not achieved. A large proportion of the contractors investigated during FY 2002 engaged in business with manufacturers with a history of "hot goods" violations, were located in geographic areas where violations are prevalent, or were investigated as a result of potential indications of violations. As a consequence, the compliance level could be expected to be less than the 2001 baseline developed from a random sampling of all registered contractors in New York State.

Strategies: DOL was an active participant in the New York City Apparel Industry Compliance Program, including improving the contractor screening tool for training, helping to develop the training syllabus, and conducting contractor training. Also, DOL conducted training seminars for contractors identified as a result of "hot goods" investigations of manufacturers. In addition, DOL collaborated with the State of New York Department of Labor, referring cases to the New York State Attorney General's Office for consideration of criminal prosecution against contractors that paid employees "off the payroll."

Goal Assessment and Future Plans: DOL will add an objective for garment manufacturers in southern California: *establish a baseline of the percent of employees paid "on the payroll."* In New York City, DOL will continue efforts to increase the number of garment employees who are paid "on the payroll" and add an objective: *increase by 2 percent the number of manufacturers that monitor their contractor shops for compliance.*

Long-Term Health Care

Results: All three indicators were achieved.

Increase by 6,000 the number of employees of multi-establishment nursing home corporations impacted by corporate proactive steps such as training and self-audits.

Analysis of Results: In FY 2002, DOL finalized an agreement with one of the major nursing home chains that provides for proactive steps to promote FLSA compliance among their multiple establishments. Alterra Health Care is a multi-state nursing home enterprise with some 400 facilities, and employs 12,500 full and part time employees. The enterprise has agreed to undertake internal monitoring of FLSA compliance in its facilities and agreed to a program of training and enterprise-wide compliance assistance. Also, a California-based nursing home chain, Pleasant Care Corporation, entered into a consent judgement with the Department, and agreed to, among other things, cooperate with DOL in developing a program of corporate training and self-monitoring to compensate its 3,926 employees as required by law. Altogether, an additional 16,426 employees will benefit from these agreements.

Strategies: DOL developed a proactive compliance assistance program to encourage corporations, their management staff, and facility operators to prioritize paying wages and setting work hours that comply with the FLSA. This strategy maximizes the impact of the laws and prevents violations before they occur. Litigation was also used as a strategy to compel recidivist employers to take responsibility for corporate-wide compliance.

Increase by 5 percent the number of employers (nursing homes) that were provided compliance assistance information through seminars and other outreach efforts.

Analysis of Results: DOL provided compliance assistance in FY 2002 to 7,681 employers in the nursing home industry either through mailings, seminars or during conference exhibits, a 215 percent increase over the 2,437 employers reached in FY 2001.

Strategies: During FY 2002, DOL offices developed seminars for health care employers; attended seminars; staffed booths at national and regional association conferences; and sent mailings to nursing home establishments. DOL reached out to human resources professionals and nursing home administrators in an effort to educate those individuals in a position to impact compliance. The agency also collaborated with State agencies and employer associations to maximize the impact of compliance assistance and effectively utilize agency resources.

Establish a baseline of the number of employers (residential living/group homes) in compliance with the record keeping requirements of the Fair Labor Standards Act

Analysis of Results: Seventy-seven percent of employers in the residential living (group home) segment of the health care industry complied with the record keeping requirements. Employers in the residential living segment of the long-term care industry often fail to accurately record the number of hours that employees work, and pay caregivers a flat per week or per month rate regardless of the number of hours worked. As a result, employers may fail to compensate workers for overtime hours worked. Improvements in record keeping should result in increased compliance with the FLSA overtime provisions. However, since the baseline data are drawn from employers selected for investigation for a variety of reasons, including previous history of violations, the data are not reflective of record keeping compliance in the industry as a whole.

Goal Assessment and Future Plans: In FY 2003, in the nursing home segment of the industry, DOL will seek to increase the number of employees paid in compliance with FLSA. Hand-in-hand with this objective, DOL has established a customer satisfaction objective to *increase the percentage of nursing home complaint cases concluded in 180 days.*

Agriculture

Results: The seven indicator targets were achieved.

Establish baselines of compliance with the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) provision of disclosure, wages, housing and transportation and with the child labor provisions of the Fair Labor Standards Act relative to selective agricultural commodities in various locations in the U.S.

Analysis of Results: During 2002, DOL completed 2,012 cases in agricultural hand-harvested industries, and identified MSPA findings in 1,337 investigations of some 38 different commodities. Investigation findings were analyzed to determine the level of compliance with the four core MSPA provisions that provide the greatest protections for agricultural workers – disclosure, wages, housing and transportation. The data provided the following percentages of investigated employers in compliance.

MSPA PROVISION	PERCENT OF EMPLOYERS IN COMPLIANCE WITH PROVISION
DISCLOSURE	61%
WAGES	91%
HOUSING SAFETY AND HEALTH	74%
TRANSPORTATION	
VEHICLE SAFETY	88%
PROPER DRIVER LICENSE	90%
PROPER VEHICLE INSURANCE	85%

Of the total agricultural investigations completed, 40 found child labor violations.

FLSA CHILD LABOR PROTECTION	
PERCENT OF EMPLOYERS IN COMPLIANCE WITH CHILD LABOR PROVISIONS	98%
NUMBER OF AGRICULTURAL INVESTIGATIONS IN WHICH CHILD LABOR VIOLATIONS FOUND	40
NUMBER OF MINORS EMPLOYED IN VIOLATIONS	157

The percentage of contractors found in compliance with the MSPA housing provisions are drawn from the agency's database of investigations. These percentages are not intended to represent the levels of compliance in the industry, since nearly 95 percent of the completed cases targeted employers in commodities like tomatoes, onions, lettuce and cucumbers that have been the focus of the agency's compliance efforts or had a history of prior violations. The data do, however, provide the agency with a relative perspective on which of the MSPA critical provisions are most commonly violated and thus, where the agency should direct its resources. The data also support the agency's decision to shift from a commodity-based targeting strategy to a targeting strategy more closely based on the statutory provisions.

Goal Assessment and Future Plans: Based on the analysis of the FY 2002 data, DOL will direct its FY 2003 compliance assistance and enforcement resources to increasing employer compliance with the MSPA housing safety and health standards. ■

(Goal 2.1A — FY 2002 Annual Performance Plan)

Increase Compliance with Worker Protection Laws

Advance safeguards for union financial integrity and democracy and the transparency of union operations as indicated by:

1. Improving the timeliness of union financial reports that contain information sufficient for public disclosure. In FY 2002, initiate a new electronic forms application and electronic submission system and establish a baseline for timely filing under the new process.
2. Extending Labor-Management Reporting and Disclosure Act (LMRDA) protections for union financial integrity to a greater number of labor organizations through the more effective use of investigative resources. In FY 2002, establish a baseline of the percentage of investigative resources applied to criminal investigations that result in convictions.

Results: The goal was achieved. The Department issued electronic reporting formats for union annual financial reports in January 2002 and implemented the electronic submission process in July. The Department established a baseline for the timely filing of union reports under this new system: 44 percent of unions with annual receipts greater than \$200,000 timely filed union financial reports for public disclosure access.

The Department established a baseline of 50 percent for the percentage of investigative resources applied to criminal cases that result in convictions, as an indicator of efficiency in extending financial integrity protections to labor organizations.

Program Description: Through its administration and enforcement of the Labor-Management Reporting and Disclosure Act (LMRDA), DOL's Employment Standards Administration (ESA) safeguards union democracy and financial integrity and the transparency of union operations. The LMRDA requires reporting by unions and other covered entities for the purpose of public disclosure; establishes certain standards for union officer elections; and provides certain union financial integrity protections, including criminal provisions for the embezzlement of union funds. In carrying out its responsibilities under the LMRDA, ESA performs four types of activities: civil and criminal investigations and enforcement actions; union compliance audits; reports/public disclosure administration; and compliance assistance.

Analysis of Results: The filing of timely and accurate financial reports by unions remains a critical objective of the LMRDA program to safeguard union democracy and financial integrity. The electronic reporting format will substantially improve reporting compliance by unions through automated error checks, error summary reports, and increased ease of filing. Increasing compliance with reporting requirements will significantly expand public access to filed union reports via the Internet. In analyzing the baseline of 44 percent timely report filings, the Department noted that there was a substantial mail delay, which at one point during FY 2002 amounted to two weeks, as a result of postal security procedures implemented following anthrax incidents. In FY 2002, 85 percent of reports required of unions with receipts greater than \$200,000 were received within 14 days after the due date. Although every late submission cannot be attributed to mail delays, this circumstance did have a substantial impact on the timely filing rate.

Performance data with respect to criminal investigations are continually reviewed to enhance the effectiveness of agency efforts to advance LMRDA union financial integrity protections.

In June 2002, DOL began making annual financial reports of labor organizations available on the DOL website. (<http://unionreports.dol.gov/olmsweb/docs/formspg.html>). By simplifying access to financial reports, this program helps increase union transparency and accountability. Reports back to 2000 can now be examined and printed free of charge. Users can search data in the reports using specific criteria such as receipts, assets, disbursements, and liabilities. Users can also conduct searches by name or union for information on union officers or employees.



PHOTO: DOL

Strategies: The Department employs a variety of partnership, compliance assistance, and enforcement strategies to achieve timely and accurate reporting by unions, and these will continue in FY 2003. These strategies include reminding unions delinquent in the prior year to file their reports on time and establishing partnerships with international unions to promote timely report filing by their affiliates. DOL will emphasize expanded use of the electronic forms in order to ensure reporting completeness and accuracy.

The Department will seek greater efficiency in conducting criminal investigations to optimize the use of agency resources in extending financial integrity protections to more labor organizations. Compliance assistance and liaison with union officials, as well as union audits, will complement criminal investigations and enforcement as essential components of a balanced strategy to advance union financial integrity protections.

Goal Assessment and Future Plans: The Department plans to implement a goal to improve the completeness and accuracy of filed reports following the development of baseline information in FY 2003. In addition, DOL plans to expand the goal to address in a more comprehensive manner the LMRDA program's missions to ensure union democracy and financial integrity. ■

(Goal 2.1B — FY 2002 Annual Performance Plan)

Provide For Secure Pension Plans

Increase by 5% per year (to 1,993) the number of closed fiduciary investigations of employee pension plans where assets are restored, prohibited transactions are corrected, participant benefits are restored, or plan assets are protected from mismanagement and risk of future loss is reduced.

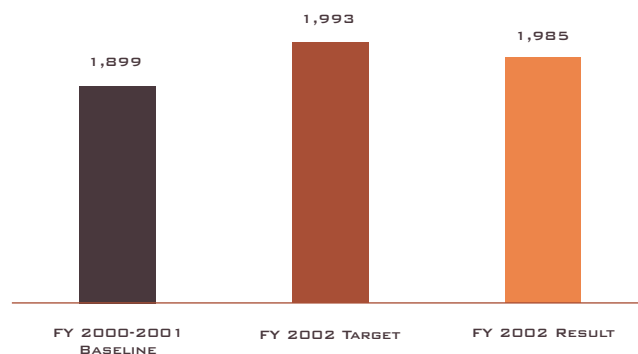
Results: The Department substantially achieved this goal, increasing by 4.5 percent (to 1,985) the number of closed fiduciary investigations where assets were restored, prohibited transactions were corrected, participant benefits were restored, or plan assets were protected from mismanagement and the risk of future loss was reduced.

Program Description: When a fiduciary’s mismanagement of assets or imprudent administration places pension benefits at risk, the Department’s Pension and Welfare Benefits Administration (PWBA) acts on behalf of plan beneficiaries to minimize potential loss or to restore losses to the plan. Increasing the number of cases with fiduciary results demonstrates the Department’s success in protecting plan assets. PWBA oversees the benefit security of a universe of 6 million plans, 150 million participants and beneficiaries, and approximately \$4.8 trillion in assets.

Analysis of Results: During the past year, the Department continued to improve the quality of cases selected for investigation as demonstrated by the continuing increases in the number of cases closed with fiduciary results, a primary strategy for achieving the goal. In FY 2002, the Department restored approximately \$690 million to pension plans as a result of its investigative efforts — assets that might otherwise have been lost to participants and beneficiaries. While monetary recoveries may fluctuate significantly and past performance cannot predict future performance in any given year, recoveries have followed a generally upward trend over the past several years. During FY 2002, the Department opened a number of high profile, resource intensive, pension investigations with far reaching effects on the participant benefits community. These high profile cases resulted in numerous staff being dedicated to a single case. In addition, FY 2002 results were impacted by the Health Disclosure and Claims Initiative (HDCI) which began in FY 2001 and concluded in early FY 2002. More details on the HDCI may be found in Goal 2.1D and Appendix 3. The HDCI was a major program emphasis in FY 2001 and ultimately continued to impact pension case results into FY 2002.

PWBA’s Enforcement Management System (EMS) provides the data used to measure the achievement of this goal, and the Department has confidence in the accuracy and reliability of the data. OIG conducts regular reviews of the EMS system and PWBA has continually received high marks for its system of checks and balances to ensure high quality data. In addition, individuals not involved directly with the data input or the investigation must approve case openings. Cases with monetary results ultimately receive scrutiny throughout the management hierarchy including national office oversight and review.

FIDUCIARY CASES - PENSION PLANS
CASES WITH POSITIVE OUTCOMES



Strategies: During FY 2002, regional offices continued to employ more effective targeting techniques to increase the number of cases converted from limited reviews to investigations which identify possible fiduciary or criminal violations. These techniques included: using special computer-generated targeting reports to aid the analysis of specific types of plans or investment/asset categories; working directly with financial institutions to identify plans which may have a delinquent contribution problem or which may have been abandoned by responsible plan officials; targeting issues that were prevalent in specific jurisdictions, then sharing successful strategies nationally for consideration by other regions; and leveraging limited investigative resources through continued use of the Case Opening and Results Analysis (CORA) initiative to refine our efforts at identifying quality cases and their sources.

PWBA also strives to ensure that stakeholders — plan professionals and participants — are empowered with knowledge to comply with the law and/or to make personal choices.

Audits and Program Evaluations: The General Accounting Office conducted an evaluation of the enforcement program and found, in general, that the Pension and Welfare Benefits Administration is a well-managed program. Further details of the evaluation and specific recommendations may be found in Appendix 3.

Goal Assessment and Future Plans: Developing a quantifiable outcome goal to measure PWBA's success is extremely challenging. The Department has developed a combination of new performance indices for FY 2003 which, considered collectively, will better communicate

PWBA's performance. In developing these indices, PWBA intends to: (1) maintain maximum flexibility for the Secretary to make policy judgments regarding enforcement, compliance assistance, outreach and education; (2) reflect effectiveness in achieving these policy choices; (3) avoid unintended incentives (i.e. complex v. easy, monetary v. non-monetary recovery, big v. small plans, health v. pension); and (4) measure a multitude of diverse strategies (e.g. education/outreach, technical assistance, enforcement). These indices, coupled with additional statistical and underlying management information, will measure the

effectiveness of DOL's program in enhancing benefit and retirement security. ■

(Goal 2.1C — FY 2002 Annual Performance Plan)

Between January 1996 and March 2002, a small business owner operated a financial planning, investment, and insurance firm that provided investment management services to individuals as well as employee benefit plans. The firm also conducted business with numerous companies that sponsored 401(k) benefit plans. One plan had transferred approximately \$472,000 in plan assets for intended investment in insurance and annuities. These funds were never deposited; instead, the firm's owner retained them for his own personal use, including speculative stock trading and gambling. This practice was prevalent throughout the firm's operations, impacting elderly clients' life savings as well as those covered by benefit plans. The Department's intervention resulted in the firm's operator being sentenced to 87 months in prison and ordered to pay restitution of over \$4 million to more than 50 pension plan victims.

Provide for Secure Health and Welfare Plans

Increase by 5% per year (to 620) the number of closed fiduciary investigations of employee health and welfare plans where assets are restored, prohibited transactions are corrected, participant benefits are restored, plan assets are protected from mismanagement, and risk of future loss is reduced.

Results: This goal was exceeded. The Department increased by 51 percent the number of closed fiduciary investigations where assets were restored, prohibited actions were corrected, participant benefits were restored, or plan assets were protected from mismanagement, and risk of future loss was reduced.

Program Description: The Department's role in the health care arena has expanded as a result of the enactment of legislation that includes regulatory and enforcement requirements to be implemented by the Pension and Welfare Benefits Administration (PWBA).

The Department exercises leadership and oversight to protect the interests of in excess of 150 million participants and beneficiaries by ensuring the financial solvency and prudent operations of approximately 6 million health and welfare plans. When a fiduciary's mismanagement of assets or imprudent administration places health and welfare benefits at risk, the Department acts on behalf of the plan's beneficiaries to minimize potential loss of benefits or to restore losses to the plan.

Analysis of Results: The Department's Health Disclosure and Claims Initiative (HDCI) introduced during FY 2001 continued to play a role in the increase in health plan investigations closed with positive results. In recent years, DOL has dedicated substantial enforcement resources to the targeting and investigation of both civil and criminal violations relating to health benefit plans, and the Health

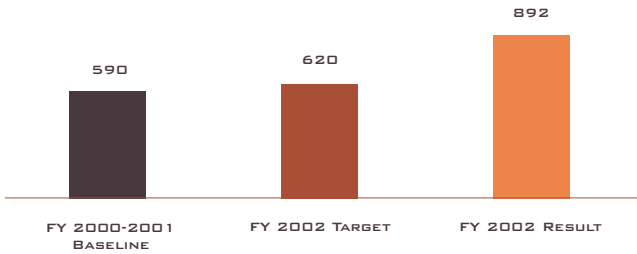
Disclosure and Claims Initiative expanded the Department's sources of information about plans that merit attention. As was indicated in the FY 2001 Annual Report on Performance and Accountability, the Department anticipated that the Health Disclosure and Claims Initiative would continue to have positive impact into FY 2002.

In FY 2002, the Department restored approximately \$140 million, or an increase of 112 percent over FY 2001, to benefit plans or directly to participants as a result of its investigative efforts — assets that, in the absence of investigative efforts, may have been lost. Monetary recoveries may fluctuate

significantly and past performance cannot predict future performance in any given year, but recoveries have followed a generally upward trend over the past several years. PWBA's Enforcement Management System (EMS) provides the data used to measure the achievement of this goal, and the Department has confidence in the accuracy and reliability of the data. The system checks described in Goal 2.1C also apply to the data used to measure this goal.

Several subsidiaries of a company filed for bankruptcy while one subsidiary continued to operate and maintain its health plan. As a result of the bankruptcy, hundreds of retirees from the bankrupted subsidiaries were at risk of losing their health insurance. The health plan of the remaining subsidiary denied that they were responsible for offering COBRA insurance coverage to the retirees of the bankrupted subsidiaries. The Department's Pension and Welfare Benefits Administration, in coordination with the Internal Revenue Service, conducted several compliance assistance sessions and explained to the employer that the remaining subsidiary's health plan was responsible for offering COBRA insurance to the affected retirees, retroactive to the date of the bankruptcy. The health plan attorneys thanked the Department for their compliance assistance on these issues. As a result of the Department's intervention, the employer agreed to send out COBRA notices to the retirees offering them the opportunity to elect COBRA coverage.

FIDUCIARY CASES - HEALTH AND WELFARE PLANS
CASES WITH POSITIVE OUTCOMES



Audits and Program Evaluations: The General Accounting Office program evaluation referenced in Goal 2.1C and further detailed in Appendix 3 also relate to this goal. In addition, the HDCI evaluation and further details may be found in Appendix 3.

Goal Assessment and Future Plans: See discussion under Goal 2.1C. ■

(Goal 2.1D — FY 2002 Annual Performance Plan)

In September Secretary of Labor Elaine L. Chao released the final report of the 2002 National Summit on Retirement Savings with a message to all generations of Americans to save for a secure retirement. The Summit report contains important findings and recommendations targeted to various generations to improve education as a way to increase retirement security. In breakout sessions, the Summit participants examined the differences in attitudes, behaviors and concerns important to generations and at specific life stages. The final report includes messages and approaches for educating various generational groups developed by each breakout session. It is available on on DOL's website at: <http://www.dol.gov/pwba/PDF/SummitFinalReport.pdf>

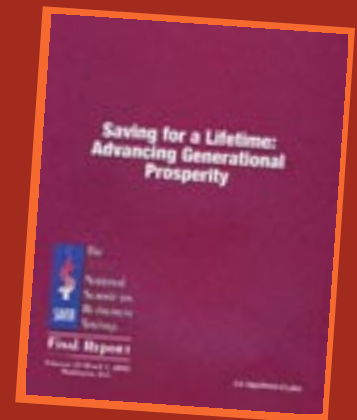


PHOTO: DOL