
Strategic Goal 3: Safe and Secure Workplaces

Promote workplaces that are safe, healthful and fair; guarantee workers receive the wages due them; foster equal opportunity in employment; and protect veterans' employment and re-employment rights.

All workers are entitled to safe, healthful, and fair workplaces – and several DOL agencies have this as their primary mission. The Department has committed to achieving this goal by promoting practices that minimize safety and health hazards and provide equal opportunities for workers. Rapid technological advances and dynamic workplace environments have changed the nature of work, leading to new challenges for our safety and health mission. DOL promotes equal employment opportunity by enforcing regulations that deal with Federal contracting practices and the reemployment rights of veterans. Agencies with programs supporting this goal are:

- Occupational Safety and Health Administration (OSHA)
- Mine Safety and Health Administration (MSHA)
- Employment Standards Administration (ESA), and
- Veterans' Employment and Training Service (VETS).

On October 30, 2003, new construction on the Tropicana Casino in Atlantic City, New Jersey collapsed. In the Department's ensuing lawsuit against the employer, DOL successfully argued that a contractor may not rely on poorly drafted building plans if the contractor has reason to know the plans are erroneous. By clarifying this previously unclear area of the law, the Department continues its mission of vigorously enforcing the nation's labor laws and supporting a safe and secure workplace for every American. [Photo Credit: DOL/SOL]



These Agencies provide a critical service to the American worker by ensuring that employers comply with major employment laws. These laws represent some of the most fundamental protections for workers, and ensure that workplaces are safe, healthful, and fair. The Agencies rely on a broad range of expertise – from front-line investigators to the strategic decision-makers – to administer these laws and to educate employers and the public. The performance goals and targets for this strategic goal focus on the effectiveness of these enforcement efforts and compliance programs. In FY 2007, DOL positively impacted the workplace by reducing injury and illness rates, improving working conditions, and by maintaining low rates of employment rights violations. The following results highlight some of DOL's successes in FY 2007.

For American Workers

- The fatality rate decreased in OSHA covered sectors.
- The injury and illness rate decreased, which means fewer workers suffered from conditions caused or worsened by their work environment.

For Miners

- The all injury and illness rate dropped for the fourth consecutive year.
- Silica dust and noise levels in mines were reduced.

For Employees of Federal Contractors

- The discrimination rate among audited contractors remained at a low two percent.
- Federal contractors reached an 88 percent compliance rate, which means most audited contractors have affirmative action plans and comply with equal employment opportunity laws.

For Returning Veterans

- Claims under the Uniformed Services Employment and Reemployment Rights Act decreased by four percent, suggesting fewer Veterans faced unlawful barriers when returning to work after active duty.
- Employer violations decreased by eight percent from last year.
- Meritless claims decreased by 14 percent, meaning Veterans are better understanding their rights.

These national results are realized one worker and one employer at a time. The vignettes below and throughout this chapter tell some of the stories behind Strategic Goal Three. For more specific information, please see the Performance Goal narratives.



Within ESA, the Wage and Hour Division (WHD) administers standards for wages and working conditions – such as overtime, field sanitation standards in the agricultural industries, prevailing wage requirements for government contracts, and child labor protections. In 2007, the Wilkes-Barre District Office investigated five fatalities involving Amish and Mennonite minors during an eighteen month period that began in the summer of 2005. Shaken by the rash of tragedies, the Amish and Mennonite communities agreed to meet with staff of the Wilkes-Barre District Office for the purpose of learning about the youth employment provisions of the Fair Labor Standards Act to protect an estimated 13,770 to 18,360 Amish minors of working age.

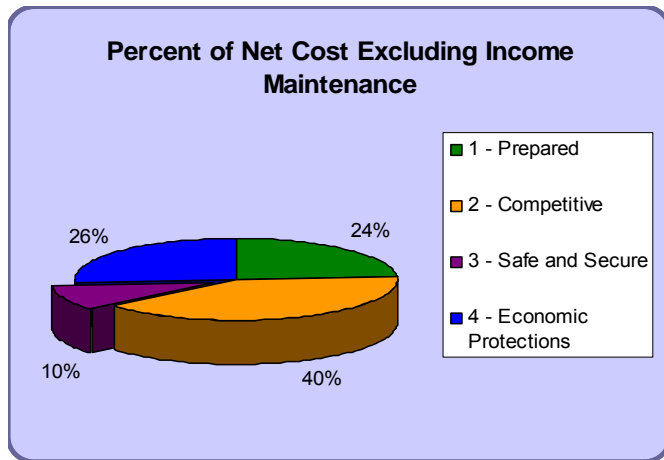
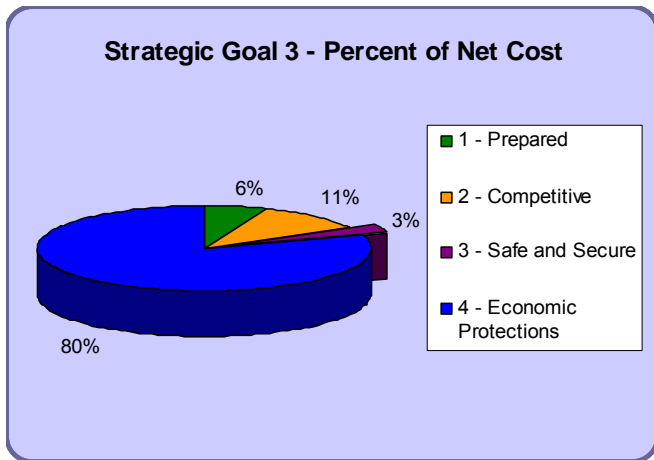
WHD conducted youth employment outreach events directed at Mennonite business owners and the newly formed Safety Committee as well as the Mennonite Governing Board. Additionally, an article on youth employment, co-authored by the Wilkes-Barre District Office and the Amish Safety Committee appeared in the weekly Amish newspaper, *Die Botschaft*. [Photo Credit: DOL/ESA]

The following table provides key information, goal statements, and achievement for DOL performance goals associated with this strategic goal.

Goal (Agency) and Statement	Performance Summary	Net Cost (millions) ³¹		
		FY 2005	FY 2006	FY 2007
07-3A (OSHA) Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations and standards.	Goal achieved. Both targets reached.	\$515	\$519	\$547
07-3B (MSHA) Reduce work-related fatalities, injuries, and illnesses in mines.	Goal substantially achieved. Four targets reached, one improved and one not reached.	307	348	356
07-3C (ESA) Ensure workers receive the wages due them.	Goal not achieved. Two targets reached and two not reached.	214	214	221
07-3D (ESA) Federal contractors achieve equal opportunity workplaces.	Goal achieved. Both targets reached.	99	97	103
07-3E (VETS) Reduce employer-employee employment issues originating from service members' military obligations conflicting with their civilian employment.	Goal achieved. One target reached.	12	11	10
Total for Strategic Goal 3	Three goals achieved, one substantially achieved and one not achieved.	\$1,147	\$1,189	\$1,237

³¹ Net cost as defined in a footnote to the Cost of Results discussion in Management's Discussion and Analysis.

The net cost dedicated to Strategic Goal 3 in FY 2007 was \$1.237 billion. The first chart below is based on total Departmental costs of \$47.872 billion; the second is based on an adjusted net cost of \$12.771 billion that excludes the major non-discretionary program costs associated with Strategic Goal 4.³² Net cost dedicated to Strategic Goal 3 in FY 2006 (restated to reflect current goal structure) was \$1.189 billion.



Simulating real events and emergencies is one of the most effective ways to train people. Recognizing this, MSHA created a Mine Simulation Laboratory at the National Mine Health and Safety Academy in Beckley, WV. This 48,000 square-foot facility is an above-ground simulated mine featuring a coal mine on the lower level and a metal/nonmetal mine on the second floor level. The simulated coal mine represents a room-and-pillar setup with four entries and nine crosscuts. The metal/nonmetal mine contains passageways, tunnels, stairways, and ladders to simulate different manways and other situations faced by mine rescue teams. Students are given simulated exercises to provide hands-on experience in mine ventilation, accident investigation, mine inspection, mine rescue and recovery, and mine emergency operations management. The training facility is unique and an internationally recognized center for practical training in mine safety and health. [Photo credit: DOL/MSHA]



³² The excluded costs are referred to as Income Maintenance – unemployment benefit payments to individuals who are laid off or out of work and seeking employment (\$32.051 billion) plus disability benefit payments to individuals who suffered injury or illness on the job (\$3.050 billion).

Reduce Occupational Fatalities

Performance Goal 07-3A (OSHA) – FY 2007

Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations and standards.

Indicators, Targets and Results		
*Indicator target reached (Y), improved (I), or not reached (N) **Estimated		FY 2007 Goal Achieved
Days away from work, job restriction and job transfer (DART) per 100 workers	Target	2.3
	Result	2.2**
	*	Y
Workplace fatalities per 100,000 workers (for sectors covered by the Occupational Safety and Health Act)	Target	1.73
	Result	1.64
	*	Y
Goal Net Cost (millions)		\$547
Source(s): OSHA Integrated Management Information System (IMIS); Bureau of Labor Statistics (BLS) Current Employment Statistics (CES) and Annual Survey of Occupational Injuries and Illnesses (ASOII).		
Legacy Data: Complete indicators, targets and results for FY 2003-06 are available in the FY 2006 report at http://www.dol.gov/_sec/media/reports/annual2006/PGD.htm . See Performance Goals 06-3.1C and 06-3.1D.		
Note: A third indicator, "Rate of workplace injuries and illnesses in new worksites participating in VPP Programs," appeared in the DOL FY 2008 Performance Budget Overview. However, this indicator has been eliminated. In addition, baselines and targets for the first two indicators were updated from the FY 2008 Performance Budget to reflect the latest data. This year, the method of calculating the fatality indicator results has changed from a three-year average to an annual average, invalidating a comparison of FY 2007 to FY 2003-FY 2006 targets and results. Costs for this goal are net costs as defined in a footnote to the Cost of Results discussion in Management's Discussion and Analysis. Costs are not allocated to OSHA's two performance indicators because the same activities contribute to reductions in fatality and injury/illness indicators, i.e., their costs are not separable. Calendar year is designated by "CY."		

Program Perspective and Logic

For over 35 years, OSHA has promoted employee safety and health in the United States by collaborating with employers and employees to create safer working environments. A strong, fair, and effective enforcement program underpins OSHA's efforts to protect the safety and health of the nation's employees. Outreach, education and compliance assistance complement enforcement and enable OSHA to play a vital role in preventing on-the-job injuries, illnesses and fatalities.

Changes in the economy and employment, emerging and new technologies, and workforce characteristics affect OSHA's performance. The majority of working Americans fall under the jurisdiction of Federal OSHA or federally-approved State plans (with the exception of as miners, transportation workers, some public employees, and the self-employed). OSHA helps to reduce on-the-job deaths by intervening at workplaces where it has evidence that fatalities are more likely to occur and by responding to reports about potentially life-threatening workplace hazards.

OSHA tracks fatalities to develop targeted national and local programs and to measure performance. OSHA is working to reduce the workplace fatality rate by five percent between FY 2006-2011 and the injury and illness rate by 15 percent between CY 2005-2011. OSHA uses data from its Integrated Management Information System to track fatalities, to develop national and local programs, and to measure performance. OSHA uses data from the Bureau of Labor Statistics Survey of Injuries and Illnesses to estimate the rate of injuries and illnesses involving days away from work, job restriction, or job transfer (DART).

Analysis and Future Plans

This year, the injury and illness rate declined to an estimated 2.2 per 100 workers from the CY 2005 baseline of 2.4, and the fatality rate for sectors covered by the Occupational Safety and Health Act declined from the FY 2006 baseline of 1.75 to 1.64 deaths per 100,000 workers.



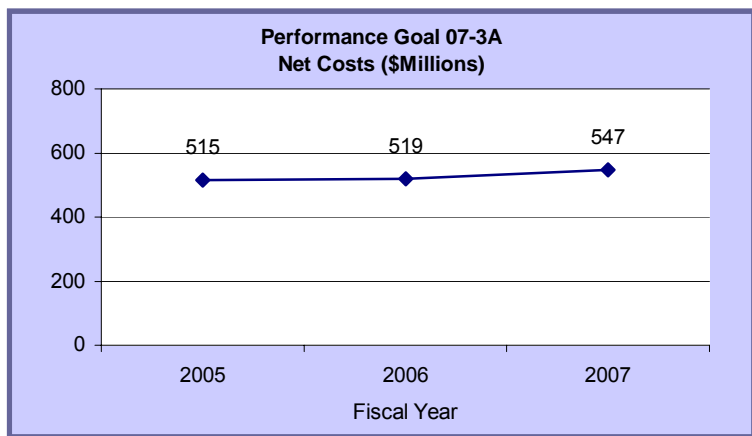
OSHA uses targeted enforcement strategies called Local Emphasis Programs (LEPs) to reduce or eliminate specific occupational hazards. LEPs address hazards or industries that pose a risk to workers in a particular locality, and are accompanied by outreach to help build awareness of the program and specific occupational hazards. In FY 2006, OSHA's



Bismarck, ND Area Office launched an LEP in response to six complaints involving three near-miss accidents where equipment failure could have resulted in crushing injuries to employees working with automotive lifts. Since inception, over 30 local establishments have been inspected through this LEP, and hazards such as inadequate automotive lifts and improper inspection protocol were identified and corrected. [Photo credits: DOL/OSHA]

OSHA emphasized the importance of timely input of fatality data from OSHA's field offices and from State plan partners operating their own OSHA programs. To work toward the targeted reductions in fatalities, OSHA identified and targeted sectors and hazards that required interventions and increased its compliance assistance efforts. For example, OSHA is addressing the growth in the construction field of immigrant and non-English speaking workers by translating more of the agency's safety and health materials into other languages, especially Spanish. The agency is creating compliance assistance materials that employers can use to effectively communicate safety and health issues, such as workplace hazards, to employees.

In June, the agency established a National Emphasis Program (NEP) to reduce or eliminate workplace hazards associated with the catastrophic release of highly hazardous chemicals at petroleum refineries. In July, OSHA established a separate NEP to identify and reduce or eliminate exposures to butter-flavoring chemicals used in facilities that manufacture microwave popcorn. To accomplish the goal of reduced exposures, OSHA's efforts in both NEPs include targeted inspections and extensive compliance assistance. OSHA's Site Specific Targeting (SST) Program uses establishment-specific injury and illness data collected through the OSHA Data Initiative (ODI) to identify and target for inspection worksites that experience high rates of injury and illness.



The costs associated with this performance goal increased by 5.4 percent between FY 2006 and FY 2007. The primary reasons for this change are budgetary increases to allocations for: pay adjustments and personnel benefits; development of the OSHA Information System to improve the agency's ability to identify cost-effective methods of collecting complete and comparable data on program outcomes; and a rise in agency and Department level indirect costs. Costs are allocated across the two performance indicators as reflected in the Indicators, Targets and Results table.

PART, Program Evaluations and Audits

OSHA underwent a PART reassessment in 2007 and received a rating of *Adequate* – the same rating as in 2002. In response to the PART reassessment, OSHA will develop a cost efficiency measure that covers a substantial portion of its budget and will start regulatory reforms identified in GAO's 2005 Report to Congress on the Costs and Benefits of Federal Regulation. Finally, DOL is conducting rigorous, independent evaluations to examine the effectiveness and efficiency of OSHA's programmatic approaches.

“Disaster Preparedness: Better Planning Would Improve OSHA’s Efforts to Protect Workers’ Safety and Health in Disasters,” March 2007 (GAO)

Purpose: Assess how well OSHA carried out its responsibilities under the National Response Plan (NRP) in the aftermath of Hurricane Katrina and lessons learned that will enable OSHA to perform better in the future.

Major Findings: OSHA provided assistance to many agencies and workers, but its efforts to meet the safety and health needs of all workers were hampered by several factors, including the fact that not all agencies were cognizant of the assistance OSHA was providing and details of OSHA's and FEMA's roles were unclear.

Recommendations:

- 1) Clearly define the criteria to be used in deciding when OSHA will be responsible for carrying out its duties under the Worker Safety and Health Support Annex to the National Response Plan.
- 2) Clearly define OSHA's and FEMA's roles under the Worker Safety and Health Support Annex.
- 3) Proactively work to provide information to Federal, State, and local agencies about OSHA's role in a disaster and the assistance it can provide under the Worker Safety and Health Support Annex.

Actions Taken and Remaining:

- 1) In March 2006, OSHA began working with FEMA to develop a Standard Operating Procedure (SOP) that provides guidance on how and when OSHA should be activated.
- 2) The OSHA/FEMA SOP also addresses the roles and responsibilities of each Agency when the Annex is implemented.
- 3) OSHA continues to seek opportunities to acquaint all involved in emergency response with the importance of worker safety and health measures and how OSHA can help protect responders in the aftermath of a disaster.

Additional Information: The report (GAO-07-193) is available at <http://www.gao.gov/new.items/d07193.pdf>.

Data Quality and Major Management Challenges

Data quality for this performance goal was rated *Good*. Strengths of the data include accuracy and reliability. For the fatality goal, the agency relies on its Integrated Management Information System (IMIS) for fatality data and BLS Current Employment Statistics for employment data. IMIS data provides the best count of fatalities under OSHA jurisdiction. The IMIS and the BLS Current Employment Statistics data are complete, reliable, accurate, and verifiable. IMIS, which has numerous automated quality control and edit checks, uses a well-defined and tested protocol for counting. For the injury and illness goal, the agency uses data from the BLS Annual Survey of Occupational Injuries and Illnesses. While this survey provides the most comprehensive and reliable injury and illness data currently available on a national level, results are not available until nine and a half months after the end of the calendar survey year. Consequently, OSHA's estimate for the fiscal year is a projection based on available data from calendar year 2003 onward.

Collecting complete and comprehensive data on OSHA's Voluntary Programs is a Major Management Challenge (MMC) for the Department (see item I, *Protecting the Safety and Health of Workers*, in the MMC section of Management's Discussion and Analysis). While OSHA's voluntary compliance programs yield many positive outcomes, much of the agency's data is limited according to the OIG. GAO recommended that OSHA identify cost-effective methods of collecting complete and comparable data on program outcomes. In response, OSHA now collects more complete and sufficient data on voluntary programs as a result of program refinements and is developing a new OSHA Information System – to be completed in September 2009. Also, at the 2007 Annual Consultation Conference, OSHA clarified the conditions in which Consultation Program Officers may grant extensions to employers with serious workplace hazards. OSHA's new Information System will alert Consultation Program Officers to report these employers for enforcement action and will not allow program officers to grant extensions to employers to correct serious hazards unless they have the proper interim protections for their employees in place.

Reduce Mine Fatalities and Injuries

Performance Goal 07-3B (MSHA) – FY 2007

Reduce work-related fatalities, injuries, and illnesses in mines.

Indicators, Targets and Results						
*Indicator target reached (Y), improved (I), or not reached (N) **Estimated Some indicators not shown for FY 2003-06 – see Legacy Data note below		FY 2003 Goal Not Achieved	FY 2004 Goal Sub- stantially Achieved	FY 2005 Goal Not Achieved	FY 2006 Goal Not Achieved	FY 2007 Goal Sub- stantially Achieved
Mine industry fatal injury incidence rate (per 200,000 hours worked)	Target	.020	.022	.022	.021	.0201
	Result	.023	.017	.018	.022	.0142**
	*	N	Y	Y	N	Y
	Cost	—	—	—	—	\$121
Mine industry all-injury incidence rate (per 200,000 hours worked)	Target	3.79	3.85	3.48	3.13	2.82
	Result	4.26	4.07	3.90	3.69	3.43**
	*	N	N	N	N	I
	Cost	—	—	—	—	\$107
Percent of respirable coal dust samples exceeding the applicable standards for designated occupations	Target	14.2%	11.1%	10.1%	9.5%	9.0%
	Result	11.7%	10.2%	10.8%	11.3%	13.6%**
	*	Y	Y	N	N	N
	Cost	—	—	—	—	\$50
Percent of silica dust samples taken with a result that is less than half of the exposure limit in metal and nonmetal mines	Target	—	—	—	—	75.5%
	Result	—	—	—	—	32.0%**
	*	—	—	—	—	Y
	Cost	—	—	—	—	\$35
Percent of noise samples taken with a result that is less than half of the exposure limit in metal and nonmetal mines	Target	—	—	—	—	71.3%
	Result	—	—	—	—	64%**
	*	—	—	—	—	Y
	Cost	—	—	—	—	\$18
Percent of noise exposures above the citation level in coal mines	Target	—	—	baseline	5.0%	4.8%
	Result	—	—	5.3%	4.4%	3.3%**
	*	—	—	N	Y	Y
	Cost	—	—	—	—	\$25
Goal Net Cost (millions)		—	—	\$307	\$348	\$356
Source(s): Mine Accident, Injury, and Employment information that mine operators and non-exempt contractors report to MSHA under Title 30 Code of Federal Regulations Part 50; dust samples collected by MSHA inspectors; Coal Mine Safety and Health MIS; and Metal and Non-Metal Mine Safety and Health MIS.						
Legacy Data: Complete indicators, targets and results for FY 2002-06 are available in the FY 2006 report at http://www.dol.gov/sec/media/reports/annual2006/PGD.htm . See Performance Goals 06-3.1A and 06-3.1B.						
Note: In FY 2003-06, MSHA had separate safety and health goals and in FY 2005, OSHA and MSHA shared performance goals. Achievement is restated as if there had been a single MSHA goal. Costs for this goal are net costs as defined in a footnote to the Cost of Results discussion in Management's Discussion and Analysis.						

Program Perspective and Logic

MSHA ensures compliance with the Federal Mine Safety and Health Act (Mine Act) of 1977 and the Mine Improvement and New Emergency Response (MINER) Act of 2006, laws designed to prevent serious occupational injuries and illnesses in the mining industry. America’s mining industry has made significant strides over the last 30 years. In FY 1978, the first year that MSHA operated under the Mine Act, 242 miners died in mining accidents. In FY 2000-2005, fatalities in the mining industry and the fatal injury rate both declined by 35 percent. In FY 2006, 72 fatalities were reported.



Remembering Gary Jensen

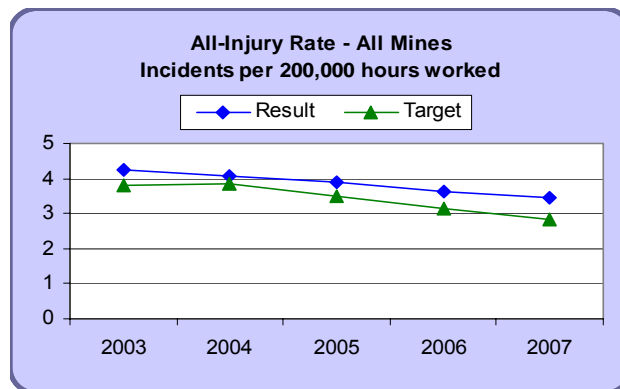
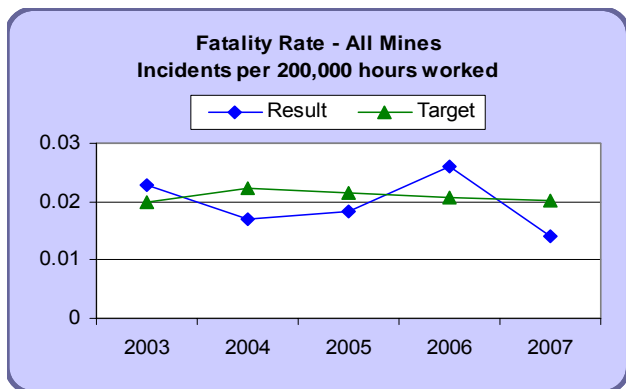
On August 16, 2007, Gary L. Jensen, a Coal Mine Safety and Health Inspector from MSHA District 9, lost his life while working as a member of a mine rescue team trying to save six miners who were trapped underground at the Crandall Canyon Mine in Utah. In his tribute to Gary, MSHA District Manager Allyn Davis, shared these sentiments: “Gary was one of our best and a member of our mine rescue team. He was the ultimate mining safety professional. He worked tirelessly in an attempt to ensure that the nation’s coal miners could return home after work to their loved ones.”

The mining workplace is hazardous. Methane gas and airborne particulates, unseen geologic instabilities, constantly changing terrain, and other environmental conditions inside the mines make mine safety and health a continuing challenge. MSHA’s performance indicators assess effectiveness of its efforts to protect the safety and health of the Nation’s miners. Incidence

rates, the number of fatalities and injuries per 200,000 hours worked by miners, are used by MSHA to measure its performance. These rates reflect not only the number of fatalities and injuries but also the amount of time miners are exposed to potential hazards. There are two sets of health indicators for this performance goal – two for coal mines and two for metal and non-metal mines.

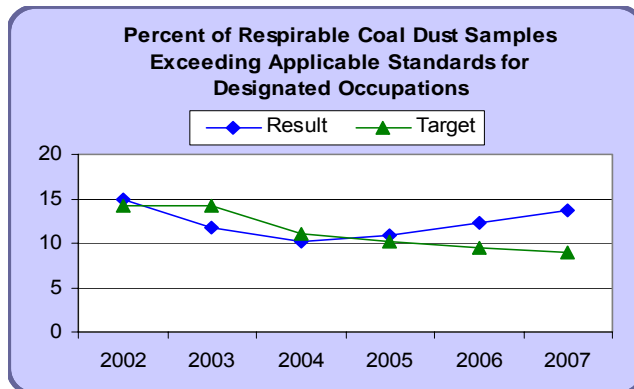
Analysis and Future Plans

MSHA substantially achieved its performance goal, reaching four of six indicator targets, improving results for one and not reaching another. The fatality rate indicator target was reached, while the all-injury incidence rate dropped for the fourth consecutive year but did not reach the target. The coal dust exposure target was not reached, but the three targets for silica dust and noise were reached.



MSHA set an ambitious target to reduce the mine all-injury rate by over 25 percent from FY 2003 to FY 2007. The agency did not revise the target even though mining activity increased in response to heightened demand for mined resources, including coal. Although MSHA did not reach its ambitious target, the all-injury rate has decreased by over 20 percent since FY 2003. This significant accomplishment was in part attributable to MSHA’s ambitious target-setting which helped drive the agency’s performance to achieve the reduction.

MSHA did not meet its coal dust exposure reduction target. As was the case last year, attainment of the target was complicated by increased coal production, which is correlated with new mining entities that lack adequate dust control and more difficult mining processes that generate dust at a higher rate. To prevent overexposures, MSHA continues its targeted enforcement and compliance assistance efforts at problem mines. In FY 2008, MSHA will increase its technical assistance on the implementation of the MINER Act, which contains numerous provisions to enhance miner safety and health.



Between FY 2006 and FY 2007, costs for this performance goal increased by less than two percent, which is considered within normal variance connected with the timing of expenditures. The more significant increase from FY 2005-06 is partially attributed to higher compensation and rent expenses.

PART, Program Evaluations and Audits

The MSHA program underwent a PART review in 2003 received a rating of *Adequate*. The improvement plan includes continuing targeted enforcement and compliance assistance actions at high-risk mines beyond the requirements of the Mine Act with initiatives such as the Cooperative Accident Reduction Effort, analyzing the costs and benefits of major regulatory alternatives in the agency's Regulatory Impact Analyses for proposed regulations, and developing efficiency and cost-effectiveness measures for a larger percentage of MSHA's program activities. In FY 2007, MSHA targeted compliance assistance to the cement industry based on numerous explosions associated with the pulverized coal that is used to fuel kilns that heat crushed limestone to produce cement. MSHA issued a hazard alert and followed up with letters that described practices and asked each plant to perform a risk analysis and implement controls and process modifications. As a result, the incidence of explosions decreased.

MSHA Revises Mine Evacuation and Safety Regulations

On June 15, 2006, President Bush signed the MINER Act of 2006, which was designed to enhance mine safety training, improve safety and communications technology for miners, and provide more emergency supplies of breathable air along mine escape routes. In December 2006, MSHA adopted a revised Emergency Temporary Standard for Mine Evacuation, which requires increased availability of portable breathing devices in underground mines and training in the use of the breathing devices. The rule also requires improved emergency evacuation drills; installation and maintenance of ropes (lifelines) to guide miners to an escape route when smoke reduces visibility in underground coal mines; and mine operators to immediately notify MSHA once a mine operator knows or should have known a mine accident occurred. MSHA estimates that annual cost to the underground mining industry will be approximately \$44 million and that, if the final rule had been in effect, 45 fatalities might have been prevented in four previous mining accidents.

MSHA programs have been audited by both OIG and GAO over the past year. The audits have resulted in numerous recommendations, which MSHA is implementing. Recommendations include hiring of new mine inspectors, improving tracking systems to ensure that mine operators correct identified hazards, and improving miner training. More details regarding these recommendations are discussed in the audit report summaries below. Also, the Department, working through the National Science Foundation's Industry/University Cooperative Research Center enables Dr. Robin Murphy, a renowned robotics expert, to assist in mine research. The partnership, which focuses on underground communication devices and new mine rescue technologies, will provide MSHA with an independent appraisal of these cutting-edge technologies to assist in efforts to rescue miners.

"Mine Safety: Better Oversight and Coordination by MSHA and Other Federal Agencies Could Improve Safety for Underground Coal Miners," May 2007 (GAO)

Purpose: In Report No. GAO-07-622, GAO examined the challenges underground coal mines face in preparing for emergencies, how well MSHA oversees mine operators' training efforts, how well MSHA and National Institute for Occupational Safety and Health (NIOSH) coordinate to enhance the development and approval of mine

safety technology, and how MSHA assesses civil penalties.

Major Findings:

- 1) MSHA did not provide all mine operators with information for training under simulated emergency conditions and its oversight of miner training was hampered by inconsistent guidelines for approving new instructors and a lack of continuing education requirements.
- 2) MSHA did not adequately monitor instructors, evaluate training sessions, or assess how well miners learned skills being taught.
- 3) The MOU with NIOSH is out of date, and, while most penalties proposed by MSHA are paid by mine operators without opposition, a small percentage are appealed and reduced significantly.

Recommendations: Strengthen the efforts to improve mine operators' access to tools to train their workers, strengthen MSHA's oversight of training, improve the effectiveness of information sharing between MSHA and NIOSH, and ensure that there is transparency in penalty appeal determinations.

Actions Taken and Remaining:

- 1) MSHA has begun implementing GAO's recommendations to establish a "single-source" page identifying facilities for simulated mine rescue training and electronically track instructors and improve training reviews to ensure that information and objectives are met.
- 2) MSHA will conduct a sample survey of miners to determine if the training is adequate and beneficial. MSHA is also developing an instructor evaluation and feedback plan to determine the effectiveness of instruction.
- 3) MSHA renewed its efforts to develop an MOU with NIOSH and committed to ensuring that litigation representatives and attorneys are adequately documenting rationales for all civil penalty settlement agreements.

Additional Information: To view a copy of the report, please visit <http://www.gao.gov/new.items/d07622.pdf>.

“MSHA's Revised Hiring Process Has Improved the Agency's Recruiting Efforts, but Its Human Capital Strategic Plan Does Not Adequately Project or Address Its Future Workforce Needs,” May 2007 (GAO)

Purpose: GAO conducted a follow-up evaluation (GAO-07-704R) to review MSHA's plan for addressing anticipated shortages in the number of qualified inspectors due to upcoming retirements.

Major Findings: In 2003, GAO recommended that MSHA develop a plan for addressing anticipated shortages in the number of qualified inspectors due to upcoming retirements, including streamlining the agency's hiring process. While MSHA has taken significant steps to improve its hiring process, the agency's human capital plan does not include a strategic approach for addressing the large number of retirements expected in the next five years. MSHA estimates that over 40 percent of its inspectors will be eligible for retirement by 2012. District officials expressed concerns about the impact that losing experienced inspectors may have on the agency's ability to achieve its goals, particularly completing required safety and health inspections on time.

Recommendations: GAO recommended that MSHA engage in a strategic planning effort that utilizes the data it collects on expected retirements and actual attrition to develop goals that can be monitored and evaluated.

Actions Taken and Remaining: In response to the GAO's recommendations, MSHA revised its Human Resources Strategic Plan so that it will serve as a strategy roadmap and a means to measure performance. The plan is available from David Meyer at (202) 693-9802.

Additional Information: A copy of the follow-up report is available at <http://www.gao.gov/new.items/d07704r.pdf>.

“MSHA's Office of Coal Mine Safety and Health Needs to Strengthen its Accountability Program” August 2007 (OIG)

Purpose: Because of the increase in coal mining accidents in 2006, the OIG audited MSHA's Accountability Program, which was established to evaluate the quality of MSHA enforcement activities.

Major Findings: MSHA's Accountability Program did not provide adequate assurance that Coal Mine Safety and Health oversight responsibilities were effectively and consistently performed and the results were not effectively used to improve operations timely and consistently.

Recommendations: The OIG made 14 recommendations to improve the accountability program. These included ensuring that the selection of enforcement activities is objective and includes on-site mine visits. Use of a standard format for reports and a centralized tracking system to ensure that identified common deficiencies, corrective actions, and best practices are communicated were also recommended.

Actions Taken and Remaining: Nine recommendations will be resolved pending MSHA revising its Accountability Program by January 2008. Three recommendations were unresolved pending MSHA's submission of specific corrective actions and milestone dates. For two recommendations, MSHA did not fully concur.

Additional Information: Please see: http://www.oig.dol.gov/public/reports/oa/2007/05-07-002-06-001.pdf
“MSHA Needs to Improve Controls Over Performance Data” December 2006 (OIG)
Purpose: The OIG conducted the audit to determine the completeness and reliability of MSHA’s performance data.
Major Findings: MSHA could not ensure it had accounted for all miner hours worked by mine operators or independent contractors. Certain contractors are exempt from reporting work hour information, and MSHA does not expend sufficient resources conducting reviews or audits to verify that work hour information submitted by mine operators or contractors is valid. In addition, the OIG found that MSHA did not have data to support the testing to ensure that noise exposures did not exceed established limits.
Recommendations: OIG recommended that MSHA verify and validate mine operators’ reporting of all hours worked for both employees and contractors and that MSHA develop and implement controls for procedures that require systematic and regular entry of noise sample data.
Actions Taken and Remaining: MSHA updated coal noise sampling procedures and revised the Metal and Nonmetal Handbook to require inspectors to verify accuracy of noise sampling reports. MSHA does not concur with findings and recommendations regarding mine operator and contractor work hour data.
Additional Information: Please see: http://www.oig.dol.gov/public/reports/oa/2007/22-07-008-06-001.pdf

Data Quality and Major Management Challenges

Data quality for this goal was rated *Good*. Fatality and all-injury rates are calculated using actual hours worked at mines. Accidents and hours worked are obtained from reports required of mine operators.³³ Information quality is maintained through built-in checks at the electronic and manual points of data entry as well as through audits conducted by MSHA enforcement personnel. MSHA safety and health compliance specialists conduct dust and noise sampling in accordance with established written procedures. While data for some health indicators lacked timeliness in the past, MSHA has worked diligently to correct this issue.

MSHA has a Departmental Major Management Challenge (see item I, *Protecting the Safety and Health of Workers*, in the MMC section of Management’s Discussion and Analysis). OIG and GAO have pointed out the lack of data on contractor hours worked at the mine level. Most recently, OIG conducted an audit of MSHA’s performance data, which resulted in a recommendation that mine operators report all hours worked for both employees and contractors to allow verification that all data needed to support the reported injuries and fatalities have been included. MSHA officials did not agree with the recommendation because they believe that the data on contractor hours are sufficient at the national level for calculating the all-injury and fatality rates. However, having contractor data at the mine level could enhance enforcement effectiveness; MSHA may require non-exempt contractor hours to be reported at the mine level. OIG also pointed out that some MSHA District or Field Offices did not record their noise sample results and some did not record the correct date of the sample results. Consequently, MSHA revised its Metal and Nonmetal Handbook to require inspectors to verify that their noise sampling results are entered accurately into MSHA’s information system.

OIG also conducted an audit of MSHA’s accountability program and determined that the program, as designed, did not provide adequate assurance that Coal Mine Safety and Health’s oversight responsibilities were effectively and consistently performed and that MSHA did not always use the results of the reviews to improve its operations. In addition, in response to previous GAO audit recommendations, MSHA has a succession planning initiative in place to replace the mine inspectors who will be retiring in the near future. MSHA has developed and implemented systems that ensure that mine operators and contractors comply with the Mine Act. This includes the Mine Plan Approval Database, which enables headquarters to monitor the timely submission and approval of all required and optional plans including critical ventilation and roof control plans; and the Hazardous Condition Complaints Database, which tracks hazardous condition complaints from receipt to investigation and resolution. Complaints can be submitted online, via telephone, in writing or verbally. Headquarter and district management can monitor daily activities to ensure that complaints that allege imminent danger are followed up with timely field office inspections.

³³ Certain independent contractors are exempt from reporting employment and injury information if they participate in “low hazard” mining activities as defined by MSHA policy. Non-exempt contractors report employment information for aggregate work locations, not by individual mine site.

Protect Workers' Wages

Performance Goal 07-3C (ESA) – FY 2007

Ensure workers receive the wages due them.

Indicators, Targets and Results					
*Indicator target reached (Y), improved (I), or not reached (N) Some indicators not shown for FY 2004-06 – see Legacy Data note below		FY 2004 Goal Achieved	FY 2005 Goal Achieved	FY 2006 Goal Achieved	FY 2007 Goal Not Achieved
Number of workers for whom there is an agreement to pay or an agreement to remedy per 1,000 enforcement hours in complaint cases	Target	—	—	baseline	296
	Result	—	—	293	271
	*	—	—	Y	N
	Cost	—	—	\$112	\$123
Percent of prior violators who achieved and maintained FLSA compliance following a full FLSA investigation	Target	74%	72%	73%	77%
	Result	71%	72%	76%	66%
	*	N	Y	Y	N
	Cost	—	—	\$27	\$30
Low-wage workers assisted per 1,000 case hours	Target	—	—	—	304
	Result	—	—	—	418
	*	—	—	—	Y
	Cost	—	—	\$39	\$45
Number of wage determination data submission forms processed per 1,000 hours	Target	baseline	1,506	1,491	1,852
	Result	1,491	1,667	1,834	2,636
	*	Y	Y	Y	Y
	Cost	—	—	\$23	\$23
Goal Net Cost (millions)		—	\$214	\$214	\$221
Source(s): Wage and Hour Investigator Support and Reporting Database (WHISARD); significant activity reports; regional logs and reports on local initiatives; and investigation-based compliance surveys.					
Legacy Data: Complete indicators, targets and results for FY 2003-06 are available in the FY 2006 report at http://www.dol.gov/sec/media/reports/annual2006/PGD.htm . See Performance Goal 06-2.1A.					
Note: Costs for this goal are net costs as defined in a footnote to the Cost of Results discussion in Management's Discussion and Analysis.					

Program Perspective and Logic

The Employment Standards Administration's Wage and Hour Division (WHD)'s mission is to promote and achieve compliance with labor standards that protect and enhance the welfare of the Nation's workforce. Through WHD, the Department assures compliance with laws establishing minimum standards for wages and working conditions. These include the minimum wage, overtime, and youth employment provisions of the Fair Labor Standards Act (FLSA) and the protections afforded to workers under the Migrant and Seasonal Agricultural Worker Protection Act and the Family and Medical Leave Act. WHD enforces field sanitation standards in agriculture and government contract prevailing wage statutes and administers the wage determination provisions of the Davis-Bacon and Service Contract Acts.

The program's performance objectives are to maximize benefits for the greatest number of workers through efficient complaint resolution, to promote sustained compliance among investigated employers, to increase

compliance on behalf of low-wage workers in industries with the most persistent and serious violations, and to ensure accurate and timely wage rates. WHD balances its resources among key strategies – compliance assistance, partnerships and collaborative efforts, and complaint-driven and directed enforcement. Compliance assistance activities promote voluntary compliance by employers. Partnerships broaden the program’s impact. Directed enforcement in low-wage industries – where workers are reluctant to complain – detects, remedies, and deters violations. Complaint investigations serve individual complainants and provide opportunities for detecting and remedying violations on behalf of other employees.

In 2005, WHD’s southeast region began a concerted effort to reduce the number of farmworker fatalities and injuries. The State of Florida requires Farm Labor Contractors (FLCs) and employees who transport workers to pass a certification examination, so WHD and the State agreed to update the State study guide with safety information on 15-passenger vans. WHD provided this information to registered FLCs and conducted presentations on the Migrant and Seasonal Agricultural Worker Protection Act transportation safety requirements, including operation of buses, environmental factors affecting safe operation, driver impairment, and use of cell phones. Since 2004, reported annual agriculture-related transportation fatalities in Florida have declined from 13 to 4, and the number involving 15-passenger vans declined from 11 to 2. [Photo credit: DOL/ESA]



WHD measures results for each of its four performance objectives. The wage determination program indicator monitors the survey process to improve the timeliness of Davis-Bacon Act wage determinations. The performance indicators for complaint investigations and low-wage industries promote efficiencies and encourage remedies for all potentially affected workers. WHD conducts an annual survey of prior violators in order to track long-term recidivism trends, which are used to establish goals and assess the agency’s impact on employer behavior. Through the strategic use of complaint investigations, which represent approximately 70 to 75 percent of enforcement resources, WHD strives to increase outcomes for the greatest number of workers. Time spent by WHD staff in these key activities is the primary basis for tracking the resources allocated for each indicator.

The WHD New York City District Office’s, the Rapid Employee Assistance in Chinese Hotline (REACH) initiative offers a Chinese language hotline in New York City for Chinese-speaking workers who have questions about their pay. Through this initiative, WHD partners with Chinatown employment agencies, distributes Chinese language posters and handouts, and maintains a dedicated telephone line to provide information to workers. Since its inception in 2004, the New York City District Office has received and handled nearly 1,000 telephone calls on the REACH hotline, including requests for general information and referrals to other agencies. To date, the hotline has resulted in payment of wages of more than \$775,000 to close to 500 low-wage workers. [Photo credit: DOL/ESA]



Analysis and Future Plans

In FY 2007, WHD established ambitious targets for the agency’s four indicators. The resulting number of workers assisted per 1,000 enforcement hours in complaint cases – 271 in FY 2007 – fell short of the 296 target. WHD attributes this performance shortfall to the decline in senior investigator levels and the loss of

experienced investigators to retirement. WHD exceeded its target of 304 workers per 1,000 enforcement hours in a similar efficiency measure when it assisted 418 low-wage workers per 1,000 enforcement hours. Although performance for this measure was also adversely affected by investigator staffing issues, several significant cases helped WHD to exceed its target. The increased reliance of employers on foreign-born labor, the growth of undocumented immigration, and the increase in informal work relationships also challenge the agency's effort to efficiently resolve complaints and complete low-wage industry investigations in a timely manner. These economic and workforce trends, including associated language barriers between WHD personnel and the working community, complicate the agency's investigations and its ability to meet efficiency objectives.

Only 66 percent of prior violators were found in compliance in FY 2007, a decrease of ten percentage points from FY 2006; however, the severity of violations decreased as evidenced by fewer affected employees and less back wages owed to workers. The results for the recidivism indicator are derived from a random, investigation-based survey of employers, which makes it difficult to accurately identify a reason for the decreased level of employer compliance. The improvements with respect to the number of affected employees and resulting amount of back wages owed them, however, reflect a continued trend among recidivist employers—which is explained by WHD's focus on thorough enforcement and compliance assistance. WHD continues to significantly improve the efficiency of the wage survey process through enhanced technology. WHD processed 2,636 wage data forms per 1,000 hours, a 39 percent increase from FY 2006.

WHD will reallocate resources as opportunities to improve performance emerge. In support of its compliance priorities in low-wage industries, WHD's FY 2008 performance plan focuses on addressing the violations that may arise from informal employment relationships such as those involving contingent workforces, misdesignated independent contractors, and multiple subcontracting arrangements. Each of the agency's regional and local district offices' low-wage initiatives will include compliance activities in at least one of the low-wage industries in which contingent worker issues are common. In the coming year, the agency will analyze data and evaluations to better target those low-wage industries in which violations are likely to occur.

The costs for this performance goal increased by three percent between FY 2006 and FY 2007. The primary reason for this increase is a rise in agency and Department level indirect costs that include legal services for enforcement-related case work and audit services. Costs are allocated across the four performance indicators as reflected in the Indicators, Targets and Results table.

PART, Program Evaluations and Audits

WHD's enforcement and compliance program underwent a PART review in 2006 and received a rating of *Moderately Effective*. In response to a recommendation from the review, WHD began requiring regional and local offices to report outputs for all partnerships. The PART determined that WHD's measures were outcome-oriented, but recommended examining the ambitiousness of targets. WHD is undergoing an independent evaluation of its performance and efficiency measures, which will provide recommendations to more effectively target low-wage industries and to establish more ambitious targets. The prevailing wage determination program underwent a PART review in 2003 and received a rating of *Results Not Demonstrated*. The review found the program lacked ambitious, outcome-oriented performance measures and procedures to measure and achieve efficiencies and cost effectiveness. In response, WHD developed performance indicators and targets and conducted an external review of the program. WHD continues to examine changes to the wage survey and outreach to improve data collection processes.

External evaluations and audits highlight successes and opportunities in low-wage industries. Boston University, working with Mathematica Policy Research, Inc., completed an evaluation of business structures in two low-wage industries: eating and drinking and hotel and motel. This evaluation suggests that business structure could play a role in promoting compliance and further supports the agency's prioritization of low-wage industries.

“Low-Wage Industry Prioritization Evaluation,” August 2007 (Mathematica Policy Research, Inc./ Boston University)

Purpose: Improve targeting and compliance strategies by identifying factors and variables related to non-compliance in low-wage establishments, franchises, and industries.

Major Findings:

- 1) Business structure may influence regulatory compliance in low-wage industries.
- 2) Relative to establishments in the eating and drinking industry, fast food sector:
 - Franchised establishments are nearly twice as likely to disclose back wage violations as investigations of company-operated establishments.
 - Franchised outlets have higher rates of back wages owed per employee paid in violation compared to company-owned outlets.
 - Franchisees respond to a related, but different, set of pressures and incentives within a fast food company than do their company-owned counterparts.
 - Franchisee compliance tends to be worst the “first” time a unique franchisee is investigated.
 - Very large franchisees exhibit high levels of compliance as their incentives become more aligned with those of their franchisors.
- 3) Relative to establishments in the hotel and motel industry:
 - Ownership and management structures potentially provide methods for gaining significant impacts across hotel properties of a given brand.
 - Variation in the hotel segment may be related to predicting regulatory performance and affecting compliance behavior.
 - Franchising has become the standard ownership form in hotel and motel.
 - Where present, variation in franchise structure may be related to regulatory performance as well as other relevant outcomes.

Recommendations:

- 1) In addition to the eating and drinking industry, examine other industries where similar dynamics may be present.
- 2) Devise different interventions that draw on distinctive features of identified low-wage industries, in particular, the eating and drinking and hotel and motel industries.

Actions Taken and Remaining: As appropriate, WHD incorporated preliminary findings related to the eating and drinking and hotel and motel industries into initiatives planned for FY 2008. In FY 2008, the agency will work with contractors to devise intervention strategies that leverage industry-specific findings, as well as previous recommendations involving strategic enforcement concepts.

Additional Information: Wage and Hour Division, Office of Performance, Budget and Departmental Liaison, 200 Constitution Avenue, NW, S-3502, Washington, DC 20210, or call (202) 693-0051

Data Quality and Major Management Challenges

Data quality for this performance goal was rated *Very Good*, an improvement from the prior year's rating of *Good*. By revising one performance indicator to track annual data reported from the agency's Wage Hour Investigator Support and Reporting Database (WHISARD), WHD improved the reliability of its data quality – to the extent the agency is no longer dependent on a lengthy analysis of survey data. Strengths of program data include relevance, completeness and the quality controls in place to verify the data. With the exception of the wage determination measures, performance information is extracted from the WHISARD, the agency's record of investigative case findings and investigator enforcement time. Investigative case records are reviewed by WHD management staff and are the subject of WHD internal accountability reviews. The data are reported quarterly and performance statistics are considered throughout the agency's strategic planning process.

Foster Equal Opportunity Workplaces

Performance Goal 07-3D (ESA) – FY 2007

Federal contractors achieve equal opportunity workplaces.

Indicators, Targets and Results						
*Indicator target reached (Y), improved (I), or not reached (N)		FY 2003 Goal Achieved	FY 2004 Goal Achieved	FY 2005 Goal Achieved	FY 2006 Goal Achieved	FY 2007 Goal Achieved
Discrimination rate for audited Federal contractors	Target	9%	9%	7%	6%	2%
	Result	1.2%	1%	2%	1.7%	1%
	*	Y	Y	Y	Y	Y
	Cost	—	—	—	\$68	\$72
Compliance rate for all other EEO requirements	Target	59%	61%	62%	64%	86%
	Result	72.4%	91%	86%	87.2%	88%
	*	Y	Y	Y	Y	Y
	Cost	—	—	—	\$29	\$31
Goal Net Cost (millions)		—	—	\$99	\$97	\$103
Source(s): Case Management System (CMS)						
Note: Costs for this goal are net costs as defined in a footnote to the Cost of Results discussion in Management's Discussion and Analysis.						

Program Perspective and Logic

The Employment Standards Administration's Office of Federal Contract Compliance Programs (OFCCP) administers and ensures compliance with three equal employment opportunity laws that prohibit Federal contractors and subcontractors from discriminating on the basis of race, color, religion, sex, national origin, disability, and protected veterans' status: Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974.



For more than 30 years, OFCCP has been ensuring that Federal contractors and subcontractors comply with veteran protections under the Vietnam Era Veterans' Readjustment Assistance Act of 1974. Shown here are OFCCP Compliance Officers Ray (on the left) and Marv preparing for Operation Stand Down, Nashville's annual event to assist homeless veterans. Operation Stand Down provides services to honorably discharged veterans of the United States Armed Forces, including employment services, transitional housing, and referrals to other agencies' services. Operation Stand Down was recognized twice by the Department for its support of OFCCP's mission. [Photo credit: DOL/ESA]

Through fair and effective enforcement of these laws by OFCCP, the Department seeks to ensure that Federal contractors provide

equal employment opportunity to all applicants. By continuing to reduce the incidence of discrimination among Federal contractors, OFCCP is able to demonstrate a positive correlation between targeted

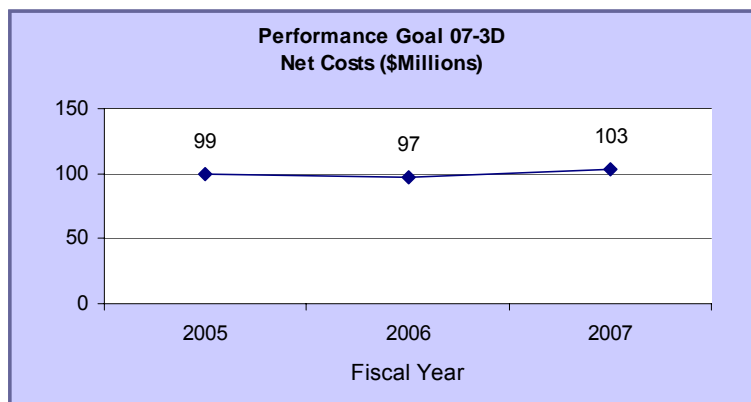
enforcement and compliance assistance activities and its performance goal of achieving equal opportunity in Federal contractor workplaces. Budgetary resources are allocated to both enforcement and compliance assistance. Program strategies are shaped by several external trends and factors, such as the total number of Federal contractors, company acquisitions and mergers, and turnover in the Federal contractor community. Compliance assistance efforts focus on raising contractor awareness of equal opportunity obligations and encouraging self-evaluations. The Compliance Assistance Program provides one-on-one customer assistance, including online tools and resources that teach contractors how to comply with Federal employment laws.

Analysis and Future Plans

OFCCP's performance indicators track compliance levels among each new group of contractors audited annually. In FY 2007, OFCCP completed 4,923 compliance evaluations, of which 60 were classified as having systemic violations. OFCCP reached its targets of reducing the incidence of discrimination among Federal contractors to two percent of all audited Federal contractors and increasing the compliance rate to 86 percent among Federal contractors in all other aspects of Equal Employment Opportunity standards.

In FY 2005, OFCCP implemented the Contracts First (C1) project to produce a contractor selection list that is based on evidence of contracts rather than voluntary self-identification provided by EEO-1 summary data. C1 continues to provide more up-to-date contract information than the EEO-1 summary data that OFCCP used in the past. In FY 2007, C1 identified almost 1500 Federal contractor establishments, in addition to those establishments identified from EEO-1 data. By using more accurate selection lists, compliance officers are able to concentrate on cases where OFCCP has established jurisdiction.

In FY 2007, OFCCP published in the Federal Register new regulations to implement the Jobs for Veterans Act (JVA), which amended the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA). The JVA amendments raised the threshold dollar amount of the Government contracts that are subject to the affirmative action provisions of VEVRAA, changed the categories of veterans protected by the law, and changed the manner in which the mandatory job listing requirement is to be implemented. OFCCP will modify its existing compliance assistance program to aid Federal contractors in satisfying the requirements outlined in the new regulations.



Costs associated with this goal rose by four percent over the past two years. Some of this increase can be attributed to the rising costs of personnel, which represent almost 80 percent of OFCCP's budget. The other significant factor is an increase in agency and Department level indirect costs that include audit services and Information Technology (IT) support. OFCCP's resource allocations seek to eliminate unproductive hours. For example, the agency's Active Case Management process decreases the amount of time spent evaluating companies with good affirmative action

program results so that compliance officers can spend that time investigating the worst offenders. OFCCP continues to develop its performance and cost information using a logic model. OFCCP has calculated unit costs for program outputs on national, regional, and individual compliance officer basis. The program also identified cost drivers that were most likely to impact the cost of a particular activity. Outputs were selected based on the percentage of their contribution to reaching performance indicator targets.

OFCCP will build upon its comprehensive compliance assistance program, having conducted more than two thousand compliance assistance events in the last three years. Compliance assistance outreach helps employers prevent unlawful discrimination by providing them with the information necessary to monitor their workplace practices effectively. The ability to identify systematic discrimination is also central to OFCCP's enforcement strategies. In selecting establishments for evaluation in FY 2008 and FY 2009, OFCCP will seek to improve the statistical model used to select Federal contractor establishments for evaluation.

PART, Program Evaluations and Audits

In 2004, a PART reassessment rated OFCCP *Adequate*, an improvement over their initial 2002 PART rating of *Results not Demonstrated*. The initial PART found that OFCCP could not quantify the impact of its civil rights enforcement efforts, and in response OFCCP implemented measures tracking the incidence of discrimination and levels of compliance. OFCCP improved its rating based on these new measures and its overall performance.

OFCCP has continued to implement PART improvement plan recommendations, which include setting more ambitious targets, reviewing program regulations and requirements to identify areas for improvement, and continuing to evaluate and modernize agency data collection processes. During last year's Departmental strategic planning process, OFCCP revised its performance targets to reflect a history of consistently and significantly exceeding past targets. The agency eliminated the Equal Opportunity Survey data collection requirement after an independent study found that it was an ineffective tool. OFCCP also updated its regulation on veterans' non-discrimination requirements and initiated revisions to its requirements regarding the collection and maintenance of gender, race and ethnicity data by Federal contractors.

Data Quality and Major Management Challenges

Data quality for this performance goal was rated *Very Good*, representing an improvement from last year's rating of *Good*. Strengths of the data include its timeliness and accuracy. Field offices routinely update the Case Management System with compliance audit data supporting performance goals, which are available in monthly, quarterly, and annual reports. OFCCP continues to improve its current information system, including enhanced data reporting capabilities and new data integrity checks.

OFCCP indirectly addressed the reliability criterion by revising performance measurement targets during the FY 2006-11 strategic planning process. OFCCP measures discrimination and compliance rates among each unique group of contractors audited each year. The reliability criterion requires that agencies demonstrate meaningful performance trends with their annual data. By taking a long-term view of performance, OFCCP will use multi-year trend data representing several groups of contractors within an audit cycle to demonstrate improvement and set ambitious long-term goals.

In addition, recognizing that validity is still a concern, OFCCP is considering ways to expand data collection to measure new performance areas using recommendations from prior program evaluations. Given its track record of consistently exceeding targets, OFCCP performance monitoring would be strengthened by measuring areas where significant improvements are possible.

Assist Veterans' Return to Jobs After Military Obligations

Performance Goal 07-3E (VETS) – FY 2007

Reduce employer-employee employment issues originating from service members' military obligations conflicting with their civilian employment.

Indicators, Targets and Results			
*Indicator target reached (Y), improved (I), or not reached (N) **Estimated		FY 2006 Goal Achieved	FY 2007 Goal Achieved
USERRA Progress Index (measures compliance and assistance performance)	Target	105%	101%
	Result	108%	110%**
	*	Y	Y
Goal Net Cost (millions)		\$11	\$10
Source(s): USERRA Information Management System (UIMS)			
Note: Costs for this goal are net costs as defined in a footnote to the Cost of Results discussion in Management's Discussion and Analysis.			

Program Perspective and Logic

The Department's Veterans' Employment and Training Service (VETS) is responsible for protecting employment and reemployment rights of persons who are current or former members of the uniformed services, and who encounter barriers in civilian employment related to their service. These rights and protections were established by the Uniformed Services Employment and Reemployment Rights Act (USERRA).

VETS provides a range of USERRA-related services, including compliance assistance to employers and protected individuals and investigation of individuals' complaints alleging violation of their rights. VETS seeks to reduce both employer violations and the filing of meritless complaints by protected individuals. The indicators for this goal focus on resolving filed claims. DOL has found that most violations and meritless complaints could be avoided with greater knowledge of the rights and protections established by USERRA. For this reason, VETS has an active compliance assistance program directed at employers and members of National Guard and Reserve units to increase knowledge and understanding of USERRA's key provisions.

Two external factors have the greatest impact on achievement of this goal: the economy and increases in military active duty periods. Both of these factors cause more service members to face difficulties associated with their civilian employment or reemployment. While the economy remains steady, the U.S. war effort continues to increase Guard and Reserve active duty periods – a trend that will likely increase USERRA activity.

Goal achievement is measured using a comprehensive Progress Index that demonstrates reduction of violations and meritless complaints by consolidating indicators of cases and assistance (non-case-related contacts) using weights for each element that are determined by service priorities. It consists of seven compliance indicators and one assistance indicator. The compliance indicators are:

- 1) Number of Guard/Reserve demobilized per USERRA claim filed by Guard/Reserve;
- 2) Number of Guard/Reserve demobilized per USERRA claim filed by Guard/Reserve in primary issues;
- 3) Number of USERRA violations;
- 4) Number of USERRA violations in primary issues;
- 5) Number of meritless USERRA claims;
- 6) Number of meritless USERRA claims in primary issues; and
- 7) Average days cases remain in VETS jurisdiction.

The assistance indicator is the number of USERRA assistance contacts per Guard/Reserve mobilized and demobilized. Other Federal agencies that handle USERRA inquiries or process USERRA claims are outside the scope of VETS' Progress Index. Those agencies include the Employer Support of the Guard and Reserve, an agency in the Department of Defense; and the U.S. Office of Special Counsel, which is participating in a demonstration project to test an alternate method of handling USERRA complaints filed by Federal employees.

Analysis and Future Plans

The goal was achieved. Preliminary reports indicate that USERRA claims decreased by four percent in FY 2007 compared to the previous year, with violations decreasing by eight percent and meritless claims decreasing by 14 percent. This progress reflects the impact of VETS' aggressive compliance assistance efforts, with over 458,000 individual contacts since September 2001. Compliance assistance efforts will continue to focus on National Guard and Reserve components, because they are the source of most USERRA claims. In FY 2006, for example, Guard/Reserve claims accounted for 84 percent of total claims. VETS expects this trend to continue and possibly increase due to mobilizations/demobilizations relating to the War Against Terrorism.

Costs associated with this goal were virtually unchanged from FY 2006-07.

PART, Program Evaluations and Audits

<p>“Military Personnel: Additional Actions Needed to Improve Oversight of Reserve Employment Issues,” February 2007 (GAO)</p>
<p>Purpose: “As reservists demobilize, concerns exist about difficulties with their civilian employment. [In Report No. GAO-07-259], GAO assessed (1) the status of DOD’s efforts to capture reservists’ employer data; (2) DOD, Labor, Justice, and Office of Special Counsel processes to track and address reservists’ USERRA complaints; and (3) the four Federal agencies’ efforts to track reservists’ USERRA complaints related to disabilities incurred while on active duty.”</p>
<p>Major Findings:</p> <ol style="list-style-type: none"> 1) Between fiscal years 2004 and 2006, the four agencies addressed approximately 16,000 informal and formal complaints. However, no one agency has total visibility over all the complaints, and only a small percentage of complaints are reported to Congress. 2) Agencies responsible for assisting reservists with USERRA issues cannot systematically record and track disability-related employment complaints because they do not use consistent and compatible complaint categories or have a mechanism in place for distinguishing disability-related complaints from others.
<p>Recommendations:</p> <ol style="list-style-type: none"> 3) Congress should consider changing the law to require Labor’s annual report to include DOD complaint data; DOD should improve its reporting of employer information; Labor should make aggregate complaint data available to DOD. 4) Agencies should adopt uniform data elements and track disability-related USERRA complaints.
<p>Actions Taken and Remaining:</p> <ol style="list-style-type: none"> 1) DOL is making aggregate USERRA complaint data available to DOD, quarterly and when requested. 2) DOL has achieved consensus among all four USERRA agencies to establish uniform data elements, including pertinent data involving USERRA disability issues, which are being tracked in Labor’s enhanced USERRA Information Management System (UIMS) version 2.0 (implemented at the beginning of FY 2007).
<p>Additional Information: Report No. GA-07-259 is available online at http://www.gao.gov/new.items/d07259.pdf.</p>
<p>“Military Personnel: Improved Quality Controls Needed over Servicemembers’ Employment Rights Claims at DOL,” July 2007 (GAO)</p>
<p>Purpose: “Under a demonstration project, from February 8, 2005, through September 30, 2007, OSC [Office of Special Counsel] is authorized to receive and investigate certain USERRA claims, with DOL continuing its investigative role for others. As required by Pub. L. No. 108-454, [Report GAO-07-907] describes the (1) processes, (2) outcomes, and (3) major changes during the demonstration project.”</p>

Major Findings:

- 1) DOL did not consistently notify claimants concerning the right to have their claims referred to OSC for further investigation or to bring their claims directly to the Merit Systems Protection Board.
- 2) At DOL, inaccurate data were included in the agency's annual report to Congress. Duplicate, reopened, and transferred claims accounted for most of this difference. GAO found the closed dates in DOL's database, which it uses to report to Congress on the number and percentage of claims it closes within 90, 120, and 365 days, were not reliable.

Recommendations: GAO recommends that:

- 1) DOL develop an internal review mechanism for all unresolved claims before they are closed and claimants are notified, and
- 2) DOL establish internal controls to ensure the accuracy of data entered into DOL's database.

Actions Taken and Remaining:

- 1) All VETS investigators received new instructions on notifying claimants of their right to referral and on recording the appropriate closure date for a claim. Furthermore, DOL is revising the USERRA Operations Manual for VETS investigators to institute systemic procedures to notify claimants in writing of their right to referral and to enter closure dates into the VETS database.
- 2) A new Quality Assurance Review process will ensure that 100% of the cases investigated, Federal and non-Federal, adhere to systemic procedures and standards; and that data entered into the VETS database accurately reflects USERRA claims processing. The process will require a higher-level review before a claimant is notified of the determinations and before cases are closed.

Additional Information: Report GAO-07-907 is available online at <http://www.gao.gov/new.items/d07907.pdf>.

Data Quality and Major Management Challenges

Data quality for this performance goal was rated *Good*, a downgrade from last year's *Excellent* rating. Validation and verification of UIMS data is accomplished periodically via Quality Assurance Reviews at State, regional, and national levels. UIMS data reflects official data documented in the hard-copy case records. GAO report findings (GAO-07-907) highlighted management challenges in data quality. GAO described improvements needed in USERRA data accuracy and reliability, which are being addressed through the new Quality Assurance Review process. As discussed above, VETS' Operations Manual and Quality Assurance Review process are being updated in FY 2008 to address these needs.