



Top Management Challenges and Management's Response

The Top Management Challenges identified by the Office of the Inspector General (OIG) for the Department of Labor are discussed below. This year the Department's response and presentation of its progress on the Top Management Challenges is integrated with the OIG's statement of these challenges. The OIG's Top Management Challenges are below.

The Department's presentations of its actions and planned actions to address each challenge are displayed in a table below each OIG challenge, and include information from Government Accountability Office (GAO) audits and planned actions identified for FY 2008 from the FY 2007 PAR. At the top of the tables are the Department's own progress assessments for FY 2008 using a stoplight system: ● Green – Actively Implementing All Remedial Actions; ● Yellow – Actively Implementing Most Remedial Actions; and, ● Red – Not Implementing Most Remedial Actions. The narrative in the heading of the table indicates the strategic and performance goals affected by the challenge and when the challenge was first identified. Each table's three columns break out the Management Challenges into specific issues (left column), actions taken in FY 2008 (center column), and actions remaining/expected completion date (right column). Throughout the past year, the Department closely tracked its progress in addressing the Top Management Challenges, with agencies reporting quarterly on their corrective actions. Additional information on many of these management challenges and their specific issues is in the performance goal narratives. The Department aggressively pursues corrective action for all significant challenges, whether identified by the OIG, GAO, the Office of the Chief Financial Officer (OCFO) or other sources within the Department.

2008 Top Management Challenges Facing the Department of Labor

The Department's FY 2008 Top Management Challenges identified by the Office of Inspector General (OIG) are below. For 2008, the OIG considers workplace protection, accountability, integrity of benefit programs, and the delivery of goods and services as the most serious management and performance challenges facing the Department. The OIG assessed the Department's progress in these areas and continues to review and monitor how these complex issues are addressed.

For each challenge, the OIG presents an overview of the challenge, a description of the challenge, and the OIG's assessment of the Department's progress in addressing the challenge. The stoplight rating and the assessment contained in the tables represent the Department's view of its progress in addressing each management challenge.

- Protecting the Safety and Health of Workers
- Improving Performance Accountability of Grants
- Ensuring the Effectiveness of the Job Corps Program
- Safeguarding Unemployment Insurance
- Improving the Federal Employees' Compensation Act Program
- Improving Procurement Integrity
- Maintaining the Integrity of Foreign Labor Certification Programs
- Securing Information Technology Systems and Protecting Related Information Assets
- Ensuring the Security of Employee Benefit Plan Assets
- Preserving Departmental Records



CHALLENGE: Protecting the Safety and Health of Workers

OVERVIEW: The Department of Labor administers the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended by the Mine Improvement Emergency Response Act of 2006, and the Occupational Safety and Health Act of 1970. The workplace safety and health of our nation's workers depends on DOL's strong enforcement of these laws.

CHALLENGE FOR THE DEPARTMENT: The OIG has consistently revealed a pattern of weak oversight, inadequate policies, and a lack of accountability on the part of MSHA made more of a challenge by years of resource shortages. Congress has allocated additional funding. However, it will take several years for the Department to be fully functional with these increased resources. Insufficient resources during a period of increasing mining activity made it difficult for the Department to ensure that it had enough resources in the right places to ensure the safety of miners. These resource issues further reemphasize the need for MSHA to have adequate procedures in place for carrying out its mission. Further, MSHA management must monitor performance to ensure that its employees are following those procedures and documenting their activities.

The OIG's recent audits have documented the need for MSHA to improve its operating procedures and management oversight. For example, an OIG report on MSHA inspections found that MSHA did not complete 147 required safety inspections at 107 underground coal mines where approximately 7,500 miners worked during FY 2006. In an OIG audit of MSHA's process for approving the roof control plan at Utah's Crandall Canyon Mine, the OIG found that MSHA was negligent in its review, approval, and oversight of the roof control plan

Likewise, the Independent Review Team established to evaluate MSHA's actions prior to the August 2007 accident at the Crandall Canyon Mine and during the subsequent rescue activities, identified many serious deficiencies in MSHA's actions, including inadequate evaluation of the engineering data to justify mining in the North and South Barriers and inadequate oversight of the plan evaluation and approval process by MSHA management. The review concluded that MSHA's failure to adequately evaluate the roof control plans contributed to the August accident.

An OIG audit of how MSHA determines whether a fatality is mining-related found that investigators and decision makers lacked independence and investigative documentation was not always complete. The OIG also found that decisions about the cause of a fatality were sometimes made on a manager's preliminary assessment and a full investigation was not done.

OSHA's mission is to prevent work-related injuries, illnesses and deaths and to ensure that every working man and woman in the nation has safe and healthful work conditions; however, work-related fatalities reported in the BLS Census of Fatal Occupational Injuries were 5,764 in 2004, 5,734 in 2005, 5,840 in 2006, and 5,488 in 2007.³⁵ Because it is impossible for OSHA to inspect the more than seven million workplaces in the nation, it is essential that OSHA target its limited resources to inspect workplaces with the highest risk of hazardous conditions or which have a history of causing significant injuries or fatalities. Recent fatal workplace accidents involving cranes, combustible dust, and refineries highlight this challenge. In addition, OSHA must ensure that voluntary compliance programs are effective.

OSHA's Consultation Program was designed to encourage employers to volunteer for an inspection and then resolve work place safety and health issues without the use of enforcement fines and penalties. However, an OIG audit found that consultation program officials seldom ensured that interim protection was in place before granting employers' requests for extensions to correct serious hazards, and employers who did not complete corrective actions in a timely fashion were seldom referred for enforcement actions. The OIG recommended that OSHA

³⁵ These numbers include fatalities not under OSHA jurisdiction, such as deaths among miners, transportation workers, domestic workers, some public employees, and the self-employed, as well as fatalities that fall outside of OSHA's definition of work-relatedness.



establish a performance measure that benchmarks and reports the percentage of serious hazards corrected by the initial correction due date.

In response to concerns about the effectiveness of OSHA's enforcement program, the OIG is conducting an audit to determine whether OSHA has accurately identified high-risk employers based on OSHA's definition of these employers under its Enhanced Enforcement Program.

OIG'S ASSESSMENT OF THE DEPARTMENT'S PROGRESS: MSHA and OSHA have made progress in addressing this challenge. For example, with supplemental funding provided by Congress, MSHA has hired more mine inspectors to improve completion of statutorily required inspections. However, MSHA needs to ensure that its recently hired inspectors are properly trained. While new inspectors are trained, MSHA has re-allocated current resources by rotating inspectors into understaffed districts for two week intervals to assist in completing all mandated inspections. MSHA has also increased and clarified the documentation required to support mine inspection activities and defined specific steps for reviewing mine plans.

Further, MSHA has issued guidance to standardize its roof control plan approval process and has developed checklists to detail required information and documentation when inspectors review roof control plans. To address concerns about independence of decisions about mining fatalities, the Fatality Review Committee now includes a representative outside of MSHA. However, this individual is still a DOL employee.

MSHA also needs to remain vigilant to ensure that approvals of roof control plans are done in accordance with its new procedures. The OIG continues to believe that an individual who is not employed by the Department will provide a greater degree of independence and integrity to the work of the Fatality Review Committee.

In response to an OIG report on OSHA's Consultation Program, OSHA has implemented measures to ensure that employers are referred for enforcement action when serious safety hazards are not corrected in a timely manner. OSHA has also established a new performance measure tied to the initial hazard correction due date to ensure that serious hazards are corrected in a timely manner without the need for granting time extensions to correct the hazard.

DEPARTMENT'S RESPONSE: Following are DOL FY 2008 Actions, Remaining Actions, and Expected Completion Dates to Challenges Identified by the OIG, GAO, and DOL.

DOL's Assessment of its Own Progress: ● Yellow

Protecting the Safety and Health of Workers This challenge affects Strategic Goal 3 – *Safe and Secure Workplaces*, Performance Goal 3A- *Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations and standards* and Performance Goal 3B- *Reduce work-related fatalities, injuries and illnesses in mines*. Challenge first identified in FY 2005.

Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
<p>Implement the Mine Improvement and New Emergency Response (MINER) Act of 2006. (2007 PAR)</p>	<p>Published final rules for <i>Rescue Teams and Sealing of Abandoned Areas</i> and proposed rules on <i>Refuge Alternatives and on the Utilization of Belt Air and the Composition and Fire Retardant Properties of Belt Material in Underground Coal Mining</i>.</p>	<ul style="list-style-type: none"> • Provide guidance on performance-based criteria for acceptable alternatives to underground wireless communications— Jan 2009. • Publish final rules on refuge alternatives and fire retardant properties of belt material and continue to review and approve Emergency Response Plans—Dec 2008.



<p>Protecting the Safety and Health of Workers This challenge affects Strategic Goal 3 – <i>Safe and Secure Workplaces</i>, Performance Goal 3A- <i>Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations and standards</i> and Performance Goal 3B- <i>Reduce work-related fatalities, injuries and illnesses in mines</i>. Challenge first identified in FY 2005.</p>		
Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
<p>Strengthen MSHA accountability program. (OIG 2007, OIG 05-07-002-06-001) http://www.oig.dol.gov/public/reports/oa/2007/05-07-002-06-001.pdf</p>	<ul style="list-style-type: none"> • Created and staffed an Office of Accountability. • Revised current MSHA Accountability Program and Accountability Program Handbook. 	<p>Office of Accountability to monitor the implementation of management controls—Ongoing.</p>
<p>Ensure the consistency and rigor of the process to review and approve roof control plans. (OIG- 05-08-003-06-001) http://www.oig.dol.gov/public/reports/oa/2008/05-08-003-06-001.pdf</p>	<ul style="list-style-type: none"> • Standardized MSHA’s roof control plan approval process in checklist form. • Required documentation in MSHA’s roof control review files. • Issued instructions regarding which roof control or ground support plans must be reviewed by the Roof Control Division. • Clarified handling of non-rescue personnel in rescue operations. • Issued Program Information Bulletin on retreat mining software. • Developed criteria for assessing the quality of roof control plans. 	<p>Re-evaluate roof control plans for all mines—Ongoing.</p>
<p>Ensure that fatality investigations follow consistent well-documented procedures. (OIG 05-08-002-06-001) http://www.oig.dol.gov/public/reports/oa/2008/05-08-002-06-001.pdf</p>	<ul style="list-style-type: none"> • Included information on non-chargeable fatalities on MSHA’s website. • Amended the Accident/Illness Investigation Procedures Handbook to clarify first responders’ responsibilities, require fatality information and evidence to be transmitted to headquarters prior to a chargeability determination, and clarify investigative protocol and documentation required. 	<p>No actions remaining.</p>
<p>Improve guidance and oversight of mine Emergency Response Plans. (GAO 08-424)</p>	<ul style="list-style-type: none"> • Issued checklist and guidance on requirements for Emergency Response Plan (ERP) review. • Developed list of mines for ERP review. • Required headquarters review of ERP violations for consistency. • Required inspectors to cite the statutory provision of the MINER Act applicable to emergency response. • Issued guidance to ensure that repeat violations are captured. • Required inclusion of ERPs in accountability reviews. 	<ul style="list-style-type: none"> • Review ERPs every six months. • Work with NIOSH to provide guidance on performance-based criteria for acceptable technological alternatives to underground wireless communications—Jan 2009. • Headquarters evaluates issued violations and determines if policy clarifications are necessary to improve consistency—Ongoing. • Hold regular discussions with District Managers to develop best practices and improvements for ERPs—Ongoing.



Protecting the Safety and Health of Workers This challenge affects Strategic Goal 3 – <i>Safe and Secure Workplaces</i> , Performance Goal 3A- <i>Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations and standards</i> and Performance Goal 3B- <i>Reduce work-related fatalities, injuries and illnesses in mines</i> . Challenge first identified in FY 2005.		
Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
Ensure that employees follow procedures.	Worked on revisions to the Metal and Nonmetal General Inspection Procedures Handbook.	Issue revised Metal and Nonmetal General Inspection Procedures Handbook – Dec 2008.
Replace retiring mine inspectors. Implement localized and targeted recruiting to increase the applicant pool Implement Human Resources Strategic Plan FY 2006 -2011 for hiring new mine inspectors. (2007 PAR)	MSHA hired enough coal enforcement personnel to bring the strength to highest since 1994 and began a similar hiring initiative that will place its Metal and Nonmetal mine enforcement at the highest level in more than 20 years.	Continue to implement localized and targeted recruiting–Ongoing.
Ensure that OSHA funded consultation projects refer uncorrected serious hazards to OSHA enforcement. (2007 PAR)	<ul style="list-style-type: none"> Implemented measures to ensure that employers not correcting hazards in a timely way are referred for enforcement action. Established a performance measure for timeliness of serious hazard correction. 	No actions remaining.

CHALLENGE: Improving Performance Accountability of Grants

OVERVIEW: In FY 2007, the Department’s Employment and Training Administration (ETA), issued \$5.5 billion in formula grants and almost \$1 billion in discretionary grants for job training and employment services. Since 2001, ETA has spent nearly \$900 million in discretionary grant funds on the High Growth Job Training Initiative (High Growth), Community-Based Job Training Initiative (Community Based), and the Workforce Innovation in Regional Economic Development (WIRED). These initiatives were designed to give greater emphasis to the employment and training needs of high-growth, high-demand industries.

All state and local government and nonprofit recipients that expend \$500,000 or more in Federal assistance in one year are required by the Single Audit Act to obtain an annual audit by an independent public accountant. The Act mandates the examination of a recipient’s financial records, financial statements, federal award transactions and expenditures, the general management of its operations, the systems of internal control, and the federal assistance itself received during the audit period. ETA grants are awarded to state and local governments and other non-DOL organizations. The Department relies on audits conducted under the Single Audit Act to provide oversight of its grants – both formula and discretionary.

CHALLENGE FOR THE DEPARTMENT: DOL continues to face challenges in ensuring that discretionary grants are properly awarded and that the Department receives the quality of services that the taxpayers deserve. Successfully meeting the employment and training needs of citizens requires selecting the best service providers, making expectations clear to grantees, ensuring that success can be measured, providing active oversight, evaluating outcomes, and disseminating and replicating proven strategies and programs. Both OIG and GAO have found in the past year that ETA continues to have weaknesses in managing its grants to this end. In audits involving the High Growth, Community Based, and WIRED initiatives, these weaknesses have included the lack of competition in awarding grants, grants that failed to achieve major performance goals, grant agreements with goals that were so unclear it was impossible to determine success or failure, and grants whose required matching funds were not



provided. Moreover, ETA continues to be challenged to provide adequate oversight and monitoring of the grants it awards, as the agency lacks reliable and timely performance data that would allow identification of problems in time to correct them. Finally, ETA has not evaluated the usefulness of individual grant products or the overall effectiveness of its discretionary grant initiatives.

Another challenge for the Department related to both formula and discretionary grants is that grantees' audits conducted under the Single Audit Act by independent public accountants are not always completed timely and information from single audits is not always reliable. The OIG has found serious deficiencies in these audits that demonstrate that the Department is not receiving timely, accurate, reliable information that will assist it making the best possible program and funding decisions.

OIG'S ASSESSMENT OF THE DEPARTMENT'S PROGRESS: As a result of the audits by the OIG and GAO, ETA has recently increased the emphasis placed on awarding discretionary grants competitively, developed procedures designed to better document decisions and discussions that lead to grant actions, implemented new procedures to ensure the proper justification of any future non-competitive awards, and provided training to agency grant officers on these new procedures. ETA has also stated that future agreements for pilots and demonstration grants will require grantees to obtain an independent evaluation of grant results. While these actions should help to improve performance accountability, ETA needs to focus its future efforts on determining how best to prioritize its available resources to adequately monitor grant performance and how to evaluate grants to ensure desired results are achieved.

The Department has implemented procedures requiring written notifications be sent to grantees when single audit reports are submitted more than three months past the due date. The notifications serve to remind the grantees of the timeframes established in OMB Circular A-133, to ensure awareness that the reports were submitted untimely, and to prevent future untimely submissions.

DEPARTMENT'S RESPONSE: Following are DOL FY 2008 Actions, Remaining Actions, and Expected Completion Dates to Challenges Identified by the OIG, GAO, and DOL.

DOL's Assessment of its Own Progress: ● Yellow

<i>Improving Performance Accountability of Grants</i> Affects Strategic Goal 1: A Prepared Workforce, Performance Goals 1C-1D, and Goal 2: A Competitive Workforce, Performance Goals 2A-G. Challenge first identified in FY 2007.		
Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
<p>Ensure that grants are properly awarded. 90 percent of the 39 audited grants awarded under the President's High Growth Job Training Initiative were awarded non-competitively. (OIG 02-08-201-03-390) http://www.oig.dol.gov/public/reports/oa/2008/02-08-201-03-390.pdf</p>	<ul style="list-style-type: none"> • Updated process for handling non-competitive proposals so compliance with requirements is fully documented. • Funding for unsolicited (non-competitive) proposals for amounts greater than \$100,000 which do not have an exception must be approved by the DOL Procurement Review Board. • All grants are currently being awarded competitively. 	<ul style="list-style-type: none"> • Monitor grantee compliance with OMB Circular A-133 (Audits of State, Local Governments and Non-Profit Organizations) audit requirements and place further emphasis on this requirement in grant packages—FY 2009. • Emphasize use of electronic reports in tracking and evaluating grantees' actual cash needs—FY 2009.



Improving Performance Accountability of Grants Affects Strategic Goal 1: <i>A Prepared Workforce</i> , Performance Goals 1C-1D, and Goal 2: <i>A Competitive Workforce</i> , Performance Goals 2A-G. Challenge first identified in FY 2007.		
Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
<p>Ensure that grantees accomplish their grant objectives and enhance monitoring of direct grants. (OIG-02-08-204-03-390) http://www.oig.dol.gov/public/reports/oa/2008/02-08-204-03-390.pdf Enhance monitoring of direct grants, including the High Growth Job Training Initiative (HGJTI), Community Based Job Training Grants (CBJTG), and Workforce Innovation in Regional Economic Development (WIRED) Grants. (OIG 2007-2008) (GAO 08-486)</p>	<ul style="list-style-type: none"> • Updated the Grants Management Desk Reference covering the grant process from solicitation to closeout. • Issued the Financial Supplement and the WIRED Monitoring Supplement to the <i>Core Monitoring Guide</i> for grants. • Trained Grants Officers to review Statements of Work for clarity of objectives, deliverables, and performance measures and to observe match requirements. • Trained new grantees on financial and performance requirements at various training venues, including webinars and a WIRED fiscal conference. 	<ul style="list-style-type: none"> • Use electronic reports in evaluating grantees' cash needs—FY 2009. • Continue training Grant Officers on reviewing Statements of Work and other areas of grant operations—FY 2009. • Issue plan for technical assistance to grantees and provide technical assistance to grantees—FY 2009.
	<ul style="list-style-type: none"> • Developed a 3 ½ day training course for Federal Project Officers to address core competencies and technical skills. 	<ul style="list-style-type: none"> • Conduct pilot test of 3½ Day Training Course and Web-based tutorial for Federal Project Officers—Nov 2009. • Conduct additional Federal Project Officer training sessions—Dec 2008 through April 2009.
	<ul style="list-style-type: none"> • Implemented risk-based monitoring for WIRED grants, including training Federal Project Officers and reviewing Generation 1 grantees. 	<ul style="list-style-type: none"> • Conduct fiscal and program reviews of Generation II WIRED grantees—FY 2009. • Monitor third party evaluations of HGJTI, CBJTG, and WIRED training grants and identify any interim successes and findings—FY 2009.
	<ul style="list-style-type: none"> • Identified methods for collecting common measures data for HGJTI, CBJTG, and WIRED grantees and implemented on-line reporting for HGJTI and CBJTG grantees. 	<ul style="list-style-type: none"> • Collect common measures' data and compute results—FY 2009.
<p>Ensure that costs for Earmark Grants are allowable. (OIG 02-08-203-03-390) http://www.oig.dol.gov/public/reports/oa/2008/02-08-203-03-390.pdf</p>	<p>Initial determination disallowed \$11.2 million in questioned costs and required the grantee to correct deficiencies regarding documentation of eligibility.</p>	<p>Conduct Federal Project Officer training covering grant monitoring, particularly regarding documentation required of grantees—FY 2009.</p>
<p>Single Audits. (OIG 2006-2008) (FY 2006-7 PAR)</p>	<ul style="list-style-type: none"> • Developed and tested monitoring procedures for reviewing grantee submissions of FY 2006 single audit reports. • Completed review of FY 2006 single audit reports. • Mailed letters to grantees with delinquent reporting and grantees without single audit reports. • Drafted standard operating procedures. 	<ul style="list-style-type: none"> • Send follow up letters to grantees who continue to be delinquent—Nov 2009. • Codify standard operating procedures into Procedures Manuals—FY 2009.



CHALLENGE: Ensuring the Effectiveness of the Job Corps Program

OVERVIEW: The purpose of the Job Corps program is to assist eligible at-risk youth who need intensive education and training services in a safe, residential environment. Job Corps has contracts with private companies to operate 98 centers and interagency agreements with the Departments of Interior and Agriculture to operate 28 centers. The program was appropriated nearly \$1.6 billion in FY 2008.

CHALLENGE FOR THE DEPARTMENT: The OIG's work has consistently identified challenges to the effectiveness of the Department's Job Corps program. These challenges include ensuring the safety and health of students and having accurate, reliable data about the program's performance. A cornerstone of the Job Corps program is removing students from unsafe environments and placing them in a safe residential training program. Ensuring maintenance of its facilities is a challenge for Job Corps. Unsafe conditions resulting from inadequate maintenance adversely impacts the overall success of the Job Corps program.

OIG audits have documented numerous health and safety problems at certain centers, such as water-damaged and collapsing ceiling tiles; mold on student dormitory walls and ceilings; and missing or inoperable emergency exit signs. Further, Job Corps officials need to do more to address the problems of illegal drugs and violence at its facilities.

OIG audits have also found that contractors have manipulated performance data to inflate their success. The OIG has repeatedly found problems with the reporting of student outcomes, on-board strength and attendance. This is a particular challenge for Job Corps when centers are operated by contractors through performance-based contracts which tie incentive fees and bonuses directly to contractor performance largely measured by on-board strength, attendance, and outcomes. Under such contracts, there is a risk that contractors will inflate their performance reports so they can continue to operate centers. It is essential for Job Corps to have reliable, accurate, and timely data, so that the Department can evaluate how well student needs are being met.

OIG'S ASSESSMENT OF THE DEPARTMENT'S PROGRESS: Job Corps has addressed a number of student safety and health issues and indicated that it will provide more rigorous monitoring of all centers. Also, Job Corps has taken action to improve financial and performance data reliability at all centers. Although, each center will conduct mandatory audits of student records concurrent with annual center quality assessments, more needs to be done to resolve problems with inaccurate performance data.

Although Job Corps is continuing its efforts to maintain a safe and healthy environment for its students, it must be held accountable to monitor and verify that all centers are being managed and maintained to ensure safe and healthy environments.



DEPARTMENT'S RESPONSE: Following are DOL FY 2008 Actions, Remaining Actions, and Expected Completion Dates to Challenges Identified by the OIG, GAO, and DOL.

DOL's Assessment of its Own Progress: ●Green ↑ (improved from FY 2007)

Ensuring the Effectiveness of the Job Corps Program Affects Strategic Goal 1 – A Prepared Workforce, Performance Goal 1B, <i>Improve educational achievements of Job Corps students and increase participation of Job Corps graduates in employment and education.</i> Challenge first identified in FY 2006.		
Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
<p>Promote effective regional monitoring, including ensuring that contractors provide accurate performance data. (OIG -26-08-002-01-370) http://www.oig.dol.gov/public/reports/oa/2008/26-08-002-01-370.pdf (OIG-26-08-003-01-370) http://www.oig.dol.gov/public/reports/oa/2008/26-08-003-01-370.pdf (2007 DOL)</p>	<ul style="list-style-type: none"> • Required Regional Offices to perform rigorous data quality/data integrity reviews in addition to comprehensive onsite policy compliance monitoring reviews at least once every 24 months. • Completed Project Manager training for all regions. • Assessed \$585,000 in liquidated damages for recovery. • Revised Interagency Agreements with Interior and Agriculture to provide more accountability on financial and property management and greater oversight by Job Corps. 	<ul style="list-style-type: none"> • Continue to conduct rigorous data integrity audits concurrently with onsite compliance/quality assessments –FY 2009. • Atlanta Regional Director will increase monitoring efforts at the North Carolina Center operated by the USDA– FY 2009.
<p>Ensure student safety and health. (OIG 2007-2008) (OIG-26-08-001-01-370) http://www.oig.dol.gov/public/reports/oa/2008/26-08-001-01-370.pdf</p>	<ul style="list-style-type: none"> • Reviewed center safety and health programs, provided abatement guidance, and monitored quarterly facility inspection reports. • Disseminated information promoting safety and health through the Job Corps Directives system. • Updated the Job Corps Safety and Occupational Health Program to comply with regulatory guidelines and to incorporate OIG recommendations. • Enforced the Zero Tolerance Policy against violence and drugs. • Completed Oconaluftee Center repairs. 	<ul style="list-style-type: none"> • Conduct annual Safety and Health Information Management System Training Seminar for 80 participants – Oct 2008. • Continue to implement the Job Corps Safety and Occupational Health Program participants–Ongoing. • Continue to enforce the Zero Tolerance Policy against violence and drugs–Ongoing.
<p>Assess incoming students for cognitive disabilities. Federal law requires assessment for cognitive disabilities under specific circumstances. (OIG 2007)</p>	<ul style="list-style-type: none"> • Updated the data collection system to improve tracking of students with disabilities. • Outreach Admissions counselors now seek guidance from Regional Disability Coordinators and qualified personnel on accommodating disabled students. • Converted all part-time Regional Disability Coordinators to full-time. 	<p>University of Kansas Center for Research on Learning to conduct a professional development conference to train Job Corps academic and career technical managers in standards-based instruction for students with learning disabilities–FY 2009.</p>



CHALLENGE: Safeguarding Unemployment Insurance

OVERVIEW: The Department partners with the states to administer unemployment benefit programs. State Unemployment Insurance (UI) provides benefits to workers who are unemployed and meet eligibility requirements established by their respective states. UI benefits are financed through employer taxes imposed by the states and collected by the Internal Revenue Service, which holds them in the Unemployment Trust Fund (UTF) until needed to pay benefits.

The Department funds State Workforce Agencies (SWAs) which administer the UI program through grant agreements. These grant agreements are intended to ensure that SWAs administer the UI program efficiently and that they comply with Federal laws and regulations. In addition, the SWAs are required to have disaster contingency plans in place to enable them to administer benefits in the aftermath of a disaster such as a hurricane. Disaster Unemployment Assistance (DUA), is a Federally funded program that provides financial assistance to individuals who lose their jobs as a direct result of a major disaster and are ineligible for other UI.

CHALLENGE FOR THE DEPARTMENT: Reducing and preventing UI and DUA overpayments, combating fraud against these programs, and timely detecting and recovering overpayments that do occur remains a major challenge for the Department and states. In FY 2007, the Department reported more than \$3 billion in UI overpayments—a slight drop from \$3.1 billion in FY 2006. However, the Department did not meet its target goal of identifying and establishing for recovery 60 percent of UI overpayments in FY 2007.

OIG work following Hurricanes Katrina and Rita identified potential benefit overpayments as a result of claimants concurrently filing under the UI and DUA programs; states not timely verifying eligibility for DUA; and other reasons. For example, the OIG found that Louisiana paid unemployment benefits to claimants when the National Directory of New Hires (NDNH) database reported those individuals as having obtained jobs. This one example represented potential overpayments of \$51 million. Following the 2005 hurricanes, the OIG opened over 300 cases of potential UI and DUA fraud resulting in 142 indictments and 86 convictions. To date, 240 of these cases have been closed.

It is a challenge for the Department, other Federal agencies, and the states to have systems and controls in place to quickly prevent or respond to improper payments during national emergencies or disasters. The Department needs to promote states' use of the National Directory of New Hires (NDNH) database to prevent and timely detect overpayments. The Department also needs to ensure that SWAs have adequate Information Technology (IT) Contingency Plans that will enable them to continue to pay UI benefits in the event of a disaster such as a hurricane. It is critical that all SWAs have IT contingency plans for UI to ensure individuals who rely on these benefits receive this vital support in a time of need and uncertainty.

Preventing fraud against the UI program is also a challenge. The OIG investigates fraud committed by individuals who do not report or underreport outside income while receiving UI benefits. In addition to single claimants and fictitious employer-related schemes, OIG investigations have uncovered schemes in which individuals have used identity theft to illegally obtain benefits and schemes in which UI benefits have been paid to ineligible claimants.

OIG'S ASSESSMENT OF THE DEPARTMENT'S PROGRESS: The Department has taken some measures to reduce and prevent UI and DUA overpayments. The Department stated in its FY 2006 Performance and Accountability Report that it has developed a new core performance measure on overpayment detection. Although the Department implemented this new performance measure two years ago, there has been only a slight drop in the UI overpayment rate. The Department is also working with state agencies to encourage the use of the NDNH database, which will improve the states' efforts to detect overpayments early. The OIG is currently conducting an audit to assess the states' use of this tool.



In coordination with other Federal partners and the National Association of State Workforce Agencies, the Department has developed action plans using lessons learned from recent disasters. The Department has also brought together Federal partners to develop a resource guide to facilitate coordination and streamline the delivery of services in the event of a major disaster.

The OIG is working with UI's state partners to more effectively provide training to detect and prevent UI fraud.

DEPARTMENT'S RESPONSE: Following are DOL FY 2008 Actions, Remaining Actions, and Expected Completion Dates to Challenges Identified by the OIG, GAO, and DOL.

DOL's Assessment of its Own Progress: ●Green

Safeguarding Unemployment Insurance Affects Strategic Goal 4 – <i>Strengthened Economic Protections</i> , and Performance Goal 4A- <i>Make timely and accurate benefit payments to unemployed workers, facilitate the reemployment of unemployment insurance beneficiaries and set up unemployment tax accounts promptly for new employers.</i> Challenge first identified in FY 2000.		
Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
<p>Prevent overpayments. OIG work following Hurricanes Katrina and Rita identified potential benefit overpayments as a result of claimants concurrently filing under the UI and DUA programs; states not timely verifying eligibility for DUA; and other reasons. (OIG-06-08-001-03-315) http://www.oig.dol.gov/public/reports/oa/2008/06-08-001-03-315.pdf</p> <p>OIG's audit of the Benefit Accuracy Measurement program found that expediting implementation of National Directory of New Hires (NDNH) database connectivity in 10 states, and increasing its use in another 8 states, could save the Unemployment Trust Fund \$428 million annually.</p>	<ul style="list-style-type: none"> • Issued report on lessons learned from hurricanes and recommendations for UI and DUA preparedness planning. • Issued guidance to states on Disaster Unemployment Assistance eligibility requirements. • 48 states began cross-matching UI against the NDNH, which provides the most cost-effective means of controlling the biggest cause of UI overpayments– persons who continue to claim UI benefits after returning to work. • Addressed the second largest cause of overpayments–errors in handling separation issues--by supporting development of the Separation Information Data Exchange System (SIDES) so accurate information on circumstances of job separations reaches adjudicators in time to result in accurate decisions. 	<ul style="list-style-type: none"> • States that have not already implemented NDNH cross-matching will include Corrective Action Plans in their FY 2009 State Quality Service Plan submissions providing milestones for cross-match completion–Dec 2008. • Develop web services architecture and test plan documentation for SIDES and initiate system testing and user training in the five consortium States– FY 2009. • Promote state use of a variety of databases--UI Interstate Benefits Inquiry application, Social Security, Alien Verification for Entitlement, Department of Motor Vehicles, and Department of Corrections--to prevent and detect improper UI benefit payments–Ongoing.
<p>Reduce fraud. Continue to promote enactment of the 2008 Integrity Act and conduct an Integrity Conference for State UI agencies.</p>	<p>Held National Unemployment Insurance Integrity Professional Development Conference in Salt Lake City, Utah. The Administration's UC Integrity Act has not yet been acted upon by Congress.</p>	<p>Continue to promote enactment of the 2008 Integrity Act– FY 2009.</p>

CHALLENGE: Improving the Federal Employees' Compensation Act Program

OVERVIEW: The Federal Employees' Compensation Act (FECA) Program provides income and pays medical expenses for covered Federal civilian employees injured on the job or who have work-related occupational diseases, and dependents of employees whose deaths resulted from job-related injuries or occupational diseases.



This program is administered by the Department and impacts employees and budgets of all Federal agencies. FECA benefit expenditures totaled \$2.6 billion in 2007. Most of these costs were charged back to individual agencies for reimbursement to the Department's Office of Workers' Compensation Programs (OWCP).

CHALLENGE FOR THE DEPARTMENT: The structure and operation of the FECA program is both a Departmental and a government-wide challenge. All Federal agencies rely upon OWCP to adjudicate the eligibility of claims, to manage the medical treatment of those claims, and to make compensation payments and to pay medical expenses. Ensuring proper payments while being responsive and timely to eligible claimants is a challenge for OWCP. Among these challenges are moving claimants off the periodic rolls when they can return to work or their eligibility ceases, preventing ineligible recipients from receiving benefits, and preventing fraud by service providers and by individuals who receive FECA benefits while working.

The OIG recognizes that it is difficult to identify and address improper payments and/or fraud in the FECA program. Another difficulty is that OWCP does not have the legal authority to match FECA compensation recipients against social security wage records. Currently, OWCP must obtain permission from each individual claimant each time in order for it to check records. Being able to do the match would enable OWCP to identify individuals who are collecting FECA benefits while working and collecting wages.

OIG'S ASSESSMENT OF THE DEPARTMENT'S PROGRESS: The Department has taken several steps to improve the administration of FECA. The Department completed the roll-out of its new FECA benefit payment system, Integrated Federal Employee Compensation System, which tracks due dates of medical evaluations; revalidates eligibility for continued benefits; uses data mining to prevent improper payments; boosts efficiency; and promises improved customer satisfaction.

The Department needs to continue to seek legislative reforms to the program. The OIG supports the Department's efforts to seek legislative reforms to the FECA program which would enhance incentives for employees who have recovered to return to work, address retirement equity issues, discourage unsubstantiated or otherwise unnecessary claims, and make other benefit and administrative improvements. Through the enactment of these proposals, the Department estimates savings to the government over ten years to be \$384 million. These legislative reforms would assist the Department to focus on improving case management and to ensure only eligible individuals receive benefits.

To help ensure proper payments in the FECA program, the Department is seeking legislative authority to easily and expeditiously access SSA wage records.

The OIG continues to provide training to DOL and to other Federal agencies in the detection and prevention of fraud against the FECA program. In addition, the OIG has started an audit to determine whether OWCP is complying with Federal regulations and internal policies and procedures when assessing the wage earning capacity of FECA periodic roll claimants.

DEPARTMENT'S RESPONSE: Following are DOL FY 2008 Actions, Remaining Actions, and Expected Completion Dates to Challenges Identified by the OIG, GAO, and DOL.



DOL's Assessment of its Own Progress: ●Green

Improving the Federal Employees' Compensation Act Program Affects Strategic Goal 4, *Strengthened Economic Protections* and Performance Goal 4B-*Reduce the consequences of work-related injuries*. Challenge first identified in FY 2004.

Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
<p>Reduce improper payments. Ensure that current medical information for claimants is on file, so that payments are not made to those who are no longer disabled, and monitor and adjust the Integrated Federal Employees Compensation System (iFECS) as necessary. (2007 PAR)</p> <p>Revise program performance measures to emphasize payment accuracy, internal controls, and overpayment recoveries and collect more detailed information on improper payments to better identify improper payment risks and to address areas of high risk. (GAO-08-486)</p>	<ul style="list-style-type: none"> • Completed actions to ensure current medical information is on file. • Completed testing iFECS system controls. • Utilized the newly operational Periodic Entitlement Review tracking system. • Included a new measure of the timely processing of identified overpayments (both pending and preliminary) in the Operational Plan for 2008. • Enhanced iFECS to allow agencies to access details of a payment online so they can monitor payments and discover flaws in the data they submitted. • Conducted ongoing system monitoring. 	<ul style="list-style-type: none"> • Create an electronic form to quickly report the return to work without a paper form and mailing—June 2009. • Collect information in iFECS to analyze potential erroneous payments, including reason codes— Sept 2009. • Analyze underpayments and overpayments to identify training to improve performance and consider establishing corresponding performance goals— March 2010. • Create a training module addressing pay rates and initial payments to improve accuracy—Sept 2010. • Enhance iFECS to prompt the user when payment is being made on a claim with an existing over-payment or if the claimant has an over-payment in another case—Sept 2010.
<p>Reduce fraud. Seek legislative reforms to discourage unsubstantiated claims and make other improvements, including matching of FECA payment records with SSA records. (2008 OIG, 2007 PAR)</p>	<p>FECA reform proposal included in the FY 2009 President's Budget to Congress.</p>	<p>Work with Congress to adopt FECA legislative reform proposal—FY 2009.</p>

CHALLENGE: Improving Procurement Integrity

OVERVIEW: The Department contracts for many goods and services to assist in carrying out its mission. In FY 2007, the Department's acquisition authority exceeded \$1.8 billion and included over 10,700 acquisition actions.

CHALLENGE FOR THE DEPARTMENT: Ensuring integrity in procurement activities is a continuing challenge for the Department. The OIG's work continues to identify violations of Federal procurement regulations, preferential treatment in awards, procurement actions that were not in the government's best interest, and conflicts of interest in awards. For example, an OIG audit of an employment and training contract raised concerns about preferential treatment in how work was directed to a specific subcontractor. Another audit found no evidence that DOL Contracting Officers were checking required sources – existing government inventories of excess personal property or nonprofit agencies affiliated with the Committee for Purchase from People Who Are Blind or Severely Disabled -- before making GSA Schedule procurements.

The Services Acquisition Reform Act (SARA) of 2003 requires that executive agencies appoint a Chief Acquisition Officer (CAO) whose primary duty is acquisition management. However, the Department's current organization is not in compliance with this requirement, as the Assistant Secretary for Administration and Management is serving as the CAO while retaining other significant non-acquisition responsibilities. Until procurement and programmatic



responsibilities are properly separated and effective controls are put in place, the Department will be at risk for wasteful and abusive procurement practices.

In addition, a recent OIG audit of procurements for Job Corps found that procurement personnel did not always comply with the Federal Acquisition Regulation in obtaining adequate justification for sole source contracts. The OIG also determined that there was a lack of training and inadequate oversight during the contracting process. As a result, contracting integrity, as well as fair and open competition, could be compromised.

OIG’S ASSESSMENT OF DEPARTMENT’S PROGRESS: The Department has taken preliminary steps to implement SARA. In January 2007, the Secretary issued Order 2-2007, which formally established the position of CAO within DOL. This Order specifically stated that the CAO will have acquisition management as a primary duty. Further, the Order emphasized that the CAO will report to the Secretary with day-to-day guidance from the Deputy Secretary and that the CAO will have responsibility for overseeing other Department acquisition activities. Unfortunately, the Department still has not satisfied the full intent of SARA, as the delegated CAO continues to perform many other duties unrelated to acquisition management, such as serving as the Department’s Chief Information Officer and overseeing the Department’s budget operations.

DEPARTMENT’S RESPONSE: Following are DOL FY 2008 Actions, Remaining Actions, and Expected Completion Dates to Challenges Identified by the OIG, GAO, and DOL.

DOL’s Assessment of its Own Progress: ● Yellow

Improving Procurement Integrity Affects all DOL strategic goals. Challenge first identified in FY 2005.		
Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
Ensure procurement integrity. (OIG 2005-2008)	<p>Made significant improvements in the procurement process:</p> <ul style="list-style-type: none"> • Implemented the Federal Standards for Contracting Officer’s Technical Representative and Contracting Staff training. • Continued the Acquisition Workforce Skill Gap Assessment, • Reorganized the OASAM procurement oversight function and increased the staffing to increase effectiveness. • Issued three DLMS changes related to acquisition. • Issued numerous directives and guidance documents to the contracting officers and customer offices. • Significantly upgraded the oversight of the DOL purchase card program. 	<ul style="list-style-type: none"> • Complete the comprehensive review of the Department of Labor Management Series (DLMS) section for contracts and grants for required updates—FY 2009. • Complete comprehensive review of Department of Labor Acquisition Regulations for required updates—FY 2009. • Conduct procurement reviews of BLS and MSHA procurement offices—FY 2009. • Implement mandatory training/ monitoring program for the acquisition workforce—FY 2009. • Issue guidance in relation to recent OIG findings—Dec 2009. • Draft regulations and implement a new mandatory oversight procedure for telecommunications orders—FY 2009. • Continue to provide overall procurement policy support, training and guidance—FY 2009.
Improve employment and training contracting.	Reviewed ETA procurement (at their request) and recommended process improvements and training in procurement requirements.	



Improving Procurement Integrity Affects all DOL strategic goals. Challenge first identified in FY 2005.		
Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
Resolve the "unresolved and open" OIG procurement recommendation. (OIG 2007-8, 2006-7 DOL) Appoint a Chief Acquisition Officer (CAO) whose primary duty is acquisition management.	Considered the recommendation that DOL procurement responsibilities be removed from the Office of the Assistant Secretary for Administration and Management.	Decision pending; issue may be held in abeyance—FY 2009.

CHALLENGE: Maintaining the Integrity of Foreign Labor Certification Programs

OVERVIEW: The Department's Foreign Labor Certification (FLC) programs provide United States (U.S.) employers access to foreign labor to meet worker shortages under terms and conditions that do not adversely affect U.S. workers. The Permanent Foreign Labor Certification Program allows an employer to hire a foreign worker to work permanently in the U.S., if a qualified U.S. worker is unavailable. The H-1B program allows the Department to certify employers' applications to hire temporary foreign workers in specialty occupations such as medicine, biotechnology, and business. The H-2B program permits employers to hire foreign workers to come temporarily to the U.S. and perform temporary non-agricultural labor on a one-time, seasonal, peak load, or intermittent basis. In March 2005, ETA created the PERM (Permanent Electronic Review Management) system which removed the states from a direct role in reviewing and auditing applications for foreign labor certification, eliminated the 100 percent review of such applications, and established a random sampling and targeted approach to auditing applications to ensure compliance with the law and program requirements.

CHALLENGE FOR THE DEPARTMENT: Maintaining the integrity of its FLC programs, while also ensuring a timely and effective review of applications to hire foreign workers, is a continuing challenge for the Department.

OIG investigations, some of which have been initiated based on referrals from ETA, have identified fraud against these programs, and is the fastest growing area of OIG investigations. OIG investigations continue to uncover schemes carried out by immigration attorneys, labor brokers, and transnational organized crime groups, some with possible national security implications. Further, OIG investigations have revealed schemes involving fraudulent applications that are filed with DOL on behalf of fictitious companies—or applications using names of legitimate companies without their knowledge.

An OIG audit of the PERM system found that ETA had changed its methodology for selecting applications to audit. Furthermore, ETA had not conducted audits of all the applications selected for audit. As employers and representatives such as labor brokers and others learn what elements in an application are likely to trigger an audit, they may be able to structure applications in a way that could lessen the likelihood of applications being audited.

OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS: The Department has instituted measures to reduce fraud in its FLC programs. As a result of OIG investigations repeatedly demonstrating the need to eliminate the practice of substituting a new foreign worker for the one originally named on a permanent labor certification application, in July 2007 the Department enacted the Fraud Rule which prohibited the practice of substitution.

In addition, the OIG and the Department have been working collaboratively to identify and reduce fraud in the FLC process by providing training and instruction to ETA personnel on better and more creative ways of identifying and referring to the OIG possible labor-related visa fraud. In March 2008, ETA's OFLC launched its Fraud Detection and Protection Unit designed to recognize visa fraud and more expeditiously respond to OIG requests for program-related information. The OIG continues to work closely with ETA's fraud unit.



DEPARTMENT’S RESPONSE: Following are DOL FY 2008 Actions, Remaining Actions, and Expected Completion Dates to Challenges Identified by the OIG, GAO, and DOL.

DOL’s Assessment of its Own Progress: ●Green

Maintaining the Integrity of the Foreign Labor Certification Programs Affects Strategic Goal 2 – A Competitive Workforce, Performance Goal 2H-Address worker shortages through the Foreign Labor Certification. Challenge first identified in FY 2001.

Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
<p>Reduce high incidence of fraud. Increase the detection of fraudulent labor applications during the certification process. OIG investigations of fraud against foreign labor certification yielded significant results.</p>	<ul style="list-style-type: none"> Established a Fraud Detection and Prevention Division that uses data mining to review activity as well as enforcement provisions of the recent “fraud rule.” Collaborated with Departments of Homeland Security and State in data sharing to identify, address, and deter H-1B and other visa fraud. 	<ul style="list-style-type: none"> Monitor the impact of the actions taken in FY 2008 and make adjustments as necessary to enhance detection of fraud—Ongoing. Redesign the Labor Condition Application online filing system to include data validation edits and logic checks to help detect fraud—FY 2009.
<p>Reduce Permanent Labor certification backlogs. To address limited resources, DOL proposed a fee on employers for the processing of Permanent Labor Certifications.</p>	<ul style="list-style-type: none"> Eliminated backlog. Specialized processing with Atlanta processing PERM applications and Chicago processing H-2A and H-2B applications, which increased efficiency and production. Proposed charging a fee for service in FY 2009 budget. 	<ul style="list-style-type: none"> Revise application for Permanent Labor Certification to promote clarity and ease of use by employers—April 2009. Seek legislation to implement fee proposal—FY 2009. Increase contractor support for application processing and auditing—FY 2009.
<p>Review regulations implementing the H-2A program and institute changes providing farmers with an orderly and timely flow of foreign legal workers, while protecting the rights of American laborers. OIG’s evaluation of the North Carolina Growers Association (NCGA) found that NCGA was not accurately reporting workers who abandoned their jobs and overstated the number of workers requested to accommodate expected abandonments.</p>	<p>Published a Notice of Proposed Rulemaking (NPRM) to redesign the process by which U.S. employers seek labor certification for temporary agricultural labor under the H-2A visa program.</p>	<ul style="list-style-type: none"> Review comments on NPRM and issue final regulation—FY 2009. Develop plans for an online filing system—FY 2009.
<p>Monitor H-2B Program for Non-agricultural Seasonal Workers application caseloads and act to address backlogs as they arise.</p>	<ul style="list-style-type: none"> Implemented specialized processing of applications. Improved processing performance; 77 percent of H-2B applications were processed within 60 days of receipt, an increase from the prior year. 	<p>Monitor the impact of actions taken in FY 2008 and make adjustments to prevent backlogs—FY 2009.</p>
<p>Issue H-2B regulations streamlining the process by moving from a government-certified system to an employer-attestation system, akin to the PERM system that has reduced backlogs.</p>	<p>Published the Notice of Proposed Rulemaking (NPRM) that redesigns and modernizes the application process.</p>	<p>Review NPRM comments—FY 2009.</p>



CHALLENGE: Securing Information Technology Systems and Protecting Related Information Assets

OVERVIEW: It is essential for the Department to ensure that its information systems are secure. These systems contain vital sensitive information that is central to the Department's mission and to the effective administration of its programs—systems and information that provide the nation's leading economic indicators such as the Consumer Price Index, unemployment rate, injury and illness rates, workers' compensation benefits, participant pension and welfare plan information and job and training services. The Congress and the public have voiced concerns over the ability of government agencies to provide effective information security and to protect critical data.

CHALLENGE FOR THE DEPARTMENT: Security of information technology (IT) systems is a government-wide challenge and is a continuing challenge for DOL. Keeping up with new threats and IT developments, providing assurances that information technology systems will function reliably, and safeguarding information assets will continue to challenge the Department today and in the future.

The OIG's IT audits have identified access controls, oversight of contractor systems, and the effectiveness of the Chief Information Officer's oversight of the Department's full implementation of mandatory, minimum information security controls as DOL's most significant challenges. The OIG has reported on access control weaknesses over the Department's major information systems since FY 2001. These weaknesses represent a significant deficiency over access to key systems and may permit unauthorized users to obtain or alter sensitive information, including unauthorized access to financial records and data.

Another challenge for the Department is ensuring that information systems operated by contractors have the same level of IT security controls as systems operated by the Department. OIG audit work has disclosed security deficiencies in contractor operated systems.

An OIG FY 2008 Federal Information Security Management Act (FISMA) audit found that the DOL security program did not fully implement minimum security controls. The OIG identified pervasive and obvious weaknesses across DOL, including access controls, certification, accreditation and security assessment, configuration management, contingency planning, and incident response. The OIG has identified these same deficiencies in past years' FISMA audits. The recurring cycle of the same weaknesses, especially obvious access control vulnerabilities, identified by the OIG since FY 2006 demonstrates that DOL's information security program must improve its current effort to fully implement and monitor information security controls throughout the Department.

In light of these challenges, the OIG continues to recommend the creation of an independent Chief Information Officer (CIO) to provide exclusive oversight of IT issues. Accountability can be further enhanced by developing and implementing new reporting lines of communication for the Chief Information Security Officer (CISO) and the Component Program Information Security Officers (CPISO). These new communication lines will require the CISO to report directly to both the CIO and an Executive in the Secretary's Office dealing with major security matters, including progress on maintaining an effective Department-wide information security program. The CPISOs would continue to report directly to their respective component program Assistant Secretary while also reporting to DOL's CISO. These steps will help to establish a greater degree of accountability for an overall effective information security program.

OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS: In efforts to fully comply with FISMA, the Department is taking steps to improve the security of its information systems by focusing on access controls, policies and procedures, account management, and system authorization. The Department's Chief Information Officer plans to improve upon the testing and monitoring of system security, focusing on those agencies identified as having greater identified vulnerabilities/risks. Finally, the Department has required all employees to complete Computer Security Awareness Training annually.



DEPARTMENT’S RESPONSE: Following are DOL FY 2008 Actions, Remaining Actions, and Expected Completion Dates to Challenges Identified by the OIG, GAO, and DOL.

DOL’s Assessment of its Own Progress: ● Yellow ↓ (decline from FY 2007)

Securing Information Technology Systems and Protecting Related Information Assets Affects all DOL strategic goals. Challenge first identified in FY 2002		
Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
<p>Protect access to key systems. Prevent unauthorized users from obtaining or altering sensitive information, including financial records and data. (OIG 2008, 2007 PAR)</p>	<ul style="list-style-type: none"> ● Required all employees, managers and contractors to receive mandatory annual computer security awareness training. ● Revised and distributed <i>DOL Computer Security Handbook Volume 1, Access Controls</i>, and Volume 5, <i>Configuration Management</i>. ● Completed Annual Security Controls Assessment reviews for all DOL major information systems (MIS). 	<p>Continue Security Controls Test and Evaluation (SCT&E) Program on access controls—FY 2009.</p>
<p>Improve security controls. Improve testing and monitoring of system security, focusing on agencies identified as having greater identified vulnerabilities and/or risks, and ensure that systems operated by contractors have the same level of IT security controls as those operated by DOL. (OIG 2008)</p>	<ul style="list-style-type: none"> ● Implemented security controls to protect remote information in OMB’s Memorandum “<i>Protection of Sensitive Agency Information</i>” including DOL-wide protection of personally identifiable information (PII). ● Enhanced DOL’s Security Controls Test and Evaluation Program and completed specialized security controls testing for all DOL systems. ● Updated the <i>DOL Computer Security Handbook</i> to incorporate policies and procedures for logging computer readable data extracts. ● Implemented mobile device encryption and 2-Factor Authentication solutions. ● Reduced four SSN Collections across three DOL agencies. 	<ul style="list-style-type: none"> ● Implement solution for logging computer readable data extracts—March 2009. ● Collaborate with agencies on long-term SSN reduction issues—Ongoing.
<p>Improve certification and accreditation of systems. (OIG 2008)</p>	<ul style="list-style-type: none"> ● Provided certification and accreditation training to users with significant security responsibilities. ● Transitioned VETS MIS from contractor facility to DOL; VETS Information Security Officer (ISO) works closely with DOL’s ISO. 	<ul style="list-style-type: none"> ● Complete <i>DOL Computer Security Handbook</i> update—March 2009. ● Continue to review certification and accreditation documentation to ensure adequacy as it is revised and updated—Ongoing.
<p>Create an independent Chief Information Officer (CIO) and implement reporting for the Chief Information Security Officer (CISO) and the Component Program Information Security Officers (CPISO) to report to both the CIO and an Executive in the Secretary’s Office. (OIG 2007-2008)</p>	<p>Considered the creation of a new CIO position.</p>	<p>With legislative changes to FISMA under consideration, including creating a chief information security officer (CISO) in each agency, action on this issue will be held in abeyance –FY 2009.</p>



CHALLENGE: Ensuring the Security of Employee Benefit Plan Assets

OVERVIEW: The Department's mission is to protect the security of retirement, health and other private sector, employer-provided benefits for America's workers, retirees and their families. These benefit plans consist of approximately \$5.6 trillion in assets covering more than 150 million workers and retirees. EBSA is charged with overseeing the administration and enforcement of the fiduciary, reporting, and disclosure provisions of Title I of the Employee Retirement Income Security Act (ERISA).

CHALLENGE FOR THE DEPARTMENT: Protecting these benefit plan assets against fraud is a challenge for the Department. OIG labor racketeering investigations demonstrate the continued vulnerability of plan assets to criminal activity.

Employer benefit plan audits by independent public accountants provide a first-line defense for plan participants against financial loss. Ensuring that audits by independent public accountants meet quality standards adds to the Department's challenge in providing adequate oversight. However, DOL's authority to require plan audits to meet standards remains limited because the Department does not have the authority to suspend, debar, or levy civil penalties against employee benefit plan auditors. The Department must obtain legislative change to correct substandard benefit plan audits and ensure that auditors with poor records do not perform additional plan audits.

Other legislative changes recommended by OIG include the repeal of ERISA's limited scope audit exemption that prevents independent public accountants from rendering an opinion on the plans' financial statements or assets held in other regulated entities such as financial institutions, requiring plan administrators or auditors to report potential ERISA violations directly to DOL, and strengthening criminal penalties in Title 18 of the U.S. Code to provide a stronger fraud deterrent.

Another challenge is the Department's responsibility for regulatory oversight of ERISA health care provisions. DOL needs to continue to work closely with State insurance commissioners and the Department of Justice to assist in the identification and prosecution of fraudulent Multiple Employer Welfare Arrangements.

The OIG is planning an audit to determine how EBSA evaluates the effectiveness of its National enforcement projects and uses this information to direct future enforcement activities. Further, the OIG is beginning an audit to evaluate whether EBSA's Rapid ERISA Action Team project proactively identifies employers facing financial hardships in order to protect the rights and benefits of pension and health plan participants when the plan sponsor faces severe financial hardship.

OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS: While the Department has sought the recommended legislative changes, these changes have not been enacted.

DOL continues to utilize a multi-pronged strategy to help ensure compliance with ERISA Title I. EBSA has also reached out to other Federal enforcement agencies to broaden its enforcement efforts. A Memorandum of Understanding (MOU) was signed on July 29, 2008, between EBSA and the Securities and Exchange Commission. The MOU establishes a process for both agencies to share information and meet regularly on matters of mutual interest, including findings and trends, enforcement cases, and regulatory requirements.

DEPARTMENT'S RESPONSE: Following are DOL FY 2008 Actions, Remaining Actions, and Expected Completion Dates to Challenges Identified by the OIG, GAO, and DOL.



DOL's Assessment of its Own Progress: ●Green

Ensuring the Security of Employee Benefit Plan Assets Affects Strategic Goal 4, *Strengthened Economic Protections* and Performance Goal 4D- *Enhance pension and health benefit security*. Challenge first identified in FY 2000.

Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
Implement the Pension Protection Act of 2006. (2006-7 DOL)	Issued regulations implementing the Pension Protection Act of 2006.	Continue to implement regulations—FY 2009.
Strengthen oversight authority over plan auditors and ensure that auditors with poor records do not perform additional plan audits. (OIG 2007-8)	There were no legislative initiatives during this time. However, DOL took the following actions to address the concern: <ul style="list-style-type: none"> • Implemented a CPA firm inspection program, focusing on firms conducting a significant number of audits. • Reviewed 356 sets of work papers from CPA firms performing smaller numbers of audits. • Referred 25 CPA firms to the American Institution of Certified Public Accountants Ethics Division or state board of public accountancy. 	Continue to focus on CPA firms that perform a significant amount of plan audit work and to selectively target those that have smaller audit practices for ongoing enforcement—FY 2009.
Continue efforts to decrease the number of fraudulent Multiple Employer Welfare Arrangements (MEWAs). Carry out regulatory oversight of ERISA health care providers by working closely with State insurance commissioners and the Department of Justice to identify and prosecute fraudulent MEWAs. (OIG 2007-8)	<ul style="list-style-type: none"> • Worked with Justice to prosecute these complex white-collar crimes. • Closed 46 civil and criminal cases. • Coordinated enforcement actions against fraudulent MEWAs with the National Association of Insurance Commissioners (NAIC). • Health Fraud/MEWAs was a national enforcement project for FY 2008, with a focus on health fraud recidivists. 	<ul style="list-style-type: none"> • Meet with NAIC quarterly to coordinate enforcement actions against fraudulent MEWAs—FY 2009. • Coordinate closely with NAIC and DOJ officials—FY 2009. • Post names of individuals and entities against whom DOL obtains health fraud or MEWA-related injunctions on DOL's public website—FY 2009.

CHALLENGE: Preserving Departmental Records

OVERVIEW: The Federal Records Act of 1950 requires that the head of each Federal agency establish and maintain an active records management program. The National Archives and Records Administration has oversight responsibilities for Federal records management programs. The Department's Assistant Secretary for Administration and Management is responsible for managing the Department's records and for providing overall policy direction for the Department's records management program. The Department's records management program consists of records creation, maintenance and use, and disposition of records to achieve adequate and proper documentation of the Department's policies and transactions.

CHALLENGE FOR THE DEPARTMENT: It is a challenge for the Department to ensure that it preserves records in accordance with laws and regulations, and properly disposes of those records it is not required to keep. It is also a major challenge for the Department to have an effective recordkeeping and document management system to manage e-mails and electronic file needs. DOL may be at risk of not being able to address in a timely and complete manner e-mail and electronic file needs required as a result of legal hold orders and litigation discovery.

An additional challenge is the proper handling for both hard copy and electronic records that do not have legal retention requirements. Although these documents and files are not considered long-term Federal records, they



may be subject to legal holds, congressional requests, and requests under the Freedom of Information Act. It is therefore important that they are disposed of in accordance with an appropriate records management program.

The OIG's recent audit of the Department's Records Management Program found that the Department had not: conducted comprehensive periodic evaluations of its records management program; provided records management training to all staff, or effectively managed transitory records or documents that have no legal retention requirements.

OIG'S ASSESSMENT OF DEPARTMENT'S PROGRESS: Records management is an emerging challenge for the Department and agencies government-wide, particularly as reliance on electronic documents continues to increase. In FY 2008, the Department implemented mandatory Records Management Training for all its employees. The Department will conduct periodic evaluations of agency's records management programs over a five year cycle beginning in FY 2009. The Department has undertaken other efforts to improve its records management program, including issuing guidance and specific instructions on how to handle electronic records, issuing an updated Records Management Handbook, and updating agency records schedules. The Department has also stated that it will update its cost-benefit analysis regarding the establishment of an electronic recordkeeping and document management system. Such a system would provide capabilities for storing, indexing, locating and tracking e-mails that are Federal records and addresses the unnecessary retention of e-mails that are transitory records or non-records.

DEPARTMENT'S RESPONSE: Following are DOL FY 2008 Actions, Remaining Actions, and Expected Completion Dates to Challenges Identified by the OIG, GAO, and DOL.

DOL's Assessment of its Own Progress: ●Green

Preserving Departmental Records Affects all DOL strategic goals. Challenge first identified in FY 2007		
Management Challenge/ Significant Issue	Actions Taken in FY 2008	Actions Remaining and Expected Completion Date
<p>Improve the records management program. (OIG 2008)</p>	<ul style="list-style-type: none"> Completed mandatory records management training for 96 percent of all managers and employees, including contractors. 	<ul style="list-style-type: none"> Standardize the conduct of periodic evaluations of records management programs over a five-year beginning in FY 2009 and conduct first evaluation—Dec 2008.
<p>Implement effective recordkeeping and document management for e-mails and electronic files. (OIG 2008) http://www.oig.dol.gov/public/reports/oa/2008/03-08-001-07-001.pdf</p>	<ul style="list-style-type: none"> Issued guidance and instructions on proper handling of electronic records. Updated <i>Records Management Handbook</i> and agency records schedules to cover e-mails and electronic files. 	<ul style="list-style-type: none"> Update cost-benefit analysis of an electronic recordkeeping and document management system. Address the system's latest technical developments, optimal system design and deployment (distributed or centralized), capabilities for storing, indexing, locating and tracking e-mails that are Federal records, and the unnecessary retention of e-mails that are transitory records or non-records—March 2009.

EMERGING CHALLENGE

Congress enacted the Energy Employees Occupational Illness Compensation Program Act to provide timely, uniform, and adequate compensation to civilian men and women suffering from cancer and other illnesses incurred as a result of their work in the nuclear weapons production and testing programs of the Department of Energy and



its predecessor agencies. As of August of this year, the Department had received 167,018 claims, and issued decisions to approve or deny benefits on nearly 82 percent of these claims. The Department had approved slightly more than 39 percent of claims and paid nearly \$3.8 billion in compensation plus more than \$200 million in medical reimbursements.

Recent inquiries by several members of Congress and the public have raised concerns as to whether the Department unfairly denies too many claims and whether claims decisions are timely.

In response to concerns about the Energy workers' program, the OIG is conducting an audit to determine whether claim decisions issued by the Department complied with applicable law and regulations, and whether the Department has a system in place to ensure that claims are adjudicated as promptly as possible and claimants are kept informed.

