

The background of the cover is a photograph of a construction site at sunset. The sky is a deep orange, and the silhouettes of workers and the complex metal framework of a building under construction are visible. A large crane hook is suspended in the air on the left side of the frame. The overall mood is industrial and dramatic.

Semiannual Report to the Congress

Office of Inspector General
U.S. Department of Labor

April 1, 2007-September 30, 2007
Volume 58

A Message from the Inspector General

I am pleased to submit this Semiannual Report to Congress, which highlights the most significant activities and accomplishments of the Department of Labor (DOL), Office of Inspector General (OIG), for the six-month period ending September 30, 2007. During this reporting period, our investigative work led to 281 indictments, 197 convictions, and \$363.3 million in monetary accomplishments. In addition, we issued 55 audit and other reports and questioned \$22 million in costs and identified several millions in other monetary impact from unemployment compensation overpayments identified through Hurricane Katrina oversight audits.

OIG audits made significant recommendations to address vulnerabilities in worker safety and health. For example, our audit of MSHA's Accountability program, which is the internal peer review program to ensure that mine inspection responsibilities are performed effectively, raised major concerns about the program's effectiveness. We found that some of the peer reviews did not include site visits to mines and only looked at paper records on inspections conducted. In addition, we found that District Managers were allowed to select work to be reviewed in their own districts, creating a conflict of interest. Our audit of the resolution of workplace hazards identified by the OSHA Consultation Program in three states found that 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 manner were seldom referred for enforcement action.

Our investigations continue to combat labor racketeering involving the monies in union-sponsored benefit plans. An OIG investigation into the Genovese crime family's control of the drywall industry in and around New York City resulted in a contractor being sentenced to 33 months' imprisonment and ordered to pay more than \$2 million in restitution.

Another labor racketeering investigation resulted in the sentencing of the former owner of a home care services company. This individual was sentenced to 46 months' imprisonment for embezzlement from the company's medical and pension plans. In addition, he was ordered to pay criminal restitution in excess of \$3 million.

The OIG also participated in a multi-agency task force investigation of Purdue Frederick that resulted in a combined total of \$634 million in restitution, forfeiture, fines, a civil settlement, and monitoring costs for fraudulently marketing a prescription pain medication, OxyContin. Our investigation found that DOL was billed in excess of \$42 million for OxyContin that was prescribed to Federal beneficiaries receiving medical care.

The OIG continued to provide oversight of the DOL's response to Hurricane Katrina. We issued separate management letters regarding two states' controls to ensure individuals who received Hurricane-related disaster unemployment assistance (DUA) benefits were eligible. We also issued management letters on a state's controls over its new debit card benefit payment method, and its use of the National Directory of New Hires to timely identify claimants who had obtained employment and may therefore have been ineligible for continued benefits. Our audits of DUA eligibility and use of the National Directory of New Hires identified potential benefit overpayments of \$87.2 million and \$51.2 million, respectively.

The OIG remains committed to promoting the economy, integrity, effectiveness, and efficiency of DOL. I would like to express my sincere gratitude to a professional and dedicated OIG staff for their significant achievements during this reporting period.



Gordon S. Heddell
Inspector General

Table of Contents

Selected Statistics	
Significant Concerns	1
Hurricane Katrina Response	5
 <u>Labor Racketeering</u>	
Internal Union Investigations.....	11
Benefit Plan Investigations.....	12
Labor-Management Investigations.....	14
 <u>Worker Safety, Health, and Workplace Rights</u>	
Mine Safety and Health Administration	16
Occupational Safety and Health Administration.....	18
 <u>Employment and Training Programs</u>	
Job Corps.....	22
Workforce Investment Act.....	24
Foreign Labor Certification.....	27
 <u>Worker Benefits Programs</u>	
Unemployment Insurance Program	30
Office of Workers' Compensation Programs.....	32
 <u>Departmental Management</u>	
Information Technology	36
Competitive Sourcing Study.....	38
Earmarks.....	39
Legislative Recommendations	42
Appendix	46

Selected Statistics

Investigative recoveries, cost-efficiencies, restitutions, fines and penalties, forfeitures, and civil monetary action ¹	\$363.3 million
Investigative cases opened.....	191
Investigative cases closed	227
Investigative cases referred for prosecution	148
Investigative cases referred for administrative/civil action	94
Indictments.....	281
Convictions	198
Debarments	20
Audit and other reports issued.....	55
Total questioned costs	\$22.4 million
Other Monetary Impact ²	\$139.4 million
Outstanding questioned costs resolved during this period	\$90.8 million
Allowed ³	\$57.5 million
Disallowed ⁴	\$33.3 million

Note: The OIG conducts criminal investigations of individuals that can lead to prosecutions based on criminal complaints, warrants, informations, indictments, or pre-trial diversion agreements. Successful prosecutions may carry sentences such as fines, restitutions, forfeitures, or other monetary penalties. The OIG's financial accomplishments, which include administrative and civil actions, are further detailed and defined in the Appendix of this report.

¹ Includes \$282 million from the investigative accomplishments that resulted from the Purdue Frederick case.

² Captures the dollar value of recommendations that do not meet the Inspector General Act definition of "Questioned Costs" and "Funds Put to Better Use". The \$139.4 million in Other Monetary Impact includes items that were cited in more than one report, because there were multiple problems associated with them.

³ *Allowed* means a questioned cost that the DOL has not sustained.

⁴ *Disallowed* means a questioned cost that the DOL has sustained or has agreed should not be charged to the government.



Significant Concerns

Significant Concerns

The OIG provides information and assistance to the Department and Congress in achieving efficient and effective management of DOL programs. As part of our effort to focus attention on mission-critical management problems and their resolution, the OIG has identified the following areas that we consider vulnerable to mismanagement, fraud, waste, or abuse.

Worker Safety and Health

Ensuring the safety and health of our nation's workers is central to the Department's mission, and oversight of DOL programs to meet this mission continues to be a top priority for the OIG. In recent years, OIG audits and evaluations of the Mine Safety and Health Administration (MSHA) have disclosed the need to strengthen the coal mine complaint process, improve controls over reporting of performance data, reassign MSHA's procurement authority, and revise the asbestos Permissible Exposure Limit. Likewise, our reports on the Occupational Safety and Health Administration (OSHA) have addressed the agency's investigation of immigrant fatalities and recommended improvements to its compliance assistance programs.

The OIG has significant concerns about the effectiveness of MSHA's coal mine inspection process. Our audit of MSHA's Accountability Program, which is the internal peer review program established to provide assurance that Office of Coal Mine Safety and Health oversight responsibilities are performed effectively, raised major concerns about the Accountability Program. We found that the program is not working well and needs to be stronger to ensure that peer reviews of mine inspection activities are effective and impartial.

Specifically, some peer reviews did not include site visits to mines and only looked at paper records of mine inspections conducted. A review based solely on records increases the risk of errors or misrepresentations being undetected. Without a mine visit, review teams are also less likely to discover performance

problems. We also found that the District managers in the District being reviewed were allowed to select the work to be reviewed. This selection process created an inherent conflict of interest and could have compromised the results of the reviews. The OIG recommended that MSHA prohibit District Managers from selecting activities for review in their districts. It is essential for MSHA to have an effective, objective peer review process to provide assurance that mine inspections are conducted properly.

Similarly, our audit of OSHA's Consultation Program, which was designed to assist employers in voluntarily identifying and correcting workplace hazards without OSHA taking immediate enforcement action, raised significant concerns about worker safety during the resolution of serious safety hazards. We found that consultation program officials rarely ensured that interim safety protections were in place before granting employers' requests for extensions to correct serious hazards. Further, program officials rarely referred employers for enforcement action after the employers failed to take timely corrective measures. It is critical for OSHA to ensure worker safety while employers are allowed additional time to correct serious hazards.

The OIG remains concerned about the Department's execution of its programs to help ensure that American workers are not exposed to unsafe conditions. We will continue to exercise stringent oversight of these programs and to work with the Department to improve their effectiveness.

Significant Concerns

Procurement

The Department contracts for many goods and services to assist in carrying out its mission. In FY 2006, DOL's acquisition authority exceeded \$1.7 billion and included nearly 9,000 acquisition actions. The OIG continues to have concerns about inadequate separation of procurement and programmatic responsibilities within the Department. For several years we have recommended that the Department separate program and procurement responsibilities to help ensure procurement integrity. Our recommendation followed a number of instances where the OIG had identified preferential treatment in awards and concerns that certain procurement actions were not in the best interest of the government.

The Department has taken several positive actions to address this issue, and the Secretary issued an Order in January 2007 that formally established the position of Chief Acquisition Officer (CAO). The Order specifically states that the CAO will have acquisition management as his or her primary duty. The OIG encourages the Department to move expeditiously to implement this order to safeguard the integrity and effectiveness of the procurement function.

Our audit of an ETA contract, conducted in response to a complaint about improprieties in a contract award, raised concerns of preferential treatment in how work was directed to a specific subcontractor. We found that the ETA contracting officer violated sound procurement practices by inappropriately directing the use of a specific subcontractor on the contract. We also found that ETA did not adequately monitor the contract to assure that at least half of the work effort was performed by contractor – as opposed to subcontractor – personnel. In addition, our review of the procurement action found that ETA had also awarded contract modifications that caused the contract value to exceed \$3 million in violation of Federal regulations.

Job Corps

The Job Corps program is another area of continuing concern. Past OIG audits have noted weaknesses in the Job Corps program relating to the management of Job Corps Centers, performance monitoring and reporting, student safety and health, and assessment of incoming students for cognitive disabilities.

During this semiannual reporting period, we completed performance audits of three Job Corps Centers to determine if their reported financial and performance data were accurate and whether internal controls and operational procedures were in compliance with Job Corps requirements. We found problems in these areas at all three Centers. Most notably, our audits identified problems at two Centers related to the accurate reporting of student attendance, which is a persistent problem the OIG has previously identified.

At the third Center, we found that the Center operator did not always comply with Job Corps requirements for reporting on the Center's financial operations. It is critical for Job Corps to have reliable, accurate financial and performance data to ensure that students' training and educational needs are being met and that funds are being used appropriately.



Information Technology Security

The security of the Department's information technology (IT) systems and data is vital, as these systems produce the nation's key economic indicators, pay billions in benefits, and are key to the effective delivery of a myriad of services. DOL's ability to keep up with new threats and IT developments, to provide assurances that IT systems will function reliably, and to safeguard information assets, is a continuing concern.

Our audit of DOL's compliance with the Federal Information Security Management Act (FISMA) found that the Department's security controls are not in full compliance with FISMA. Therefore, the OIG is concerned about the risk to the confidentiality and integrity of the data contained in DOL's information technology systems.

Specifically, our testing of Department-wide security controls covering ten information systems across eight component agencies revealed two significant deficiencies related to Department-wide access controls and one agency's security program for a major information system. These significant deficiencies were caused by the Department's lack of both an effective monitoring program and sufficient documentation of procedures for implementing security controls required under FISMA. Our work highlights the need for the Department to maintain a sustained effort to protect its information system assets from being compromised.

Security of Employee Benefit Plan Assets

The OIG is responsible for combating corruption involving the monies in union-sponsored benefit plans. Protecting the integrity of worker's health, retirement, and welfare benefit plans is a continuing concern

for the OIG, and these plans and their service providers continue to be a strong investigative focus. OIG labor racketeering investigations have found that plan assets remain vulnerable to corrupt plan officials and organized crime influence.

For example, our investigations during this semiannual reporting period led to several significant convictions, guilty pleas, sentencing, and criminal restitution orders. For example, the medical director and vice president for marketing at a medical company, pled guilty for their roles in a \$5 million health care fraud scheme generated from the submission of fraudulent medical claims to more than 25 different Union Health and Welfare Funds. In another case, as part of his guilty plea, a contractor agreed to pay more than \$1 million to the carpenters union after he defrauded the union's benefit funds. These cases and other significant investigative results are detailed in our report. The OIG is committed to pursuing those who seek to fraudulently obtain benefits intended for American workers.

Foreign Labor Certification

We continue to be concerned about the high incidence of fraud against the Department's Foreign Labor Certification programs as documented through our investigations. During this reporting period, our investigations which involved immigration attorneys, labor brokers, and applicants, led to significant indictments and convictions. In addition, we continue to investigate visa fraud and fraudulent applications filed with DOL on behalf of fictitious companies or applications using names of legitimate companies without their knowledge. The OIG is committed to working with other law enforcement agencies to safeguard the integrity of DOL's foreign labor certification programs in support of the government's crackdown on immigration-related fraud.



Hurricane Katrina

Hurricane Katrina

In response to Hurricane Katrina, the OIG initiated a two-phased approach to the unprecedented workload brought on by this natural disaster. Phase I focuses on addressing possible cases of fraudulent claims for Unemployment Insurance (UI) and Disaster Unemployment Assistance (DUA) benefits. Phase II concentrates on labor racketeering schemes in reconstruction and debris removal.

Eligibility for Expedited Benefit Payments Not Always Substantiated

An unprecedented number of individuals were eligible for and applied to receive benefits from the DUA program and from the state-funded and other Federally funded unemployment compensation programs following the 2005 hurricanes. The Office of Management and Budget issued an October 13, 2005, memorandum that directed Federal agencies to temporarily waive, as allowable, traditional enrollment criteria that would slow the delivery of needed assistance payments under these programs. The affected states, in accordance with guidance from the Employment and Training Administration (ETA), suspended basic eligibility review controls to expedite handling the massive number of claims. Affected states were required to implement postpayment controls to ensure that benefits went only to individuals who qualified for them.

We issued two management letters regarding Louisiana and Mississippi's controls to ensure that individuals who received hurricane-related DUA benefits were eligible. We also issued management letters on the Louisiana Department of Labor's (LDOL's) controls over its new debit card payment method, and its use of the National Directory of New Hires (NDNH) to timely identify claimants who may have returned to work and, therefore, been ineligible for continued benefits. Following is a summary of our findings:

Louisiana's Suspension of Controls May Have Resulted in the Payment of Over \$60 Million to Claimants Whose Eligibility Was Unsubstantiated – Our statistical sample of claimants found that files for 60, or 41 percent, of the 147 claims reviewed did not contain any documented proof of employment, nor were any wages reported, to support claimants' entitlement to DUA. Louisiana paid these 60 claimants \$111,132 in DUA. Based on our statistical sample, we project that Louisiana paid at least \$62.1 million in DUA payments for claims with no documentation. Further, 10 of the 147 claims, with DUA costs of \$38,780, contained documentation that lacked adequate proof that the individuals were entitled to DUA benefits. (Report No. [06-07-005-03-315](#))

LDOL Paid \$51 Million in Hurricane-Related Unemployment Benefits on Questionable Claims – Through computer-matching with the NDNH we identified \$51,180,655 in unemployment benefits that were paid to 35,623 claimants after they reportedly obtained employment. However, results from the matching were not timely and effectively utilized to initiate investigations to determine claimants' eligibility for continued benefits: \$15,596,394 was paid to claimants for weeks of unemployment during the period from August 29, 2005, through November 19, 2005, a period LDOL designated as "Autopay"; and \$35,584,261 was paid to claimants who reportedly obtained employment after the Autopay period ended. Further, as of October 10, 2006, LDOL had identified and coded in its claims system \$108,741,716 in overpaid hurricane-related unemployment benefits that it intended to recover from claimants. However, LDOL indicated that it has been unable to notify claimants of their obligation to repay these benefits due to limited resources. (Report No. [06-07-003-03-315](#))

Hurricane Katrina

Insufficient Controls Over Debit Cards Created Opportunities for Fraud – We found that LDOL and its contracted service organizations used procedures to administer debit cards that created opportunities for ineligible persons to gain access to benefits to which they were not entitled. We identified inadequate controls over the security of claimant data and returned debit cards. We determined that LDOL paid, and has not retrieved, approximately \$1.2 million in hurricane-related benefits on 1,570 debit card accounts that have never been activated, and has also drawn down from the Hurricanes Katrina and Rita DUA grants \$2.7 million more than what it had evidence to support was paid by its claims system. (Report No. [06-07-002-03-315](#))

Mississippi's Suspension of Controls Resulted in the Payment of at Least \$25 million to Claimants Whose Eligibility Was Unsubstantiated – Our statistical sample of claimants found:

- Files for 85, or 23 percent, of the 364 claimants reviewed did not contain any documentation, nor were any wages reported, to support the claimants' entitlement to DUA. The Mississippi Department of Employment Services (MDES) paid these 85 claimants \$159,782 in DUA. Based on our statistical sample, we project that Mississippi paid over \$3 million in DUA payments on claims having no proof-of-employment (POE) documentation.
- Files of 176, or 48 percent, of the 364 claimants reviewed contained documentation that did not provide adequate proof that the individuals were entitled to DUA benefits. MDES paid these 176 claimants \$702,408 in DUA. Based on our statistical sample, we project that MDES paid over \$20 million in DUA payments on claims having inadequate POE documentation.
- MDES paid 159 claimants \$301,387 more in DUA than it would have under State law by using the maximum weekly benefit amount instead of 2004 wages or net income to calculate benefits. The Governor of Mississippi had issued an Executive Order to pay all DUA claims at the \$210 maximum weekly benefit amount. Based on our statistical sample, we project that MDES paid at least \$7.7 million more in DUA as a result of paying at the maximum weekly benefit amount. (Report No. [06-07-004-03-315](#))

We recommended that ETA monitor the collection efforts of Louisiana and Mississippi and provide guidance to them on the advisability of paying DUA at the maximum weekly benefit amount. We made four recommendations related to our control findings in Louisiana's debit card program, and four recommendations to improve the utilization of the NDNH as a tool to identify overpayments to individuals who continued to collect unemployment benefits even though they had returned to work. ETA generally agreed with our recommendations, stating that LDOL is working with the State Attorney General to recover benefits paid to individuals who did not submit POE. Further, LDOL has negotiated a new agreement with its contractor to safeguard debit cards and protect confidential information belonging to claimants.

Audits of National Emergency Grants in Three States

We conducted performance audits of the National Emergency Grants (NEGs) awarded to Texas (\$75 million), Louisiana (\$62.1 million), and Mississippi (\$50 million) to assist individuals affected by the 2005 hurricanes. We found that although these states were operating under very difficult circumstances following the hurricanes, there were only a few areas of concern, as summarized below:

In Texas, we found that 48 percent of tested individuals were reported as participants but were not enrolled in the program; 37 percent of participants had or should have exited from the

Hurricane Katrina

program but were not reported as having exited, or continued to be enrolled past their required exit date; and 63 percent of tested participants had insufficient documentation.

In Louisiana, at one Local Workforce Investment Area we noted exceptions involving employee time distribution, discrepancies in participants' hours worked, expenditure reporting on the cash basis instead of accrual basis of accounting, and a lack of specific controls to review and verify subcontractor invoices prior to paying them.

In Mississippi, we did not identify any new areas of concern. Our September 2006 management letter to ETA reported on issues regarding questionable eligibility of college students participating in Mississippi's NEG training program.

We made several recommendations to ETA to ensure that Louisiana and Texas comply with NEG administrative and programmatic requirements. LDOL agreed with our findings and recommendations. Texas disagreed with our representation of its enrollment discrepancies; however, the OIG believes that our report accurately depicted these discrepancies. Mississippi has implemented the recommendations we made in the 2006 management letter. (Report Nos. [04-07-006-03-390](#), Mississippi; [04-07-007-03-390](#), Texas; [04-07-008-03-390](#), Louisiana)

Company Owner Charged for Violations of Davis Bacon and Related Acts

The owner of a company that provided reinforcing steel and installation services to major highway bridge construction projects was charged in July 2007 with making false statements and with hiring illegal aliens to work at critical infrastructure construction sites, including bridges destroyed by Hurricane Katrina and a retrofit of the Interstate 40 bridge in Memphis, Tennessee. The employees, many of whom did not possess the requisite certifications to perform the tasks they were hired for (i.e., welding certifications), were allegedly provided unauthorized Social Security numbers for employment by the owner. Further, the owner was charged with falsifying DOL certified payroll forms and altering information on the I-9 Employee Eligibility Forms. This is a joint investigation with Immigration and Customs Enforcement (ICE) and the Social Security Administration (SSA) OIG.

Louisiana Man Sentenced for Hurricane Katrina DUA Fraud

Drewey Pierre Whittaker was sentenced in July 2007 to 27 months' imprisonment and five years of supervised release, and ordered to pay \$39,835.08 in restitution in connection with his scheme to defraud the Federal Emergency Management Agency (FEMA) and LDOL of Hurricane Katrina disaster relief money. Whittaker created a series of false names and false Social Security numbers, and then submitted 51 fraudulent applications for DUA. This was a joint investigation with the SSA OIG and the U.S. Postal Inspection Service (USPIS). *United States v. Drewey Pierre Whittaker* (M.D. Louisiana)

Hurricane Evacuee Pleads Guilty to Defrauding FEMA of \$44,000

Kenyara Batiste, a Hurricane Katrina evacuee, pled guilty in September 2007 to the theft of public money, related to a scheme to defraud FEMA of approximately \$44,000 in DUA funds. She had temporarily resided in Dallas, Texas, following the evacuation of New Orleans. Batiste used identities she possessed from a previous identity theft scheme to file and receive approximately 20 separate claims that were sent to two addresses in Dallas. *United States v. Kenyara T. Batiste* (N.D. Texas)



Labor Racketeering

Labor Racketeering

The OIG at the DOL has a unique programmatic responsibility to investigate labor racketeering and/or organized crime influence against unions, employee benefit plans, and workers. The Inspector General Act of 1978 transferred responsibility for labor racketeering and organized crime-related investigations from the Department to the OIG. In doing so, Congress recognized the need to place the labor racketeering investigative function in an independent law enforcement office free from political interference and competing priorities. Since the 1978 passage of the Inspector General Act, OIG agents, working in association with the Department of Justice's Organized Crime and Racketeering Section, have been performing criminal investigations to combat labor racketeering in all its forms.

Traditional Organized Crime Over the past two decades, the OIG has conducted extensive criminal investigations of labor racketeering. Traditionally, organized crime groups have been involved in loan-sharking, gambling, benefit plan fraud, violence against union members, embezzlement, and extortion. Our investigations continue to identify complex financial and investment schemes used to defraud benefit fund assets, resulting in millions of dollars in losses to plan participants. The schemes include embezzlement or other sophisticated methods, such as fraudulent loans or excessive fees paid to corrupt union and benefit plan service providers.

Nearly 50 percent of all OIG labor racketeering investigations involve criminals attempting to exploit pension and employee welfare benefit plans. OIG investigations have demonstrated that abuses by service providers are particularly egregious due to their potential for large dollar losses and because they often affect several plans at the same time. As of March 2007, the OIG's inventory of over 170 benefit plan cases included 65 service provider investigations with more than \$1 billion in plan assets potentially at risk. The OIG is committed to safeguarding American workers against being victimized by labor racketeering and/or organized crime.

Nontraditional Organized Crime Our current investigations are documenting an evolution of labor racketeering and/or organized crime corruption. We are finding that nontraditional organized criminal groups are engaging in racketeering and other crimes against workers in both union and nonunion environments. Moreover, they are exploiting DOL's foreign labor certification and Unemployment Insurance (UI) programs.

Impact of Labor Racketeering Labor racketeering activities carried out by organized crime groups affect the general public in many ways. Because organized crime's exercise of market power is usually concealed from public view, millions of consumers unknowingly pay what amounts to a tax or surcharge on a wide range of goods and services. In addition, by controlling a key union local, an organized crime group can control the pricing in an entire industry.

The following cases are illustrative of our work in helping to eradicate both traditional and nontraditional labor racketeering in the nation's labor unions, employee benefit plans, and workplaces.

Internal Union Investigations

Our internal union cases involve instances of corruption such as officers who abuse their positions of authority in labor organizations to embezzle money from union and member benefit plan accounts and defraud members of their right to honest services. Investigations in this area also focus on situations in which organized crime groups control or influence a labor organization, frequently to influence an industry for corrupt purposes or to operate traditional vice schemes. Following are examples of our work in this area.

Union Employees Indicted for Rigging Elections

An officer and three former local union employees of one of the largest Teamsters locals in the country were indicted in September 2007 for allegedly conspiring together and with others to rig two elections in favor of an incumbent slate of officers in 2004.

Between August and December 2004, the defendants and others allegedly caused hundreds of members' addresses in an International Brotherhood of Teamsters Local 743 computer database to be changed from the members' previously recorded addresses to new addresses belonging to the defendants' friends and family. Fraudulently delivered ballot packages intended for Local 743 members in two closely contested elections, just months apart, were then allegedly collected by the defendants, and the ballots later were cast or caused to be cast in favor of the incumbent slate of officers. This is a joint investigation with USPIS and the Office of Labor-Management Standards (OLMS).



Local Union Business Manager Charged with Embezzlement

The former business manager of a Plumbers and Pipefitters Local Union in Texas was charged in April 2007 with multiple counts of embezzlement for allegedly stealing at least \$80,000 while serving as president. Funds were stolen between 1997 and 2002 from the union's Apprenticeship and Training Fund and the General Fund. The defendant served as the union's Apprenticeship and Training coordinator and had financial control and oversight of the training funds checkbook and petty cash fund. This is a joint investigation with the Employee Benefits Security Administration (EBSA) and OLMS.

Benefit Plan Investigations

The OIG is responsible for combating corruption involving the monies in union-sponsored benefit plans. Those pension plans and health and welfare benefit plans comprise hundreds of billions of dollars in assets. Our investigations have shown that the money remains vulnerable to corrupt union officials and organized crime influence. Benefit plan service providers continue to be a strong focus of OIG investigations.

Couple Sentenced for Several Schemes Including Theft of Union Funds

A husband and wife were sentenced in August 2007 for schemes that included bribery, theft of union benefit funds, and UI fraud. Michael Lignos, owner of LM Lignos Enterprises, was sentenced to 21 months in prison and three years of supervised release, and fined \$700. He was also ordered to pay \$1,055,942 to the Ohio Department of Transportation (ODOT) and \$2,480 to the Ohio Laborers' Fringe Benefit Programs. Lignos's wife, Maria, was sentenced to two years' probation and 30 days' home confinement, and fined \$200.



From 1998 through 2005, Michael Lignos offered and paid cash bribes and other improper compensation and inducements to ODOT employees. In return, the ODOT employees permitted him to provide substandard and noncomplying performance on government-contracted interstate bridge painting contracts, which increased Lignos's company's profits from the projects. He further reduced labor expenses by underreporting union employees' hours to their respective unions. Lignos submitted false statements to the Ohio Carpenters' Health and Welfare Fund that resulted in the theft of \$23,958.94. He submitted false statements to the Ohio Laborers' Fringe Benefit Programs that resulted in the theft of \$3,224. Lignos also allowed the health premiums of his employees to lapse, causing them to lose their health insurance. Maria Lignos engaged in a fraudulent UI scheme

in which she claimed to be unemployed from LM Lignos Enterprises and received 26 weeks of UI benefits. This was a joint investigation with the Federal Bureau of Investigation (FBI) and the Internal Revenue Service Criminal Investigation Division (IRS CID). *United States v. Michael Louis Lignos* and *United States v. Maria Page Lignos* (N.D. Ohio)

Health Care Officers Plead Guilty to \$5 Million Fraud of Union-Sponsored Health and Welfare Funds

Edgar Vargas, the American Institute of Allergy's (AIA's) medical director, and Diane Smoot, AIA's vice president of marketing, pled guilty in June 2007 for their roles in a \$5 million health care fraud scheme involving the submission of fraudulent medical claims to over 25 different Union Health & Welfare Funds and several insurance companies located in Illinois and Indiana.

Benefit Plan Investigations

The two defrauded hundreds of victims and insurance companies from 2000 to early 2007. AIA patients were recruited with promises of free blood testing for allergy screenings. However, the doctors never examined the patients to determine whether or not the testing was medically necessary. Further, patients' blood samples often were not submitted for allergy screening until their health insurance plans agreed to pay for the tests. This delay sometimes caused the blood samples to deteriorate, thereby rendering the allergy tests unreliable. This is a joint investigation with the U.S. Food and Drug Administration Office of Criminal Investigations, USPIS, and EBSA.

Former Business Owner Ordered to Pay More Than \$3.2 Million

Floyd Seibert, former owner of a Florida home care services company and former sole trustee to the company's pension and medical plans, was sentenced in September 2007 to 46 months' imprisonment and 36 months' supervised release for embezzlement from the Plans. Seibert was ordered to pay criminal restitution totaling \$3,281,199 and was barred from any employee benefit fund-related employment for 13 years.

Seibert transferred money from the Plans to Health Care International (HCI), a corporation created by Seibert using a fictitious identity. He then used the funds to purchase bonds totaling \$3.85 million. Besides having no revenue from operations, HCI had no other assets other than \$1,000 used to establish a bank account. Almost immediately after receiving the \$3.85 million, Seibert caused the funds to be retransferred as purported loans to other corporations under his control, allowing Seibert to steal assets from the Plans. This was a joint investigation with EBSA. *United States v. Floyd W. Seibert* (M.D. Florida and S.D. Iowa)

Third-Party Administrator Sentenced for Stealing from Health and Welfare Plan

Edward J. Riley Jr., the president of a third-party administrator (TPA) for several Federally contracted security guard companies, was sentenced in July 2007 for stealing money that was intended for his employees' health benefits. He was sentenced to 24 months' incarceration and 36 months' supervised release, and ordered to pay \$554,610.58 in restitution and a \$100 special assessment. Riley was also barred from any employee benefit fund-related employment for 13 years. He was the president of PrevWage Administrators, LLC, and was the trustee for the self-funded Health & Welfare Plan (Plan) of MVM, Inc., a security guard company in Vienna, Virginia. As the TPA, PrevWage was responsible for forwarding contributions deducted from the fringe benefit portion of the employees' paychecks to the appropriate insurance companies and/or benefit plans.

Riley pled guilty in April 2007 to wire fraud for misappropriating more than \$483,000 from the Plan and \$20,000 from an account established for the purpose of paying premiums for employees of various companies. The majority of these companies' employees are members of the Security, Police, and Fire Professionals of America union. Riley transferred the money to his own accounts, which he used to pay his personal expenses. Riley concealed his actions by submitting false financial reports and a supporting bank statement to MVM. This was a joint investigation with the FBI. *United States v. Edward J. Riley Jr.* (E.D. Virginia)

Labor-management relations cases involve corrupt relationships between management and union officials. Typical labor-management cases range from collusion between representatives of management and corrupt union officials to the use of the threat of “labor problems” to extort money or benefits from employers.

Contractor Sentenced for Defrauding Union and Benefit Fund Plans

Fred Nisall, a contractor who was a signatory to a collective bargaining agreement (CBA) with the New York City District Council of the United Brotherhood of Carpenters and Joiners of America (UBCJ), was sentenced in September 2007. The investigation centers on the Genovese Crime Family’s control of the drywall industry in and around New York City. In September 2007, Nisall was sentenced to 33 months’ incarceration followed by three years of supervised release. As part of his plea, he agreed to forfeit \$1.5 million, jointly and severally, with co-defendants, James Delio and Joseph Delio. Nisall was ordered to pay \$2,115,453.20 in restitution, of which \$1 million will go to the UBCJ and \$1,115,453.20 will go to the IRS. Nisall conspired to defraud the District Council of Carpenters (DCC) and the DCC Benefit Funds by paying workers off the books, employing nonunion workers, not paying workers union-scale wages, and misrepresenting the number of workers on reports submitted to the DCC and the Funds. *United States v. Moscatiello, et al.* (S.D. New York)

Philadelphia Businessman Faces Several Charges, Including Theft of Union Funds

The president of a Philadelphia-based electrical contracting company was charged in June 2007 with operating an illegal cash payroll, stealing from union benefit plans,

and making illegal payments to a union official. He was also indicted for illegally including the relative of a union official in his employee health plan. It is alleged that between 2001 and 2005, the defendant stole more than \$869,000 from the International Brotherhood of Electrical Workers (IBEW) Local 98 Pension Fund, Deferred Income Fund, Vacation Fund, and Health & Welfare Fund (employee benefit plans) while maintaining an under-the-table cash payroll of more than \$2.6 million for himself and his employees. By operating in cash, the defendant avoided paying more than \$1.6 million in Federal, state, and local payroll taxes plus the required employer contributions to Local 98’s employee benefit plans.

The indictment also alleges that the defendant made illegal payments to an official of the IBEW Local 98 by selling a condominium to a union official for \$20,000 under market value and performing \$115,600 in renovations on the official’s personal residence. The defendant is further charged with bribing a bank official, who approved more than \$5.3 million in loans for, among other things, the construction and furnishing of the defendant’s personal residence and the purchase of a property in Sea Isle City, New Jersey. This is a joint investigation with the FBI, the IRS CID, and EBSA.



***Worker Safety,
Health, and
Workplace Rights***

The Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006 (MINER Act), charges the Mine Safety and Health Administration (MSHA) with protecting the health and safety of over 300,000 men and women working in our nation's mines.

In recent years, OIG audits of MSHA's programs and performance have revealed several areas in need of improvement. For example, OIG audits uncovered the need to strengthen (1) the coal mine hazard complaint process and (2) the internal peer review process, which is intended to ensure that mine safety inspectors are doing their jobs effectively. In addition, the OIG has recommended that MSHA improve controls over its performance data related to fatalities and injuries. The OIG will continue to exercise strong oversight of MSHA's administration of its health and safety mission.

MSHA's Office of Coal Mine Safety and Health Needs to Strengthen Its Accountability Program

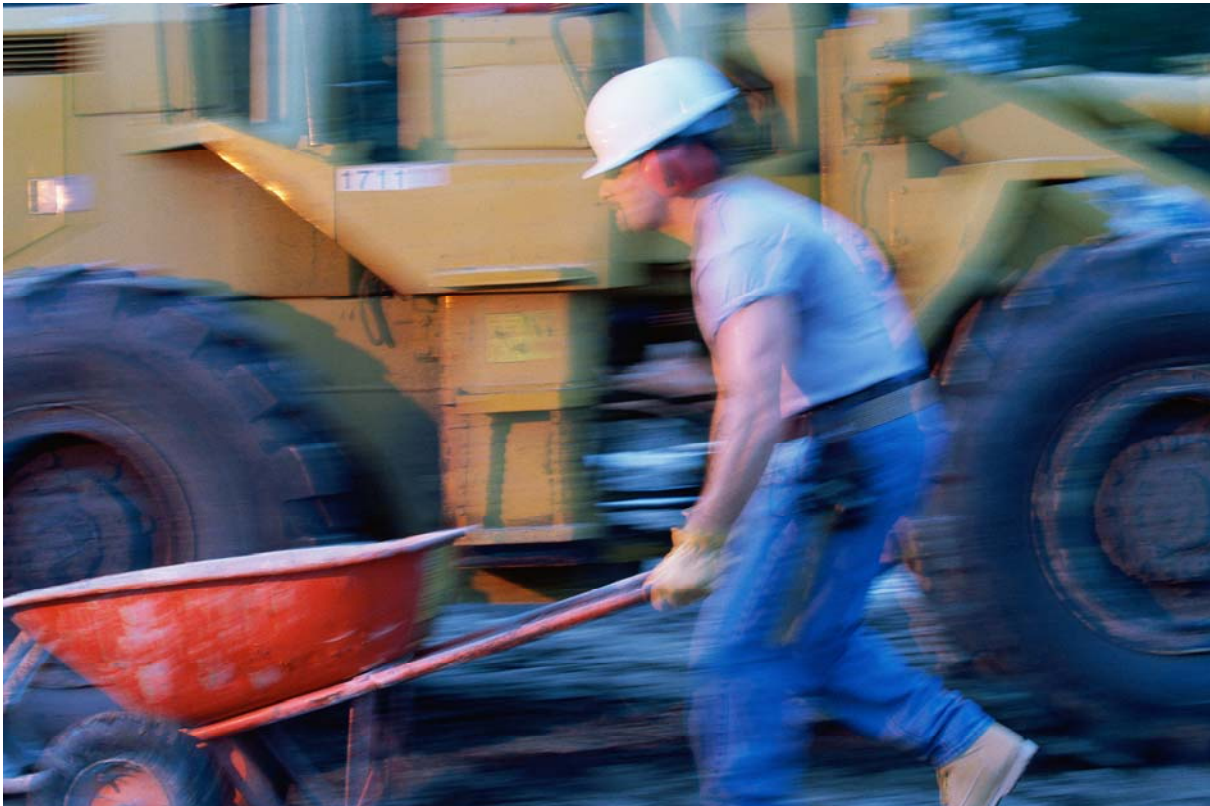
MSHA established the Accountability Program in its Office of Coal Mine Safety and Health (CMS&H) to ensure that its health and safety enforcement program was working effectively. The Accountability Program is MSHA's internal peer review process, which is supposed to ensure that mine safety inspectors are doing their jobs effectively.

We performed an audit of the CMS&H Accountability Program as part of our ongoing assessment of MSHA's safety and health programs and responsibilities, and in part due also to the increase in coal mining accidents. Our audit found that the program is not well designed and should be strengthened. We concluded that the Accountability Program did not provide adequate assurance that CMS&H's oversight responsibilities were effectively and consistently performed. Further, program implementation varied across CMS&H nationwide, and CMS&H did not effectively use the results of the accountability reviews to improve its operations timely and consistently.

Specifically, CMS&H's criteria for selecting enforcement areas to review emphasized mine operator performance instead of the performance of MSHA personnel. Also, an inherent conflict of interest exists in the program because District Managers can select activities under their control for review. Additionally, some peer reviews looked only at paper records of mine inspections, and peer review teams did not always visit the mines to review what inspectors had examined. Further, CMS&H did not consistently track and monitor corrective actions or communicate systemic problems and best practices across the organization. Recent tragic events involving several mines underscore the importance of thorough mine safety inspections and of having an effective peer review process to provide assurance that mine inspections are conducted properly.

Mine Safety and Health Administration

We reported our preliminary findings to MSHA in a September 2006 management letter. As a result, CMS&H began to take steps to improve the program. As we completed our audit, we determined that CMS&H needed to take further action to strengthen the integrity and usefulness of the program's results. We made 14 additional recommendations aimed at improving the performance and results of the Accountability Program in the areas of program design and planning, implementation, reporting, and analysis. MSHA has planned corrective actions to address nine of these recommendations. The remaining five recommendations remain unresolved. (Report No. [05-07-002-06-001](#))



The Occupational Safety and Health Administration (OSHA), authorized by the Occupational Safety and Health Act of 1970, promulgates and enforces occupational safety and health standards and provides compliance assistance to employers and employees.

OIG audits of OSHA's programs and processes have identified opportunities for strengthening OSHA's enforcement and compliance assistance activities. For example, the OIG has noted the need for improvements in OSHA's Consultation Program as discussed below. In addition, over the past few years, OIG investigative work has resulted in the successful prosecution of employers who have willfully failed to provide adequate safety and protection to their employees, particularly in the construction industry.

Worker Safety at Risk When Employers Do Not Correct Serious Hazards in a Timely Manner

OSHA's Consultation Program, which is targeted primarily to small businesses, was designed to assist employers in voluntarily identifying and correcting serious workplace hazards without immediate enforcement action by OSHA. However, Consultation Program officials are required to explain to employers who request to participate in the program that if they do not correct serious hazards in a timely manner, the hazardous situation will be immediately referred for enforcement action.

Our performance audit of the resolution of serious workplace hazards identified by the OSHA Consultation Program found that, while more than 28,000 serious hazards in the three states we audited were identified and corrected, two critical program requirements were not working as intended. First, Consultation Program officials seldom ensured that interim protection was in place before granting employers' requests for

extensions to correct serious hazards. Second, employers who did not complete corrective actions in a timely manner were seldom referred for enforcement action. As a result of these shortcomings, employees may have continued to work under hazardous conditions.

We made several recommendations to OSHA to help ensure that workers are not exposed to serious safety hazards. Specifically, we recommended that OSHA enforce requirements for interim safety protection, and refer employers who do not correct hazards in a timely manner. Further, we recommended that OSHA provide guidance to the states on acceptable types of interim protection and establish a performance measure that benchmarks and reports the percentage of serious hazards corrected by the initial correction due date—that is, the date corrective action was originally expected before any extensions were granted.

OSHA agreed with our recommendations, with the exception of our recommendation on a new performance measure. OSHA stated that it currently has a performance

Occupational Safety and Health Administration

measure to benchmark the percentage of serious hazards verified as corrected in a timely manner. As an alternative, OSHA stated that it plans vigorous monitoring and the creation of specific benchmarks for states that may have problems monitoring employer correction of serious hazards.

The performance measure OSHA uses does not address our recommendation sufficiently. OSHA's measure defines

"timely" as hazards corrected within 14 days of the latest due date—a date that includes all extensions that had been granted. For this reason, the measure is ineffective in evaluating timely corrective action because it is measured from the date of the latest extension granted instead of from the original date corrective action was expected. (Report No. [05-07-001-010-105](#))





Employment and Training Programs

Job Corps operates 122 centers throughout the United States and Puerto Rico to provide occupational skills, academic training, job placement services, and other support services such as housing and transportation to approximately 60,000 students each year. Its primary purpose is to assist eligible at-risk youth who need intensive education and training services. The OIG is statutorily required to audit Job Corps centers every three years.

The OIG has noted that Job Corps has reported that it had deferred maintenance of more than \$15 million for repairs needed for buildings, fire protection, and roof replacement. Recent audit work has revealed that some operators of Job Corps Centers overstated their performance results (i.e., student job placement, high school diploma attainment, attendance, and training records) in order to improve the centers' operating performance, which can result in the operating contractor receiving greater performance-based financial incentives. During this Semiannual Report period, we completed three audits of Job Corps Centers.

Performance Audits of Two Job Corps Centers — \$344,175 in Questioned Costs

We conducted performance audits of the Laredo Job Corps Center (JCC) operated by Career Systems Development Corporation under contract to DOL, and the Cleveland JCC, operated by Applied Technology Systems, Incorporated (ATSI), also under contract to DOL. Our objectives were to determine whether the Centers' financial and performance data were accurate and whether internal controls and operational procedures were in compliance with the Job Corps *Program Requirements Handbook* (PRH). We found problems in the following areas at the centers we audited.

At the Laredo JCC, we concluded that DOL's contractor for Center operations did not comply with Job Corps requirements governing the reporting of student attendance. Reliable performance measure

reporting is important because Job Corps contracts are performance-based, and the measures reported by contractors influence the amount the operators are paid, how much DOL oversight they receive, and their competitiveness for future contracts.

We found a number of problems in the reported performance data at Laredo, including failure to report all students' absences and placing students on unpaid administrative leave, which is a violation of Job Corps requirements. We also found that students had been permitted to exceed the allowable number of AWOL days. As a result, Laredo JCC retained students in its reported on-board strength in violation of Job Corps requirements, and the operator owed DOL \$96,962 in liquidated damages.

In addition, Laredo JCC did not obtain required background checks for students entering the Job Corps program. Inadequate background checks of admitted students can

compromise the safety and achievement of all students at the Center. We recommended that the Office of Job Corps require Career Systems Development Corporation to improve controls over Laredo JCC's student reporting and background checks and repay \$96,962 in liquidated damages pursuant to its contract with DOL. In response to the draft report, the Office of Job Corps concurred with all four recommendations and plans to work with the DOL Contracting Officer to pursue liquidated damages. (Report No. [09-07-002-01-370](#))

ATSI, the contractor at the Cleveland JCC, did not always comply with Job Corps requirements for reporting on the Center's financial operations. Specifically, ATSI did not properly reconcile public vouchers it submitted for payment with financial reports as the PRH required. We questioned \$323,861 related to vouchers that exceeded the amounts supported by Cleveland JCC's financial reports.

Further, ATSI obtained \$20,310 in consulting services for Cleveland JCC without contracting officer approval and did not maintain a report of the services obtained, as required by the contract. As a result, there were no assurances that the services were needed or benefited the Center.

We concluded that neither the Office of Job Corps nor DOL's Office of the Assistant Secretary for Administration and Management (OASAM) provided effective monitoring of ATSI to assess compliance with Job Corps requirements. This lack of oversight contributed to the breakdown in controls. We recommended that ATSI improve its controls over financial reporting and provide DOL support for the \$323,861 in public vouchers submitted in excess of amounts reported and \$20,310 in questionable payments for consulting services. The Office of Job Corps concurred with all six recommendations and committed to working closely with contracting officials assigned to OASAM to recover any monies

that did not benefit the Job Corps program. (Report No. [26-07-003-01-370](#))

Student Attendance and Training Data Overstated at Grafton Job Corps Center

We conducted a performance audit of the Grafton JCC, operated by Adams and Associates, Inc., to determine whether an allegation that Grafton JCC officials manipulated student leave and training records to enhance the Center's reported performance measures could be substantiated. We substantiated the hotline allegation that Grafton JCC officials overstated the on-board strength performance measure by retaining students who should have been separated. We found that Grafton JCC had improperly extended the stay of these students by 910 days.

It is essential for Job Corps to have reliable data for performance measures to determine contractor efficiency. As a result of the Center operator overstating on-board strength, we determined that it owed liquidated damages of \$56,824 to DOL. Center officials had also recorded students as completing vocational training even though their official progress record showed that they had not satisfied all requirements to successfully complete this training.

We recommended that the Office of Job Corps verify that Grafton has taken actions to strengthen the control environment to ensure proper recording of leave, attendance, and vocational completion and that it monitor all Centers operated by Adams and Associates, Inc., to ensure the accuracy of reported performance measures. Finally, we recommended that Adams and Associates, Inc., pay the liquidated damages we identified. The Office of Job Corps concurred with all five recommendations and plans to work with the DOL contracting officer to pursue liquidated damages. (Report No. [09-07-004-01-370](#))

Workforce Investment Act

The goal of the Workforce Investment Act (WIA) is to increase employment, retention, and earnings of program participants. The OIG has conducted numerous audits of the WIA program and its grantees since WIA's enactment, including audits of state WIA expenditures, training and educational services provided to dislocated workers, and state-report performance data. The Department has implemented many of our recommendations to improve WIA program administration and performance.

OIG investigations have resulted in the prosecution of individuals who illegally obtained WIA funds, denying eligible persons the benefit from employment services. Our investigations have also documented conflict-of-interest issues involving program administrators.

Review of ETA Contract Raises Concerns of Preferential Treatment

In response to a complaint, we conducted an audit to determine whether the Assistant Secretary for the Employment and Training Administration (ETA) directed the use of a specific subcontractor on a task order to support the "Workforce One" project. The complaint also alleged that ETA violated the Federal Acquisition Regulation by approving a task order in which substantially all cost and work was passed through the 8(a) contractor to its subcontractor, which was not an 8(a) business. The purpose of the 8(a) program is to assist eligible small disadvantaged businesses. The Department's partnership agreement with the Small Business Administration (SBA) makes the contracting agency, in this case ETA, responsible for complying with SBA regulations.

We did not substantiate the allegations we received; however, our audit disclosed that the ETA contracting officer had violated sound procurement practices by recommending that an 8(a) contractor use a

specific subcontractor. This action created an appearance of preferential treatment toward that subcontractor. Further, we determined that the contractor expected that it would perform only 32 percent of the cost of the contract for personnel with its own employees, although SBA regulations require that 8(a) contractors perform at least 50 percent. In addition, ETA did not calculate this work performance requirement semiannually, as required.

This report incorporated findings about violations of regulations and contract provisions that we had communicated to ETA in a June 2006 Alert Report. Our audit completed in this period made a recommendation to ETA regarding violations of the 8(a) program. ETA concurred with this recommendation. (Report No. [05-07-003-03-390](#))

Continued Misuse of Job Training Funds in Florida—Over \$6.1 Million in Questioned Costs

The Department's Office of the Solicitor requested that we follow up on our audit of Florida's use of Job Training Partnership Act (JTPA) funds for its Performance Based Incentive Funding (PBIF) program. Our previous audit found that Florida's PBIF program did not meet JTPA requirements. In fact, the program was being used as a funding mechanism that utilized JTPA monies to supplement Florida's State and local adult educational costs. Florida repaid nearly \$11.6 million as a result of that audit.

The follow-up audit we conducted during this semiannual period covered June 10, 1998, to June 30, 2000, the effective date of JTPA's repeal. We concluded that Florida had continued to use JTPA funds inappropriately, and we questioned over \$6.1 million of additional JTPA Title III funds that Florida used to fund the PBIF program during the period we audited. (Report No. [04-07-009-03-340](#))

Birmingham Youth Opportunity Program Did Not Meet Performance Goals

In response to a hotline complaint, we conducted an audit of five allegations that officials for the Birmingham Works for Youth (BWY) program misused and mismanaged job training funds provided by the Department. BWY was established by the United Way of Central Alabama (UWCA), a service provider under the Youth Opportunity Grant program, which was created by WIA to increase employment for young people living in certain disadvantaged areas. Between March 2000 and June 2006, UWCA, under contract with the Jefferson County, Alabama, Office of Community Development, received \$20 million intended for the Youth Opportunity Grant program.

We substantiated an allegation that UWCA did not operate an effective Youth Opportunity Grant program and did not meet performance goals for employment, high school graduation, and college enrollment. Specifically, although the program enrolled just one-third of the number of participants required by the \$20 million grant, 96 percent of the award funds were spent. This finding demonstrates the importance of close monitoring to ensure that job training funds are used as intended.



We did not substantiate allegations pertaining to improper use of DOL funds to purchase office equipment and failure to pay employees' wages in accordance with the terms of the grant. Our results pertaining to allegations that case managers falsified participant records and overstated program enrollment to ETA were inconclusive.

Based on our finding that UWCA did not operate an effective program, we recommended that the Assistant Secretary for ETA provide technical assistance and monitor other DOL-funded programs operated by Jefferson County. In responding to the draft audit report, UWCA stated that it operated the Youth Opportunity Grant program in a programmatically and fiscally responsible manner under ETA's direct oversight. (Report No. [04-07-003-03-390](#))

Compensation for Local Workforce Investment Area Executives Profiled

The Assistant Secretary for ETA requested that we collect data on the amount and types of compensation paid to Local Workforce Investment Area (LWIA) executives involved in the administration of LWIA funds. A March 2006 Iowa State audit report had disclosed that one LWIA, the Central Iowa Employment and Training Consortium, paid three top executives \$1.8 million over a 30-month period.

We conducted an audit to collect data from 592 LWIAs including 1,688 executives. For 2004–2006, these executives had combined base salaries and bonuses totaling \$307 million. Overall, the average combined base salaries and bonuses earned by LWIA executives nationwide were \$66,469, \$68,897, and \$71,264 for 2004, 2005, and 2006, respectively.

However, LWIAs reported eight executives whose combined base salary and bonuses were at least \$165,200 for one or more periods during 2004 through 2006. Seventeen LWIAs reported on 19 executives whose combined base salary and bonuses were at least \$150,000 for one or more years during 2004 through 2006, and were thus approaching the salary cap imposed in June 2006.

While we did not make specific recommendations, we suggested that the Assistant Secretary for ETA consider the data we provided in ETA's ongoing monitoring of the LWIAs. ETA responded that it would use information from the report during ETA policy discussions. In June 2006, Public Law 109-234 imposed a salary and bonus cap of \$165,200, equal to Federal Executive Level II, for executives with ETA recipients and subrecipients. (Report No. [02-07-204-03-390](#))

Civil Complaint Seeks Treble Damages Exceeding \$1.1 Million

In May 2007, a civil complaint was filed against the owner of Merit Technical Institute. Victor Mungai Kamunge was convicted and sentenced in October 2006 for fraudulently obtaining approximately \$392,000 from the U.S. Departments of Education and Labor. The complaint seeks treble damages totaling \$1,177,557, less the amount of restitution already paid by Kamunge in connection with his criminal case. In addition, the United States seeks the assessment of civil penalties totaling between \$1,140,000, and \$2,280,000 for 228 false transactions Kamunge made under DOL's Workforce Investment Act and U.S. Department of Education programs to fraudulently obtain educational and training funds. This was a joint investigation with the Department of Education. *United States v. Victor Mungai Kamunge* (D. New Jersey)

Contractor Agrees to Pay Over \$2 Million for Submitting Inflated Claims

Affiliated Computer Services, Inc. (ACS), a private contractor under DOL's WIA program, agreed to pay \$2,645,987.30 to resolve allegations that between 2002 and 2005 it violated the civil False Claims Act by submitting inflated claims for payment for programs run by and through USDA, DOL, and HHS. ACS was compensated with profit and incentive payments by the Texas Workforce Commission (TWC) and the Dallas County Local Workforce Development Board, Inc., based on the number of individuals enrolled in specific Federal programs. ACS cooperated fully with the government's investigation and voluntarily reported conduct by several former employees that it believed resulted in payments from the Board to which ACS was not entitled. This was a joint investigation with the HHS OIG, USDA OIG, and TWC.

Foreign Labor Certification Programs

The Department's foreign labor certification programs provide U.S. employers access to foreign labor to meet worker shortages. The Permanent Foreign Labor Certification program allows an employer to hire a foreign national to work permanently in the United States.

OIG investigations have revealed that the foreign labor certification process continues to be compromised by unscrupulous attorneys, labor brokers, employers, and others. A recent OIG case led to the conviction of a former owner of an information technology company who fraudulently assisted hundreds of foreign workers to live and work illegally in the United States. He was sentenced to prison and ordered to forfeit \$5.7 million for his crime.

State Representative Pleads Guilty to Visa Fraud

Nathan Cooper, Missouri State Representative, State Majority Floor Whip, and immigration attorney, pled guilty to fraud charges involving his illegal scheme to obtain temporary worker visas for his clients in the trucking industry. Cooper, representing a number of employers in applications for visas under DOL's H-2B program, created fraudulent shell companies through which he applied for and illegally obtained visas that permitted his clients to illegally hire employees. For his fraudulent efforts, Cooper received monthly payments from his clients, in further violation of the H-2B program. As part of his plea agreement, Cooper agreed to forfeit approximately \$50,000 in legal fees that he obtained from clients and resigned from his State Representative position. Additionally, Cooper's law license was suspended by the Missouri Supreme Court until final disposition of the case. This is an ongoing joint investigation with the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), the DOS Diplomatic Security Service (DSS), and the FBI. *United States v. Nathan Cooper*

Father and Son Charged in Scheme That Yielded More Than \$2 Million

A father and son, who were both operating a business to illegally obtain work visas, permanent residence, and other immigration benefits for aliens living in the United States and abroad, were indicted for allegedly submitting over 200 false employment-based visa petitions, fraudulent job offer letters, and other related documents to the U.S. Citizenship and Immigration Services (USCIS). The subjects collected more than \$2 million from applicants consisting of workers from the Caribbean and Latin America. The defendants allegedly filed immigration petitions for alien clients to obtain employment-based resident visas (green cards) and H-1B visas indicating that the aliens worked in specialized areas. The subjects, however, falsely represented the job positions, their clients' educational backgrounds, and their company's ability to employ and sustain such a large number of alien workers. In addition, the defendants allegedly submitted fraudulent Form ETA-750 and ETA-9035 applications for labor certifications to the Florida Agency for Workforce Innovation and DOL. This is a joint investigation with the IRS CID and DHS ICE.

Two Brothers Indicted for Filing Fraudulent Labor Certifications for Personal Gain

Two brothers were indicted in September 2007 for their role in a scheme in which they allegedly used their family-owned construction company to fraudulently file labor certifications on behalf of Korean nationals. A third brother had previously pled guilty to immigration fraud in April 2007. The brothers are suspected of charging aliens seeking employment-based visas more than \$30,000 per sponsorship. As part of the scheme, approximately 60 aliens allegedly obtained more than \$1.1 million in fictitious payroll checks from the construction company. They then used the payroll checks to fraudulently demonstrate to the Federal government that they worked for that company when, in fact, they did not. This is an ongoing investigation with the DOS OIG and DSS, DHS, and the FBI.



Individuals Allegedly Submitted Hundreds of False ETA-750s

Three individuals, who are listed as officers and employees of Florida-based Eurohouse Holding Corporation, were indicted in September 2007 for their participation in a visa fraud and alien smuggling conspiracy. From at least 2003 to the present, the defendants defrauded DOL's foreign labor certification program, the DHS, and the Department of State (DOS) on a sustained basis. The individuals prepared and submitted more than 200 fraudulent ETA-750 applications for H-2B temporary foreign workers and nonimmigrant visa petitions for alien beneficiaries that permitted the beneficiaries to enter and reside in the United States as temporary workers within the hotel industry. This is a joint investigation with the DOS DSS, ICE, and the FBI.



Worker Benefits

Unemployment Insurance Program

The Department partners with the states in administering two unemployment benefit programs. The first, Unemployment Insurance (UI), provides benefits to eligible workers who are unemployed through no fault of their own and meet eligibility requirements established by their respective state. 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 until needed to pay benefits.

The second program, 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 not eligible for state UI benefits. OIG audits conducted after the 2005 hurricanes demonstrated the importance of effective controls to ensure that unemployment benefits reach only eligible persons.

Following the hurricanes in 2005, the OIG focused attention on administration of the DUA program. In addition to our audit work, the OIG actively performs criminal investigations and refers for prosecution cases that involve individuals who defraud unemployment benefit programs. Recent investigations have documented the manner in which criminals steal identities to file for fraudulent UI benefits.

California Woman Pleads Guilty to Theft of UI Funds

Tina Turley, a former accounting technician for the California Employment Development Department (EDD), pled guilty in September 2007 to mail fraud for her role in a UI fraud scheme. She agreed to pay \$100,000 in restitution to the California EDD. Turley made improper entries in that department's computerized UI system in which she altered the wage histories of several friends and relatives. She added wages to increase their UI benefits and received kickbacks in return. Turley used two inactive companies as base-period employers, allowing the filing

of several fraudulent UI claims. This case was a joint investigation with the California EDD. *United States v. Tina Yayoi Turley* (E.D. California)

Several Individuals Sentenced for UI Identity Theft Scheme

Garry Carrasco, Jerry Lopez, Pedro Lopez, Laura Aguilera, and Ernest Echeveste were sentenced during May and June 2007 on several charges for their role in a UI identity theft fraud scheme. They illegally obtained benefits from the California EDD by stealing the identities of several victims and filing fraudulent UI claims using the stolen

Unemployment Insurance Program



Pedro Lopez was sentenced to 30 months' incarceration and 36 months' probation, and was ordered to pay \$106,497 in restitution. This was a joint investigation with the California EDD and the Reedley, California, Police Department. *United States v. Gary Carrasco, et al.* (E.D. California)

identities. Many of the stolen identities were obtained from vehicle loan applications. The defendants then conspired with individuals working at several different car dealerships to purchase copies of customer vehicle loan applications containing personal information, including Social Security numbers. All five defendants were friends and members of a local gang. After filing for the UI claims the defendants used addresses of other family members or friends in order to receive the fraudulently obtained benefits.

Aguilera was sentenced to eight months' incarceration and 150 days of home confinement, and was ordered to pay \$125,051 in restitution. Echeveste was sentenced to 41 months' incarceration, 36 months' probation, and 500 hours in a drug treatment program, and was ordered to pay \$232,632 in restitution. Carrasco was sentenced to 33 months' incarceration and 36 months' probation, and was ordered to pay \$497,776 in restitution. Jerry Lopez was sentenced to 12 months plus one day of incarceration and 36 months' probation, and was ordered to pay \$40,246 in restitution.

The Federal Employees' Compensation Act (FECA) program provides income and pays medical expenses for covered Federal civilian employees who are 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. The Employment and Standards Administration's Office of Workers' Compensation Program (OWCP) administers the FECA program, which impacts employees and budgets of all Federal agencies, as they rely upon OWCP to adjudicate claims eligibility and to pay medical expenses.

In addition to the FECA program, the Employment and Standards Administration's (ESA's) OWCP administers three other disability compensation programs to provide wage replacement benefits, medical treatment, vocational rehabilitation, and other benefits to certain workers for work-related injuries or occupational disease.

Process to Determine Dependent Eligibility for FECA Compensation Needs Improvement

We conducted a performance audit of the dependent eligibility process for FECA benefits to determine whether there were appropriate mechanisms to terminate payments when dependents or survivors were no longer eligible for these benefits. Our audit was performed at the Jacksonville, Florida, District Office of the Division of Federal Employees Compensation (DFEC), Office of Workers' Compensation. In fiscal year (FY) 2004, the Jacksonville office processed 20,000 claims. Of DFEC's 12 district offices, Jacksonville processed the highest number of claims.

We found that the District Office continued compensation payments even though claimants had not provided required evidence of their continuing eligibility, did not reduce compensation payments when

evidence indicated that benefits should have been reduced, and did not require regular medical updates for certain persons, such as disabled dependent children, as required by Federal regulations. Additionally, the District Office did not ask for dependent or survivor Social Security numbers. This information could improve OWCP's ability to ensure the legitimacy of the dependent or survivor being claimed. We also found that requiring claimants to submit copies of their Federal tax returns annually would provide another means for OWCP to verify dependent status.

We recommended that OWCP and the District Office revise the FECA procedure manual to conform with program regulations requiring the semiannual submission of medical evidence for disabled dependent children, include dependents' and survivors' Social Security numbers on key forms, and require claimants to submit their Federal tax returns annually to assist in verifying dependent status. We also recommended that the District Office perform timely

followup. and suspend compensation payments when claimants do not provide required information within the time specified by regulation. In response to the draft report, ESA agreed with three of our recommendations but disagreed with our recommendation to require claimants to submit their Federal tax returns annually. ESA noted that the definitions of a "dependent" differ for the IRS and ESA, which could cause further confusion of the actual status. Further, many claimants do not have any need to file a tax return because they have no income beyond their ESA compensation benefits, which are tax-free. (Report Number [04-07-004-04-431](#))

Guidance Needed from DOL's Office of Workers' Compensation to Calculate Accurate FECA Schedule Awards

In July 2006, the President's Council on Integrity and Efficiency issued the *Protocol for OIG Audits, Inspections, Evaluations, and Investigations of the Federal Employees' Compensation Act Program* to guide how the DOL OIG and other Federal oversight agencies raise governmentwide issues related to the FECA program. Pursuant to the protocol, the U.S. Postal Service Office of Inspector General (USPS OIG) asked us to evaluate its audit findings and recommendations regarding the USPS schedule award program in the New York Metro Area.

A schedule award is a form of compensation paid for specified periods of time for the permanent loss, or loss of use, of certain physical functions or for various types of impairment. The severity of the impairment determines how long these payments will be made. A September 2006 audit by the USPS OIG concluded that Postal Service compensation managers did not know how to calculate and verify schedule award payments charged by OWCP because instructions for making these payments were

not included in OWCP's handbooks and training materials. Further, compensation managers were not aware of changes to weekly or monthly schedule award payments resulting from cost-of-living increases.

Our evaluation of the audit's findings and recommendations determined that the USPS OIG auditors identified inaccurate payments because OWCP used incorrect pay rates. We believe that agencies should have the opportunity to verify that the correct elements were used to calculate the schedule award. We recommended that the Assistant Secretary for ESA require OWCP to include in its training for employing agencies the methodology for verifying the accuracy of the schedule award payments in the chargeback report. Additionally, the training should be designed to delineate responsibilities between OWCP and the employing agencies. The Assistant Secretary for ESA agreed to implement our recommendations. (Report No. [03-07-005-04-431](#))

Woman Sentenced for Defrauding Coal Mine Workers' Compensation Program

Toni Benevento, a Colorado resident, was sentenced in August 2007 for defrauding the Division of Coal Mine Workers' Compensation (DCMWC) program of Black Lung survivor benefit funds. She was sentenced to 10 months' home detention and three years' supervised release, and ordered to pay restitution of \$45,162. Benevento's mother, who was a recipient of Black Lung survivor benefits, died in January 1989, leaving no eligible survivor to receive the benefits. By failing to notify DCMWC of her mother's death, Benevento caused DCMWC to electronically deposit 93 additional Black Lung survivor benefit checks into her mother's bank account. Benevento then electronically transferred the benefit money to her own bank account

on at least 184 separate occasions. *United States v. Toni E. Benevento* (D. Colorado)

Former Federal Aviation Administration Employee Sentenced for FECA Fraud

Jeffrey Bell, a former Federal Aviation Administration electronics technician, was sentenced in August 2007 to one year in prison for illegally obtaining in excess of \$103,000 in FECA benefits. He was ordered to make \$10,000 in restitution. Bell failed to report to OWCP that he earned in excess of \$133,000 while he received FECA benefits for a workplace neck injury he filed in 2001. This was a joint investigation with the Defense Criminal Investigative Service (DCIS). *United States v. Jeffrey L. Bell* (D. New Jersey)

Federal Employee Sentenced for Defrauding Federal Program

Martha Johnson, a former associate regional administrator for the Health Care Finance Administration, was sentenced in August 2007 to 180 days' home confinement and ordered to pay a criminal penalty of \$60,000, civil liability of \$80,000, and a \$5,000 fine for FECA fraud. Since 2000, Johnson certified that she did not work or receive an outside income and was therefore entitled to receive FECA benefits for a back injury sustained in 1999. However, Johnson was observed operating a bed-and-breakfast and assisting gardeners with landscaping on the grounds. OWCP calculated a 10-year cost savings of \$570,758 for Johnson's claim. *United States v. Martha Johnson* (E.D. North Carolina)

Purdue Pharma Sentenced for Overbilling OWCP in Excess of \$42 Million

Purdue Frederick (Purdue Pharma), a privately held pharmaceutical company, was sentenced in July 2007 for fraudulently marketing a prescription pain medication, OxyContin, as less addictive, less subject to

abuse, and less likely to cause withdrawal symptoms than other pain medications. DOL's OWCP was billed in excess of \$42 million for OxyContin that was prescribed to Federal beneficiaries receiving medical care through the FECA program, the Black Lung Benefits Act, and the Energy Employees Occupational Illness Compensation Program Act. Purdue Pharma received five years' probation and was ordered to pay a \$500,000 fine, a \$400 special assessment fee, and a combined total of \$634 million in restitution, forfeiture, fines, a civil settlement, and monitoring costs to ensure that the company does not engage in any further criminal activity. Of the \$634 million global settlement, \$282 million was attributed to DOL's participation in this investigation.

Purdue Pharma's president, Michael Friedman; former Purdue medical director, Paul D. Goldenheim; and Purdue lawyer, Howard Udell, each were sentenced to three years' probation and 400 hours of community service related to a drug treatment or prevention program, and ordered to pay a \$5,000 fine and a \$25 special assessment fee. In addition, fines of \$19 million, \$7.5 million, and \$8 million, respectively, paid by the three individual defendants are included in the \$634 million settlement. This was a joint investigation with the Virginia Attorney General's Medicaid Fraud Control Unit, the U.S. Food and Drug Administration Office of Criminal Investigations, the IRS CID, the U.S. Department of Health and Human Services OIG, DCIS, the Virginia State Police, and the West Virginia State Police.



Departmental Management

The Department's information technology (IT) systems produce key economic indicators and facilitate the payment of billions of dollars in benefits and services and account for DOL-financed programs and operations. Maintaining the security of these systems is vital to the Department's mission. The OIG has identified a number of IT issues requiring the Department's attention, including preventing unauthorized access to systems, certification and accreditation of systems, and incident response capability. Adequate protection of personally identifiable information is an area of concern for the Department. Keeping up with new threats and IT developments, providing assurances that IT systems will function reliably, and safeguarding information assets will require the Department's sustained effort.

DOL Information Security Controls Not in Full Compliance with FISMA

As required by the Federal Information Security Management Act (FISMA), the OIG conducted an independent audit to determine whether the Department and its component agencies were meeting the Act's requirements. We determined that DOL security controls were not in full compliance with FISMA.



Our testing of Department-wide security controls covering 10 information systems across eight component agencies revealed two significant deficiencies, specifically, Department-wide access controls, and one agency's security program for a major information system. These significant deficiencies are attributed to both an ineffective monitoring program and insufficient documentation of procedures for implementing security controls required under FISMA. As a result, DOL's effectiveness decreases in terms of protecting the confidentiality and integrity of data, and the availability of its IT environment.

The deficiencies are summarized below.

- **DOL has access-control weaknesses in both financial and nonfinancial information systems.** We identified flaws in the design of controls for securing DOL-wide systems from unauthorized access in eight information systems at seven component agencies. While none of the component agencies had an individual significant deficiency, when the results of our testing were taken together, we concluded that a significant deficiency in

access control exists at the departmental level. This significant deficiency was caused by the lack of processes, procedures, and defined roles and responsibilities for implementing access controls as required by FISMA and other statutory mandates. As a result, there is a substantial risk to the confidentiality, integrity, and availability of data contained on the information systems tested.

- **VETS USERRA IMS lacks an effective information system security program.** The Veterans' Employment and Training Service (VETS) Uniformed Services Employment and Reemployment Rights Act Information Management System (USERRA IMS) lacks an effective information system security program. VETS did not have controls to meet the requirements of any of the National Institute of Standards and Technology Special Publication 800-53 control areas we tested. In addition, VETS had not assigned personnel responsibility for developing and implementing an information system security program for the USERRA IMS. As a result, the significant deficiency in the security control structure presented substantial risk to the personally identifiable information of the veterans that file formal USERRA claims with the Department. VETS requested the audit and took immediate corrective action.

We also identified deficiencies in each of the six control areas tested: access controls; certification, accreditation, and security assessments; configuration management; contingency planning; incident response; and risk assessment. (Report Nos. 23-07-004-07-001 and 22-07-010-07-001)

DOL Managers and Employees Need Records Management Training to Comply with Departmental Policy

A December 1, 2006, departmental memorandum, "Department-wide Uniform E-mail and Electronic Document Back-up Retention Policy," required the recycling or disposition of backup media after six months. During preliminary audit work related to an ongoing audit, we identified a potential risk to the implementation of this policy that needed to be addressed immediately. Therefore, we issued a management letter to bring this matter to the Department's attention. The potential risk was that many DOL employees and managers were not aware of the requirements to print and file electronic records, such as e-mail and electronic documents that are Federal records, into their agency's record-keeping system before deleting them.

We determined that one of the key internal controls necessary to mitigate this risk was to provide training to all DOL employees on their records management responsibilities. We recommended that OASAM develop and implement a standard process for annual training of all DOL managers and employees in records management. In its response to the draft management letter, OASAM stated that the recommendation was premature and requested that the audit be conducted first in order for OASAM to form a fact-based assessment upon which to determine the appropriate next steps. We believe the recommendation is warranted because, until records management training is developed and implemented, the Department remains at risk that its employees are not aware of records management requirements. (Report No. 03-07-004-07-001)

Complaint Involving Preliminary Planning for DOL's Competitive Sourcing of Finance and Accounting Positions Substantiated

We performed an audit in response to complaints about the preliminary planning phase of the Department's competitive sourcing study of its finance and accounting positions. The first complaint was that DOL did not comply with OMB requirements governing the preliminary planning process for the finance and accounting competition study.

We substantiated the first complaint, finding that the Department did not comply with Federal requirements governing the preliminary planning process for the DOL Enterprise-Wide Finance and Accounting Services competition study. Specifically, the Office of the Chief Financial Officer (OCFO), the lead agency for conducting the competition study, did not use the inventory required by the Federal Activities Inventory Reform Act (FAIR Act) as the starting point in the initial phase of the preliminary planning process. As a result, the initial phase included inherently governmental positions that were being considered for competition, which Federal regulations do not allow.

This occurred because the Department's Office of Competitive Sourcing did not have a policy that specifically stated that the position classifications in the FAIR Act inventory must be used as the starting point for competitive studies. The OCFO and the Office of Competitive Sourcing have now excluded the inherently governmental positions from further evaluations before the next phase of the preliminary planning process.

The second complaint was that, although a contractor's report for the preliminary planning of the competitive sourcing was inaccurate, funds were awarded to that same contractor to rectify the inaccuracy. We found that the contractor did receive funds to perform work subsequent to the preliminary planning phase; however, the contractor did *not* use these funds to rectify the inaccuracies in its preliminary planning report as claimed in the second complaint. In fact, DOL officials performed the work to correct deficiencies in the contractor's preliminary planning report.

We recommended that the Department establish and implement a policy that requires agencies performing competitive sourcing competition studies to use the position classifications in the FAIR Act inventory as a starting point. In response to the draft report, the Deputy Assistant Secretary for Operations agreed with the recommendation and corrective action has been initiated. (Report No. [03-07-002-07-711](#))

Information Compiled on FY 2005 Department of Labor Earmarks

This project was conducted in response to a congressional request for information on: (1) the total number and cost of FY 2005 congressional earmarks awarded by the Department, (2) DOL's oversight of earmark grants, and (3) the overall impact of earmarks on advancing the Department's primary mission and goals. For purposes of this report, earmarks were defined as a provision of law, directive, or other item contained in a congressional joint explanatory statement or report accompanying a bill that identified a specific entity, program, project, or service.

The Department reported 200 earmarks totaling \$125.3 million during FY 2005, based on information we obtained through inquiry and documentation provided by DOL officials. Earmarks were appropriated to ETA, Bureau of International Labor Affairs (ILAB), MSHA, OSHA, and Office of Disability Employment Policy (ODEP).

We found no instances in which oversight policies differed for earmarks compared to oversight for other awards. ETA, OSHA, and ILAB conducted oversight through desk reviews, risk assessments, and on-site monitoring. MSHA officials stated that monitoring was conducted primarily through written progress reports, while ODEP transferred responsibility for monitoring to the U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services.

The impact of earmarks on advancing the mission of ETA, OSHA, MSHA, and ODEP was minimal, as earmarks comprised between less than 1 percent and 2 percent of the FY 2005 budgets of these four agencies. In contrast, ILAB's earmarks had a major impact on advancing the agency's mission: The \$46.6 million in FY 2005 ILAB earmarks represented 50 percent of ILAB's overall budget, and the \$44.6 million specifically used for the elimination of international child labor represented 56 percent of ILAB's budget for that program. (Report No. [02-07-205-50-598](#))



Legislative Recommendations

Legislative Recommendations

The Inspector General Act requires the OIG to review existing or proposed legislation and regulations and to make recommendations in the Semiannual Report concerning their impact on the economy and efficiency of the Department's programs and on the prevention of fraud and abuse.

Allow DOL Access to Wage Records

To reduce overpayments in employee benefit programs, including UI and FECA, the Department and the OIG need legislative authority to easily and expeditiously access state UI wage records, SSA wage records, and employment information from the National Directory of New Hires, which is maintained by the Department of Health and Human Services. The DOL and the SSA currently have a memorandum of understanding (MOU) in place that allows State Workforce Agencies to access Social Security data on individuals who apply for UI. The MOU is a good first step.

In addition, a provision in the State Unemployment Tax Authority (SUTA) Dumping Prevention Act of 2004 (Public Law 108-295) enables state agencies responsible for the administration of unemployment compensation programs to obtain access to the National Directory of New Hires. By cross-matching UI claims against this new-hire data, states can better detect overpayments to UI claimants who have gone back to work but who continue to collect UI benefits. However, this law does not provide DOL or the OIG with access to the National Directory of New Hires. To make the New Hire data even more useful for this purpose, legislative action is needed requiring that employers report a new hire's first day of earnings and provide a clear, consistent, nationwide definition for this date. Moreover, access to SSA and UI data would allow the Department to measure the long-term impact of employment and training services on job retention and earnings. Outcome information of this type for program participants is otherwise difficult to obtain.

Amend Pension Protection Laws

Legislative changes to ERISA and criminal penalties for ERISA violations would enhance the protection of assets in pension plans. To this end, the OIG recommends the following:

- **Expand the authority of EBSA to correct substandard benefit plan audits and ensure that auditors with poor records do not perform additional plan audits.** Changes should include providing EBSA with greater enforcement authority over registration, suspension, and debarment and the ability to levy civil penalties against employee benefit plan auditors. The ability to correct substandard audits and take action against auditors is important because benefit plan audits help protect participants and beneficiaries by ensuring the proper value of plan assets and computation of benefits.
- **Repeal ERISA's limited-scope audit exemption.** This provision excludes pension plan assets invested in banks, savings and loans, insurance companies, and the like from audits of employee benefit plans. The limited scope prevents independent public accountants who are auditing pension plans from rendering an opinion on the plans' financial statements in accordance with professional auditing standards. These "no opinion" audits provide no substantive assurance of asset integrity to plan participants or to the Department.

Legislative Recommendations

- **Require direct reporting of ERISA violations to DOL.** Under current law, a pension plan auditor who finds a potential ERISA violation is responsible for reporting it to the plan administrator, but not directly to DOL. To ensure that improprieties are addressed, we recommend that plan administrators or auditors be required to report potential ERISA violations directly to DOL. This would ensure the timely reporting of violations and would more actively involve accountants in safeguarding pension assets, providing a first line of defense against the abuse of workers' pension plans.
- **Strengthen criminal penalties in Title 18 of the United States Code.** Three sections of Title 18 serve as the primary criminal enforcement tools for protecting pension plans covered by ERISA. Embezzlement or theft from employee pension and welfare plans is prohibited by Section 664, making false statements in documents required by ERISA is prohibited by Section 1027, and giving or accepting bribes related to the operation of ERISA-covered plans is outlawed by Section 1954. Sections 664 and 1027 subject violators to 5 years' imprisonment, while Section 1954 calls for up to 3 years' imprisonment. We believe that raising the maximum penalties to 10 years for all three violations would serve as a greater deterrent and would further protect employee pension plans.

Provide Authority to Ensure the Integrity of the Foreign Labor Certification Process

If DOL is to have a meaningful role in the H-1B specialty occupations foreign labor certification process, it must have the statutory authority to ensure the integrity of that process, including the ability to verify the accuracy of information provided on labor condition applications. Currently, DOL is statutorily required to certify such applications unless it determines them to be "incomplete or obviously inaccurate." Our concern with the Department's limited ability to ensure the integrity of the certification process is heightened by the results of OIG analysis and investigations that show that the program is susceptible to significant fraud and abuse, particularly by employers and attorneys.

The OIG recommends that DOL consider, in conjunction with USCIS, a legislative proposal that would require foreign nationals to have their eligibility determined by USCIS before the employer's labor certification application is reviewed by DOL.

Enhance the WIA Program Through Reauthorization

The reauthorization of the WIA provides an opportunity to revise WIA programs to better achieve their goals. Based on our audit work, the OIG recommends the following:

- Improve state and local reporting of WIA obligations. A disagreement between ETA and the states about the level of funds available to states drew attention to the way WIA obligations and expenditures are reported. The OIG's prior work in nine states and Puerto Rico showed that obligations provide a more useful measure for assessing states' WIA funding status if obligations accurately reflect legally committed funds and are consistently reported.
- Modify WIA to encourage the participation of training providers. WIA participants use individual training accounts to obtain services from approved eligible training providers. However, performance reporting and eligibility requirements for training providers have made some potential providers unwilling to serve WIA participants.

Legislative Recommendations

- Support amendments to resolve uncertainty about the release of WIA participants' personally identifying information for WIA reporting purposes. Some training providers are hesitant to disclose participant data to states for fear of violating the Family Education Rights and Privacy Act.
- Strengthen incumbent worker guidance to states. Currently no Federal criteria define how long an employer must be in business or an employee must be employed to qualify as an incumbent worker, and no Federal definition of "eligible individual" exists for incumbent worker training. Consequently, a state could decide that any employer or employee can qualify for a WIA-funded incumbent worker program.

Improve the Integrity of the FECA Program

The OIG continues to support reforms to improve the integrity of the FECA program. Implementing the following changes would result in significant savings for the Federal government:

- Move claimants into a form of retirement after a certain age if they are still injured.
- Return a 3-day waiting period to the beginning of the 45-day continuation-of-pay process to require employees to use accrued sick leave or leave without pay before their benefits begin.
- Grant authority to DOL to directly and routinely access Social Security wage records in order to identify claimants defrauding the program.

Appendix

Appendix

Requirements Under the Inspector General Act of 1978

Section 4(a)(2)—Review of Legislation and Regulation.....	42
Section 5(a)(1)—Significant Problems, Abuses, and Deficiencies.....	ALL
Section 5(a)(2)—Recommendations with Respect to Significant Problems, Abuses, and Deficiencies	ALL
Section 5(a)(3)—Prior Significant Recommendations on Which Corrective Action Has Not Been Completed	53
Section 5(a)(4)—Matters Referred to Prosecutive Authorities	55
Section 5(a)(5) and Section 6(b)(2)—Summary of Instances Where Information Was Refused	NONE
Section 5(a)(6)—List of Audit Reports	49
Section 5(a)(7)—Summary of Significant Reports	ALL
Section 5(a)(8)—Statistical Tables on Management Decisions on Questioned Costs	48
Section 5(a)(9)—Statistical Tables on Management Decisions on Recommendations That Funds Be Put to Better Use	47
Section 5(a)(10)—Summary of Each Audit Report Over Six Months Old for Which No Management Decision Has Been Made	53
Section 5(a)(11)—Description and Explanation for Any Significant Revised Management Decision	NONE
Section 5(a)(12)—Information on Any Significant Management Decisions with Which the Inspector General Disagrees.....	NONE

Appendix

Funds Put to Better Use Agreed to by DOL

	Number of Reports	Dollar Value (\$ millions)
For which no management decision had been made as of the commencement of the reporting period	0	0.0
Issued during the reporting period	2	1.2
Subtotal	2	1.2
For which management decision was made during the reporting period:		
<ul style="list-style-type: none"> • Dollar value of recommendations that were agreed to by management 		0.0
<ul style="list-style-type: none"> • Dollar value of recommendations that were not agreed to by management 		0.0
For which no management decision had been made as of the end of the reporting period	2	1.2

Funds Put to Better Use Implemented by DOL

For which final action had not been taken as of the commencement of the reporting period	5	438.5
For which management or appeal decisions were made during the reporting period	0	0.0
Subtotal	5	438.5
For which final action was taken during the reporting period:		
<ul style="list-style-type: none"> • Dollar value of recommendations that were actually completed 		0.0
<ul style="list-style-type: none"> • Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed 		0.0
For which no final action had been taken by the end of the period	5	438.5
For which final action had not been taken as of the commencement of the reporting period	5	438.5

Appendix

Questioned Costs

	Number of Reports	Disallowed Costs (\$ millions)
For which no management decision had been made as of the commencement of the reporting period (as adjusted)	44	115.7
Issued during the reporting period	14	22.4
Subtotal	58	138.1
For which a management decision was made during the reporting period:		
• Dollar value of disallowed costs		33.3
• Dollar value of costs not disallowed		57.5
For which no management decision had been made as of the end of the reporting period	28	47.3
For which no management decision had been made within six months of issuance	11	21.7

Disallowed Costs

	Number of Reports	Disallowed Costs (\$ millions)
For which final action had not been taken as of the commencement of the reporting period (as adjusted)*	76	30.9
For which management or appeal decisions were made during the reporting period	18	33.3
Subtotal	94	64.2
For which final action was taken during the reporting period:		
• Dollar value of disallowed costs that were recovered		28.2
• Dollar value of disallowed costs that were written off by management		0.2
• Dollar value of disallowed costs that entered appeal status		0.1

*These figures are provided by DOL agencies and are unaudited. Does not include \$2.5 million of disallowed costs that are under appeal. Partial recovery/write-offs are reported in the period in which they occur. Therefore, many audit reports will remain open awaiting final recoveries/write-offs to be recorded.

Appendix

Final Audit and Attestation Reports Issued

<u>Program Name</u> Name of Report	Date Issued	Report Number	# of Nonmonetary Recommendations	Questioned Costs (\$)	Other Monetary Impact (\$)
Employment and Training Programs					
Office of Disability Employment Policy					
Single Audit: Way Station, Inc.	07/19/07	21-07-538-01-080	4	158,758	
Job Corps Program					
Performance Audit of the Laredo Job Corps Center	09/28/07	09-07-002-01-370	3		96,962
Grafton Job Corps Center: Allegations That Student Attendance and Training Data Were Overstated	09/28/07	09-07-004-01-370	4		56,824
Single Audit: Future Entrepreneurs and Workers Training and Administration	08/15/07	21-07-539-01-370	35		
Performance Audit of the Cleveland Job Corps Center	09/28/07	26-07-003-01-370	5	344,175	
Job Training Partnership Act					
Florida Continued to Misuse JTPA Funds for Its Performance Based Incentive Funding Program During the Period 6/10/98 – 6/30/00	09/28/07	04-07-009-03-340		6,176,454	
Workforce Investment Act					
Local Workforce Investment Area (LWIA) Executive Compensation	09/28/07	02-07-204-03-390			
Complaint Involving United Way of Central Alabama's Birmingham Works for Youth Program	09/28/07	04-07-003-03-390	4		
Audit of the Mississippi National Emergency Grant	09/28/07	04-07-006-03-390			
Audit of the Texas National Emergency Grant	09/28/07	04-07-007-03-390	5		
Audit of the Louisiana National Emergency Grant	09/28/07	04-07-008-03-390	5		
Employment and Training Administration's Contract with TCE Digital Solutions Violated Provisions of the Small Business Act Section 8(a)	09/28/07	05-07-003-03-390	3		
Complaint against Southwest Texas Junior College Community-Based Job Training Grant Was Unsubstantiated	09/27/07	06-07-008-03-390			
Single Audit: State of Maryland – Fiscal Year 2005	04/19/07	21-07-526-03-390	5		
Single Audit: State of Delaware	04/30/07	21-07-529-03-390	4	2,213,062	
Single Audit: State of Utah	08/16/07	21-07-540-03-390	8	22,932	
Veterans Employment and Training Service					
Single Audit: Clackamas County, Oregon	05/01/07	21-07-530-02-001	1	1,100	
Single Audit: State of Florida	05/07/07	21-07-533-02-001	1	4,605	
Single Audit: Way Station, Inc. - Fiscal Year 2005	07/17/07	21-07-537-02-001	6	53,590	
Texas Workforce Commission Jobs for Veterans State Grant	09/28/07	06-07-006-02-201		17,905	
Goal Totals		20	93	8,992,581	153,786
Worker Benefit Programs					
Longshore and Harbor Workers' Compensation					
Longshore and Harbor Workers' Compensation Act Special Fund Financial Statements and Independent Auditors' Report	05/07/07	22-07-005-04-432			
District of Columbia Workmen's Compensation Act Special Fund Financial Statements and Independent Auditors' Report	05/07/07	22-07-006-04-432			

Appendix

Final Audit and Attestation Reports Issued

<u>Program Name</u> Name of Report	Date Issued	Report Number	# of Nonmonetary Recommendations	Questioned Costs (\$)	Other Monetary Impact (\$)
Federal Employees' Compensation Act					
Mechanisms Used to Identify Changes in Eligibility Are Inadequate at the FECA District Office in Jacksonville, Florida	09/29/07	04-07-004-04-431	4		
Service Auditor's Report on the Integrated Federal Employees' Compensation System and Service Auditors' Report on the Medical Bill Processing System for the Period 10/1/06 to 3/31/07	09/25/07	22-07-009-04-431			
Goal Totals		4	4		
Worker Safety, Health, and Workplace Rights					
Women's Bureau					
Single Audit: Women Work! The National Network for Women's Employment	09/21/07	21-07-543-01-020	1		
Mine Safety and Health					
Mine Safety and Health Administration's Office of Coal Mine Safety and Health Needs to Strengthen Its Accountability Program	08/24/07	05-07-002-06-001	14		
Occupational Safety and Health					
Consultation Program Does Not Ensure Worker Safety When Serious Hazards Are Not Corrected as Agreed to by Employers	09/04/07	05-07-001-10-105	4		
Goal Totals		3	19		
Departmental Management					
ETA Management					
Single Audit: State of New Jersey – Fiscal Year 2005	04/05/07	21-07-521-03-001	2	7,595	
Single Audit: South Carolina Employment Security Commission	04/16/07	21-07-524-03-001	10		
Single Audit: State of West Virginia	04/16/07	21-07-525-03-001	15	12,374,024	
Single Audit: State of Vermont	05/10/07	21-07-527-03-001	3		
Single Audit: State of Maryland – Fiscal Year 2006	04/19/07	21-07-528-03-001	4		
Single Audit: State of Florida	05/07/07	21-07-532-03-001	18	345,894	
Single Audit: Workforce Investment Board of Herkimer, Madison and Oneida Counties, Inc.	06/20/07	21-07-534-03-001	1		
Single Audit: Workforce Alliance, Inc.	06/29/07	21-07-535-03-001	3		
Single Audit: City and County of Denver, Colorado	07/17/07	21-07-536-03-001	2		
Single Audit: Institute for GIS Studies, Inc.	08/31/07	21-07-541-03-001	4		
Single Audit: State of New Jersey – Fiscal Year 2006	09/20/07	21-07-542-03-001		331,078	
Single Audit: State of Arizona	09/28/07	21-07-544-03-001	7	17,079	
Office of the Assistant Secretary for Administration and Management					
Fiscal Year 2006 Findings and Recommendations Related to General, Application, and Security Controls for Selected DOL Information Technology Financial Systems	09/12/07	22-07-010-07-001	17		
Department of Labor Needs to Remedy Significant Security Control Deficiencies in Access Controls and in the Veterans' Employment and Training Service, Uniformed Services Employment and Reemployment Rights Act Information Management System Security Program	09/28/07	23-07-004-07-001	2		

Appendix

Final Audit and Attestation Reports Issued

<u>Program Name</u> Name of Report	Date Issued	Report Number	# of Nonmonetary Recommendations	Questioned Costs (\$)	Other Monetary Impact (\$)
Complaint Involving the Department of Labor's Competitive Sourcing of Finance and Accounting Positions	09/28/07	03-07-002-07-711	1		
Office of the Chief Financial Officer					
Fiscal Year 2006 Consolidated Financial Statements Findings and Recommendations	05/16/07	22-07-001-13-001	79		
Multi-Agency Programs					
Single Audit: Way Station, Inc. – Fiscal Year 2006	04/30/07	21-07-531-50-598	8		
Goal Totals		17	176	13,075,670	
Final Audit and Attestation Report Totals		44	292	22,068,251	153,786

NOTE: All single audit reports shown in the above schedule represent audits of States, local governments and nonprofit organizations conducted, in accordance with generally accepted government auditing standards, by independent public accounting firms and/or state and local government auditors under the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996. Upon receipt of the Single Audit report, OIG reviews the report to identify findings and recommendations directed at DOL programs. OIG then issues a report to the funding agency that summarizes the DOL findings and recommendations, and requests that the funding agency take resolution action on the recommendations within 6 months of the date of the OIG report.

Appendix

Other Reports Issued

<u>Program Name</u> Name of Report	Date Issued	Report Number	# of Nonmonetary Recommendations	Questioned Costs (\$)	Other Monetary Impact (\$)
Employment and Training Programs					
Veterans Employment and Training Services					
Status of Recommendations of Veterans' Employment and Training Services Audit Report: The GISRA Audit of the USERRA Information Management System	07/27/07	23-07-003-02-001			
Bureau of Labor Statistics					
Status of Recommendations of the Audit Report: FISMA Audit of the BLS' Producer Price Index System	09/21/07	23-07-005-11-001			
Goal Totals		2			
Worker Benefit Programs					
Unemployment Insurance Program					
Insufficient Controls over Hurricane-issued Debit Cards Created Opportunities for Fraud	09/28/07	06-07-002-03-315	3	354,070	839,309
The Louisiana Department of Labor Paid \$51 Million in Hurricane-Related Unemployment Benefits on Questionable Claims	09/28/07	06-07-003-03-315	2		51,180,655
Mississippi's Suspension of Controls Resulted in the Payment of at Least \$25 Million in Disaster Unemployment Assistance to Claimants Whose Eligibility Was Unsubstantiated	09/28/07	06-07-004-03-315	2		25,100,000
Louisiana's Suspension of Controls Resulted in the Payment of at Least \$62.1 Million in Disaster Unemployment Assistance to Claimants Whose Eligibility Was Unsubstantiated	09/28/07	06-07-005-03-315	1		62,100,000
Federal Employees' Compensation Act					
U. S. Postal Service's Schedule Award Program Audit Recommendation	09/28/07	03-07-005-04-431	1		
Goal Totals		5	9	354,070	139,219,964
Worker Safety, Health, and Workplace Rights					
Status of Recommendations of Audit Report: GISRA Evaluation and Security Test and Evaluation - Occupational and Safety and Health Administration	09/27/07	23-07-006-10-001			
Status of Recommendations of Audit Report: Occupational Safety and Health Administration Needs to Remedy Significant Security Control Deficiencies for the Integrated Management Information System Redesign Whistleblower Web Application	09/27/07	23-07-007-10-001			
Goal Totals		2			
Departmental Management					
OASAM Management					
DOL Records Management Program	09/24/07	03-07-004-07-001	1		
Multi-Agency Programs					
Fiscal Year 2005 Department of Labor Earmark Grants	09/25/07	02-07-205-50-598			
Goal Totals		2	1		
Other Report Totals		11	10	354,070	139,219,964

Appendix

Unresolved Audit Reports Over Six Months Old

Agency/ Program	Date Issued	Name of Audit	Report Number	# of Recommendations	Questioned Costs
Nonmonetary Recommendations and Questioned Costs					
OIG Conducting Followup Work During FY 2007 Financial Statement Audits					
CFO/Admin	02/27/98	FY 1997 Consolidated Financial Statements	12-98-002-13-001	1	
CFO/Admin	03/31/04	OCFO General Application and Security Controls	23-04-004-13-001	3	
Final Management Decision Issued by Agency Did Not Resolve; OIG Negotiating with Program Agency					
ETA/TAA	09/30/05	Performance Audit of Health Coverage Tax Credit (HCTC) Bridge and Gap Programs	02-05-204-03-330	2	
OASAM/DIRM	03/31/05	Award and Management of Contracts for Encryption Software Were Significantly Flawed	05-05-005-07-720	1	
MSHA/Admin	10/29/04	MSHA Procurements Showed a Pattern of Disregard for Federal and Department of Labor Acquisition Rules and Requirements	25-05-001-06-001	1	
MSHA/Admin	09/29/06	Coal Mine Hazardous Condition Complaint Process Should Be Strengthened	05-06-006-06-001	2	
MSHA/Admin	09/29/06	Coal Mine Safety and Health Accountability Program	05-06-007-06-001	1	
OSEC/JCC	03/30/07	Audit of Cincinnati Job Corps Center 's Student Leave and Unexcused Absences	03-07-003-01-370	3	208,121
OSEC/JCC	3/30/07	Performance Audit of Oconaluftee Job Corps Center	26-07-001-01-370	7	124,608
Final Management Decision Not Yet Issued—Agency Awaiting Response from Internal Revenue Service					
EBSA	03/29/02	Improved Oversight of Cash Balance Plan Lump Sum Distributions Is Needed	09-02-001-12-121	2	
Final Management Decision Not Issued – Agency Awaiting Response From Office of Management and Budget					
MSHA/Admin	12/26/06	MSHA Needs To Improve Controls Over Performance Data	22-07-008-06-001	3	
Final Management Decision Not Issued by Agency by Close of Period					
VETS/Admin	03/24/05	Single Audit: State of Florida	21-05-523-02-001	2	245,226
OSEC/JCC	08/16/06	Single Audit: YWCA of Greater Los Angeles	21-06-543-01-370	12	
OSEC/JCC	11/15/06	Single Audit: Future Entrepreneurs and Workers	21-07-501-01-370	1	13,287
ETA/WIA	09/28/06	Questionable Eligibility of College Students in Mississippi's National Emergency Grant Training Program	04-06-008-03-390	3	
ETA/WIA	09/28/06	St. Charles Department of Workforce Development	05-06-001-03-390	3	4,110,061
ETA/DINAP	03/15/07	Single Audit: Seminole Nation of Indians	21-07-523-03-355	3	135,377
ETA/DOWP	03/30/07	Administrative Title V Funds by the National Caucus and Center on Black Aged, Inc.	21-07-002-03-360	5	130,414
Agency Has Requested Additional Time to Resolve					
ETA/WIA	08/31/06	Single Audit: Commonwealth of Northern Marianas	21-06-559-03-390	9	528,046
ETA/FLC	03/30/07	Community Preservation and Development Corporation's H-1B Technical Skills Training Grant	03-07-001-03-321	3	870,821
ETA/WIA	03/12/07	Kingston-Newburgh Enterprise Corporation Earmark Grant	02-07-201-03-390	1	1,201,110
ETA/WIA	02/14/07	Audit of San Diego Workforce Partnership, Inc.	09-07-001-03-390	17	14,192,002
ETA/WIA	03/14/07	Single Audit: San Diego Workforce Partnership	21-07-522-03-390	6	

Appendix

Unresolved Audit Reports Over Six Months Old

Agency/ Program	Date Issued	Name of Audit	Report Number	# of Recommendations	Questioned Costs
					0
Under Appeal					
ETA/WIA	09/29/06	Westchester-Putnam County Consortium for Workers Education and Training, Inc. Earmark Grant	02-06-204-03-390	2	0
Total Nonmonetary Recommendations, Questioned Costs				93	21,759,073
Cost Efficiencies					
OSEC/JCC	03/30/07	Performance Audit of Oconaluftee Job Corps Center	26-07-001-01-370	1	190,367
ETA/WIA	02/14/07	Audit of San Diego Workforce Partnership, Inc.	09-07-001-03-390	1	961,490
Total Cost Efficiencies				2	1,151,857
Total Audit Exceptions and Cost Efficiencies				95	22,910,930

Appendix

Investigative Statistics

	Division Totals	Totals
Cases Opened:		191
Program Fraud	146	
Labor Racketeering	45	
Cases Closed:		227
Program Fraud	163	
Labor Racketeering	64	
Cases Referred for Prosecution:		148
Program Fraud	105	
Labor Racketeering	43	
Cases Referred for Administrative/Civil Action:		94
Program Fraud	87	
Labor Racketeering	7	
Indictments:		281
Program Fraud	188	
Labor Racketeering	93	
Convictions:		198
Program Fraud	117	
Labor Racketeering	81	
Debarments:		20
Program Fraud	5	
Labor Racketeering	15	
Recoveries, Cost Efficiencies, Restitutions, Fines/ Penalties, Forfeitures, and Civil Monetary Actions:		\$363,327,162
Program Fraud	\$325,631,023	
Labor Racketeering	\$37,696,139	

Appendix

Investigative Statistics

Recoveries:

(The dollar amount/value of an agency's action to recover or reprogram funds or to make other adjustments in response to OIG investigations)

\$2,631,454

Cost-Efficiencies:

(The one-time or per annum dollar amount/value of management's commitment, in response to OIG investigations, to utilize the government's resources more efficiently)

\$10,749,354

Restitutions:

(The dollar amount/value of restitutions resulting from OIG criminal investigations)

\$344,719,022

Fines/Penalties:

(The dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations)

\$1,805,359

Civil Monetary Actions:

(The dollar amount/value of forfeitures, settlements, damages, judgments, court costs, or other penalties resulting from OIG civil investigations)

\$3,421,973

Total

\$363,327,162

Appendix

OIG Hotline

The OIG Hotline provides a communication link between the OIG and persons who want to report alleged violations of law, rules, or regulations; mismanagement; waste of funds; abuse of authority; or danger to public health and safety. During this reporting period, the OIG Hotline received 2,062 contacts. Of these, 1,824 were referred for further review and/or action.

Contacts Received (by source):

Complaints from Individuals or Non-Governmental Organizations	1,987
Complaints/Inquiries from Congress	15
Referrals from GAO	10
Complaints from other DOL Agencies.....	12
Incident reports from DOL Agencies and Grantees	3
Referrals from OIG Components	2
Complaints from other Governmental Agencies (Non-DOL)	11
Unknown	22
Total.....	2,062

Disposition of Complaints:

Referred to OIG Components for Further Review and/or Action	85
Referred to DOL Program Management for Further Review and/or Action	654
Referred to Non-DOL Agencies/Organizations	1085
No Referral Required/Informational Contact	238
Total.....	2,062

