



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Fiscal Year
2008

Office of Inspector General

Annual Performance Report

The FY 2008 Annual Performance Report provides information on the Office of Inspector General's actual performance and progress in achieving the goals established in the FY 2008 Annual Performance Plan which was published in February 2008.

The goals and objectives contained within this document support the Department of Health and Human Services' Strategic Plan (available at <http://aspe.hhs.gov/hhsplan/2007/>).



Message from the Inspector General

Dear Reader:

I am pleased to present the fiscal year (FY) 2008 Annual Performance Report for the U.S. Department of Health and Human Services' (HHS) Office of Inspector General (OIG). Since its establishment in 1976, this office has consistently achieved results while fulfilling its mission to protect the integrity of HHS programs and the health and welfare of HHS program beneficiaries.

OIG's staff of more than 1,500 professionals carry out this mission through a nationwide network of audits, evaluations, investigations, and enforcement and compliance activities. Our mission encompasses more than 300 programs administered by HHS. In accordance with OIG's statutory funding allocations, we direct the majority of our resources toward safeguarding the Medicare and Medicaid programs and the health and welfare of their beneficiaries. While HHS programs continue to grow in size, scope, and complexity, the dedicated efforts of OIG's professional staff, in collaboration with our government partners, have yielded notable accomplishments in program savings, program integrity and efficiency, and quality of care.

At a time when the programs administered by HHS are becoming increasingly important to all Americans, it is essential that meaningful actions are taken to enhance the economy, efficiency, and effectiveness of HHS programs. Simultaneously, we must continue to vigilantly monitor HHS programs and operations to ensure that valuable taxpayer resources are not being diminished by fraud, waste, or abuse.

In FY 2008, OIG's contributions to safeguarding HHS programs from threats of fraud, waste, and abuse and to promoting economy, efficiency, and effectiveness in HHS programs included:

- \$2.35 billion in HHS receivables were court ordered or agreed to be paid through civil settlements that resulted from cases developed by OIG investigators;
- \$1.33 billion in audit recoveries were agreed to be pursued by HHS program managers as a result of OIG audit disallowance recommendations;
- the return on investment measuring the efficiency of OIG's health care oversight efforts continued its trend of increasing returns and reached \$17 to \$1 in the reporting period ending in FY 2008; and
- HHS program managers accepted and agreed to implement 85 of OIG's quality and management improvement recommendations.

The performance information in this report describes OIG's accomplishments in several key aspects of measuring organizational impact. At the time of this report, there are no known weaknesses in the accuracy, completeness, or reliability of the information used to develop it.

Daniel R. Levinson
Inspector General

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Office of Inspector General
Fiscal Year 2008 Annual Performance Report

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Summary of Targets and Results

Fiscal Year	Total Targets	Targets with Results Reported	Percent of Targets with Results Reported	Total Targets Met	Percent of Targets Met
2005	3	2 ¹	100%	2	100%
2006	3	3	100%	3	100%
2007	3	3	100%	3	100%
2008	3	3	100%	3	100%
2009	3	Jan. 2010	Jan. 2010	Jan. 2010	Jan. 2010

Summary of Agency Performance Outcomes

#	Key Outcomes	FY 2005 Actual	FY 2006 Actual	FY 2007 Target	FY 2007 Actual	FY 2008 Target	FY 2008 Actual	FY 2009 PB Target ⁱⁱ
1.1	Three-year moving average of expected recoveries resulting from OIG's health care oversight. ⁱⁱⁱ (Dollars in millions)	\$2,346	\$2,678	\$2,460	\$2,835	\$2,623	\$3,268	\$3,470
1.2	Three-year moving average of return on investment resulting from OIG's health care oversight. ^{iv}	\$11.6 : 1	\$14.6 : 1 ^v	\$11.4 : 1	\$16.4 : 1	\$13.5 : 1	\$17.0 : 1	\$16.6 : 1
1.3	Number of accepted quality and management improvement recommendations	73	116 ^{vi}	75	88	75	85	73

Summary of Key Outputs

Related Key Outcomes	Key Outputs	FY 2005 Actual	FY 2006 Actual	FY 2007 Actual	FY 2008 Actual	FY 2009 PB Target
1.3	Number of final evaluation reports issued	92	59	54	45	45
1.3	Timeliness – Percentage of draft evaluation reports issued within 1 year of start ^{vii}	74%	46%	55%	57%	45%
1.2 1.3	Number of final audit reports issued	337	364	457 ^{viii}	381	245
1.2 1.3	Timeliness – Percentage of audit reports issued within 1 year of start	66%	73%	73%	60%	60%
1.1 1.2	Number of complaints received for investigation	3,774	3,941	4,897	4,832	n/a
1.1 1.2	Number investigative cases opened	1,660	1,690	2,003	2,121	1,938
1.1 1.2	Number investigative cases closed	1,790	1,562	1,723	1,922	1,736

Performance Detail

The OIG Annual Performance Report includes three measures that express significant aspects of the organization's progress in accomplishing its mission of combating fraud, waste, and abuse and promoting economy, efficiency, and effectiveness in HHS programs and operations. These performance measures are:

- (1) a 3-year moving average of expected recoveries resulting from OIG health care oversight,
- (2) a 3-year moving average of the return on investment resulting from OIG health care oversight, and
- (3) the number of accepted quality and management recommendations.

OIG is a collaborative organization, and performance measures of its effectiveness reflect its joint successes and interdependence with a network of oversight and enforcement partners at all levels of government. For example, OIG's investigators and attorneys work closely with the Department of Justice (DOJ), State Medicaid Fraud Control Units, and local law enforcement to develop cases and pursue appropriate enforcement actions. As a result of these close working relationships, OIG's performance measures for expected recoveries and return on investment are affected by the external factors impacting our partner agencies. For example, the DOJ's resource constraints and prosecutorial discretion affect the pursuit of criminal and civil enforcement actions in cases investigated and referred by OIG.

Similarly, OIG's impact in improving the economy, efficiency, and effectiveness of HHS programs and operations through audits and evaluations depends on the implementation of OIG recommendations by program managers and policymakers. Although OIG's audit and evaluation reports include findings and recommendations intended to achieve cost savings or program improvements, OIG does not have the authority to implement the corrective actions it recommends. Instead, OIG recommendations inform Congress and the HHS program officials of the potential corrective actions that may be taken to address the vulnerabilities OIG observed.

Because of this division of responsibilities for recommending and implementing program improvements, OIG reports here the number of quality and management improvement recommendations accepted by HHS program managers for implementation. When OIG makes a recommendation to disallow costs or pursue administrative or policy improvements, HHS program managers have a fixed period of time to concur or nonconcur with each recommendation. However, we note that the implementation of those recommendations may be affected by the availability of resources for implementation and other factors. As a result, some OIG recommendations are accepted by program managers but not implemented.

Summaries of OIG's implemented and unimplemented recommendations are reported in the Semiannual Report to Congress and the Compendium of Unimplemented OIG Recommendations reports, which are available in the Publications section of the OIG Web site.

Performance Measures for “Expected Recoveries” and “Return on Investment”

Summary of “Expected Recoveries” and “Return on Investment”

The OIG performance measure for expected recoveries expresses one important aspect of the direct financial benefits to the Government that result from OIG’s work. Expected recoveries are composed of financial recoveries expected to result from:

- audit disallowances that HHS program management has agreed to recoup;
- investigative returns as a result of successful prosecutions, court-ordered restitution, and out-of-court settlements; and
- administrative enforcement actions during a given reporting period.

Once OIG determines expected recoveries for a reporting period, it calculates various return-on-investment estimates. The return-on-investment measures are calculated as the ratio of expected recoveries to OIG’s annual budget authority, with the result being an expression of the financial benefit to the Government for funding OIG oversight activities. For example, a return on investment of \$10:\$1 would indicate that for every \$1 provided to the OIG, the Government expects to receive \$10 in direct financial recoveries.

OIG reports the expected recoveries and return on investment related to health care as Program Assessment Rating Tool (PART) measures for the Health Care Fraud and Abuse Control (HCFAC) program.

For both performance measures, expected recoveries and return on investment, performance is reported using a 3-year moving average. This methodology accounts for the inherent unpredictability in audit and investigations outcomes and the multiple years between the initiation of an OIG audit, evaluation, or investigation, and the resolution of those actions and recovery of funds. As a result of the multiyear duration and effects of external factors inherent in OIG’s oversight activities, there are often significant year-to-year variances in reported program outcomes. The 3-year moving average accounts for this variability and provides a more accurate depiction of results over time.

Performance Reporting for “Expected Recoveries” and “Return on Investment”

OIG’s performance measures for expected recoveries and return on investment are reported at three levels: (1) OIG oversight of all HHS programs, (2) OIG oversight of Medicare and Medicaid only, and (3) OIG oversight of all HHS non–Medicare and Medicaid programs.

The expected recoveries resulting from OIG investigative and audit oversight activities averaged \$3.41 billion per year for the 3-year period from FY 2006 through FY 2008 and exceeded all previous reporting periods and exceeded the prior reporting period by 8.5 percent. These results include an average of more than \$2.05 billion in investigative receivables and \$1.36 million in audit disallowances per year by OIG’s Office of Investigations and Office of Audit Services. The corresponding return on investment for the OIG’s oversight of all programs and operations for the same 3-year reporting period was \$14.7:\$1.

In HHS and OIG, approximately 80 percent of annual expenditures are related to the Medicare and Medicaid programs, which are administered by the HHS Centers for Medicare & Medicaid Services. At OIG, oversight efforts dedicated to Medicare and Medicaid are enabled through

funding provided by two sources: the HCFAC program, which was established by the Health Insurance Portability and Accountability Act of 1996 (P.L. No. 104-191) and the Medicaid Integrity Program, which was established by the Deficit Reduction Act of 2005 (P.L. No. 109-171). Both programs were created with the purpose of strengthening Government efforts to combat fraud, waste, and abuse in the Medicare and Medicaid programs.

The significant majority of OIG's expected recoveries are composed of audit disallowances and investigative receivables resulting from Medicare and Medicaid oversight. For the 3-year period from FY 2006 through FY 2008, OIG's expected investigative receivables and audit disallowances resulting from Medicare and Medicaid oversight averaged \$2.04 billion and \$1.22 billion per year, respectively. The result was a Medicare- and Medicaid-specific return on investment for OIG oversight of \$17:\$1.^{ix}

The remaining approximately 20 percent of OIG's budget comes from a single annual discretionary budget appropriation. In addition to using these discretionary funds for fulfilling OIG's overall oversight mission in HHS, OIG also uses these resources to perform the growing number of required roles it fulfills within the Department. Among these important contributions are investigating cases of interstate nonpayment of child support, conducting the annual financial statement audits and Federal Information Security Management Act of 2002 compliance audits, and providing physical security for the HHS Secretary. As a result of OIG's efforts in these areas, during the period from FY 2006 through FY 2008, the OIG investigative receivables and audit disallowances averaged \$4 million and \$139 million per year, respectively. The result was a return on investment of \$3.5:\$1 for OIG's oversight and program integrity efforts related to a HHS' non-Medicare and Medicaid programs and operations.

Summaries of the audits and investigations that reached resolution during FY 2008 and contributed to these performance measures are included in the OIG semiannual reports to Congress, which are located in the Publications section of the OIG Web site.^x

Samples of the outcome-oriented descriptions contained in the semiannual reports follow.

Examples of Health Care Expected Recoveries

Cephalon to Pay \$425 Million Plus Interest for Marketing Three of its Drugs for Uses Not Approved by the Food and Drug Administration. As part of a global criminal, civil, and administrative settlement, Cephalon, Inc., agreed to pay \$375 million plus interest to resolve its False Claims Act liability for the off-label marketing (that is, marketing for uses not approved by the Food and Drug Administration) of the drugs Actiq, Gabitril, and Provigil; to plead guilty to a misdemeanor violation of the Federal Food, Drug, and Cosmetic Act; and to pay a \$50 million criminal fine. Cephalon also agreed to enter a comprehensive five year corporate integrity agreement (CIA) that contains several unique provisions, including a requirement that Cephalon notify doctors about the settlement and establish a way for doctors to report questionable conduct by sales representatives.

Hospital Agrees to Pay \$88.9 Million in One of the Largest Civil Fraud Recoveries Ever Against an Individual Hospital. Staten Island University Hospital agreed to pay nearly \$89 million to resolve allegations that it defrauded Medicare, Medicaid, and TRICARE (the military's health insurance program). The settlement resolves two separate lawsuits filed in the U.S. District Court for the Eastern District of New York under the qui tam provisions of the False Claims Act and two investigations conducted by the United States, including one initiated under OIG's Self-Disclosure Protocol. As part of the settlement, the hospital entered into a 5-year CIA.

Example of Oversight of HHS' Non-Medicare and Medicaid Programs

Philadelphia County's Foster Care Claims. After reviewing Pennsylvania's claims for Title IV-E reimbursement on behalf of Philadelphia County children in foster care for whom the per diem rates were \$300 or less, OIG estimated that from October 1997 through September 2002, the State improperly claimed at least \$56.5 million of the total \$562.3 million (Federal share) claimed. As a result, OIG recommended that the State refund \$56.5 million and work with the Administration for Children and Families to determine the allowability of \$100 million related to claims that included both allowable and unallowable services. The State disagreed with the recommendations.

Performance Measure for "Number of Accepted Quality and Management Improvement Recommendations"

Summary of "Number of Accepted Quality and Management Improvement Recommendations"

In addition to the direct financial recoveries described above, OIG reports the number of accepted quality and management improvement recommendations that resulted from audit and evaluation reports during a reporting period. This performance measure captures an important aspect of OIG's efforts to identify and recommend corrections to systematic weaknesses in program administration and policy implementation. The measure also reflects a significant aspect of OIG's contribution to improving the efficiency and effectiveness of the Department's programs and operations.

When OIG completes a report that includes recommendations for program managers to disallow costs or pursue administrative or policy improvements, HHS program managers have a fixed period of time to concur or nonconcur with each recommendation. The implementation of those recommendations may be affected by the availability of resources for implementation and other factors. As a result, some OIG recommendations are accepted by program managers but not implemented.

Performance Reporting for "Number of Accepted Quality and Management Improvement Recommendations"

During FY 2008, HHS Operating and Staff Divisions accepted 85 of OIG's quality and management improvement recommendations. This result exceeded the annual target of 75 by 13 percent.

Summaries of the audits and evaluations that reached resolution during FY 2008 and contributed to this performance measure are included in the OIG semiannual reports to Congress, which are located in the Publications section of the OIG Web site.^{xi}

Samples of the outcome-oriented descriptions contained in the semiannual reports follow.

Example of "Accepted Quality and Management Improvement Recommendations"

National Cancer Institute's Monitoring of Research Project Grants. In a review of grants funded by the National Cancer Institute (NCI) for at least 1 year during FY 2004 through FY 2006, we

found that all grant files had the required progress reports and evidence of agency review; however, 41 percent of the progress reports were not received within the required timeframes. NCI, which is part of the National Institutes of Health (NIH), funded more than 4,500 grants totaling \$3 billion during the period of our review to support research into the causes, diagnosis, prevention, or treatment of cancer. NCI is responsible for monitoring grants, and grantees are required to submit progress and financial reports. We also found the following:

- Grantee financial reports were not monitored at the same level as the progress reports.
- Five of the nine grant closeouts in our sample were not completed within the timeframes specified in departmental guidelines.
- Grant files did not always have the required documentation for third-party monitoring of research grants.

We recommend that NIH initiate earlier and more frequent followup with grantees to obtain required documents, improve grant monitoring by annually verifying grantees' self-reported fund balances with external sources, develop an approach for financial reviews that is not based solely on exception, and consistently document grantee correspondence and organize grant files to assist NCI staff and third-party reviewers in following grantees' actions from inception of the grant to closeout. In its written comments to the report, NIH generally agreed with our recommendations and described actions it planned to take to improve its monitoring of research grants.

Agency Support for HHS Strategic Plan

OIG contributes to the HHS Strategic Plan directly through enforcement and compliance activities and indirectly through its reviews and recommendations for making program improvements that align to specific HHS strategic goals. The following table highlights the HHS Strategic Goals with which OIG’s program integrity activities correspond most directly.

HHS Strategic Goals	OIG Strategic Goal: Make a Positive Impact on HHS Programs
1: Health Care — Improve the safety, quality, affordability and accessibility of health care, including behavioral health care and long-term care.	
1.1 Broaden health insurance and long-term care coverage.	-
1.2 Increase health care service availability and accessibility.	X
1.3 Improve health care quality, safety, cost and value.	X
1.4 Recruit, develop and retain a competent health care workforce.	-
2: Public Health Promotion and Protection, Disease Prevention, and Emergency Preparedness — Prevent and control disease, injury, illness and disability across the lifespan, and protect the public from infectious, occupational, environmental and terrorist threats.	
2.1 Prevent the spread of infectious diseases.	-
2.2 Protect the public against injuries and environmental threats.	-
2.3 Promote and encourage preventive health care, including mental health, lifelong healthy behaviors, and recovery.	-
2.4 Prepare for and respond to natural and man-made disasters.	X
3: Human Services — Promote the economic and social well-being of individuals, families, and communities.	
3.1 Promote the economic independence and social well-being of individuals and families across the lifespan.	X
3.2 Protect the safety and foster the well-being of children and youth.	X
3.3 Encourage the development of strong, healthy and supportive communities.	-
3.4 Address the needs, strengths and abilities of vulnerable populations.	-
4: Scientific Research and Development — Advance scientific and biomedical research and development related to health and human services.	
4.1 Strengthen the pool of qualified health and behavioral science researchers.	-
4.2 Increase basic scientific knowledge to improve human health and development.	-
4.3 Conduct and oversee applied research to improve health and well-being.	X
4.4 Communicate and transfer research results into clinical, public health, and human service practice.	-

OIG's Underlying Contributions to the HHS Strategic Plan, FYs 2007–2012

OIG's diverse portfolio of program integrity activities supports the Department's responsible stewardship of taxpayer money, which includes combating fraud, waste, and abuse in all HHS programs. In particular, OIG is directed, by law, to "conduct independent and objective audits, evaluations, analysis and investigations to assess the effectiveness and efficiency of policy and program implementation."^{xii} The integrity and efficiency of HHS programs and activities contribute directly to the programs' effectiveness and so support the efforts of each HHS Operating and Staff Division and the expectations of the Secretary and the Administration. Although OIG's targeted oversight work may not directly address each HHS Strategic Goal and Objective, the work conducted by OIG indirectly contributes to the accomplishment of all HHS Strategic Goals and Objectives, which are consistent with OIG's mission and the specific principles expressed in Chapter 6 of the HHS Strategic Plan.

All three OIG performance measures, "expected recoveries," "return on investment," and "number of accepted quality and management improvement recommendations," provide evidence of OIG's contribution toward the Department's commitment to responsible stewardship of tax dollars.

Summary of Findings and Recommendations from Completed Program Evaluations

There were no program evaluations of OIG during FY 2008.

Data Source and Validation

Measure Unique Identifier	Data Source	Data Validation
1.1: Expected Recoveries	OIG data systems are used to track audit disallowances, judicial and administrative adjudications, and out-of-court settlements.	Estimates of expected recoveries are recorded in OIG data systems when (1) program managers formally agree to disallow and pursue recovery of questioned costs, (2) judicial and administrative adjudications are established, or (3) out-of-court settlements are agreed upon. ^{xiii}
1.2: Three-year Moving Average of Return on Investment Resulting From OIG's Health Care Oversight	The numerator, expected health care recoveries, is tracked in OIG data systems described in 1.1 of this table. The denominator is the amount of OIG related budget authority in a given year.	N/A
1.3: Number of Accepted Quality and Management Improvement Recommendations	OIG data systems track reports and recommendations.	OIG follows an established process for identifying, documenting and validating OIG-wide tracking and reporting of accepted recommendations.

Slight Deviations Between Targets and Actual Results

The performance target for the following measures was set at an approximate level, and the deviation from that level is slight. There was no effect on overall program or activity performance.

Program	Measure Unique Identifier
OIG	1.1 Three-year moving average of expected recoveries resulting from health care oversight and enforcement ^{xiv}
OIG	1.2 Three-year moving average of OIG health care return-on-investment
OIG	1.3: Number of accepted Quality and Management Improvement recommendations

Discontinued Performance Measures

OIG does not have any discontinued performance measures to report.

Disclosure of Assistance by Non-Federal Parties

OIG did not receive any material assistance from non-Federal parties in the preparation of the FY 2008 Annual Performance Report.

Endnotes

- i In FY 2005, OIG added a new Office of Management and Budget–approved performance measure into this report. FY 2005 was the baseline year for OIG tracking of the performance data, so we did not develop any estimates of future year outcomes.
- ii FY 2009 targets were established assuming OIG funding at level of the FY 2009 President's budget (PB). As of this reporting, no final FY 2009 appropriations bill has become law.
- iii "Expected recoveries" is composed of financial recoveries expected as a result of audit disallowances that management has agreed to recoup; investigative returns as a result of successful prosecutions, court ordered restitution, and out-of-court settlements; and administrative enforcement actions during a given reporting period. A 3-year moving average is used to account for the year-to-year variation and unpredictability inherent in the investigative and audit processes. Additional information about the calculation methodology used for these measures is available in the Performance Detail section of this report.
- iv OIG establishes targets for this measure using the best available information on audit and investigations expected to reach resolution during the reporting period. The specific steps used for calculating the return on investment are described in the Performance Detail section of this report. As described in that section, the outcomes of audits and investigations are subject to significant unpredictability. OIG's targets are therefore more appropriately termed "estimates." However, to comply with the technical instructions developing this report, we use the heading "target."
- v The Deficit Reduction Act of 2005, which became law during the second quarter of FY 2006, appropriated \$25 million per year to OIG from FY 2006 through FY 2010, to be available until expended. The funds became available to OIG late in FY 2006, so OIG was not able to expend any of the appropriation during that year. The denominator used to calculate return on investment for the period concluding in FY 2006 therefore excludes those funds.
- vi The FY 2006 result is higher than the target of 70 by nearly 60 percent because of a series of complex evaluation reports that included a large number of recommendations.
- vii The timeframe for this measure is the amount of time between an approved evaluation design and a signed draft report (or a signed final report if no draft report was issued).
- viii During FY 2007, OIG issued 42 limited objective audit reports related to funding provided to HHS by the Federal Emergency Management Administration for activities related to Gulf Coast hurricanes. These reports contributed to a significant increase in audit reports produced in FY 2007.
- ix This amount represents HHS investigative receivables only; receivables of other Federal agencies, the States, and other entities are not included here.
- x OIG Publications Web site: <http://www.oig.hhs.gov/publications.asp>
- xi OIG Publications Web site: <http://www.oig.hhs.gov/publications.asp>
- xii Inspector General Act of 1978 P.L. No. 95-452, as amended
- xiii OIG's health care expected recoveries and return-on-investment performance measures have been audited by the Government Accountability Office in the past.
- xiv Expected recoveries includes court-ordered investigative receivables and audit disallowances for which HHS program managers agree to pursue audit disallowances. We use a 3-year moving average to account for the year-to-year variation and unpredictability inherent in the audit and investigations processes.