Management's Response

Management's Response to the Inspector General's Statement on the Top Management Issues Facing the U.S. Department of Labor (September, 2004)

Since the announcement of the President's Management Agenda in 2001, the Department of Labor (DOL) continues to make solid progress in implementing the five Government-wide initiatives: *Strategic Management of Human Capital*, *Competitive Sourcing, Improved Financial Performance, Expanded Electronic Government*, and *Budget and Performance Integration*. DOL remains one of the leaders among Cabinet agencies — with status scores of *Green* for four of the five Government-wide initiatives, and progress scores of *Green* for all five. Nonetheless, we recognize the areas needing improvement and have plans in place to achieve success.

The Department recognizes that the nine challenges identified by the Inspector General represent issues of significant potential impact on the effectiveness and efficiency of DOL's programs and operations. The Department's responses identify extensive actions to address these challenges, all of which have been completed or are currently in progress. The Department anticipates that the results of initiatives to address several management issues during FY 2004 and a reassessment of other issues should enable the Inspector General to report even further progress next year.

Several of the challenges reference specific concerns reported in detail in OIG audits issued over the past several years; the management response summarizes corrective action plans taken or planned by the Department. We anticipate that the majority of these findings should be corrected within the next year. Other challenges require legislative action or require that DOL take actions jointly with non-DOL government agencies. Performance goals and strategies are provided in either the Departmental or agency annual performance plans, whenever a sustained effort requires several years to address an OIG management challenge that impacts a core program or management priority. Actions taken or planned by the Department to address each management challenge identified by the OIG are discussed below.

Top Management Challenges Facing the Department of Labor

Following are areas the Office of Inspector General (OIG) considers to be the most serious management and performance challenges facing DOL. They involve compliance, accountability, and delivery of services and benefits:

- Reducing Improper Payments
- Safeguarding Unemployment Insurance
- Integrity of Foreign Labor Certification Programs
- Financial and Performance Accountability
- Systems Planning and Development
- Information Systems Security
- Security of Employee Benefit Plan Assets
- Accounting for Real Property
- Workforce Investment Act Reauthorization

Reducing Improper Payments

Unemployment Insurance and the Use of New Hire Data
DOL was very pleased with the enactment of P.L. 108-295, which is based on draft legislation proposed DOL, and which gives state UI agencies access to the National Directory of New Hires. This will enhance states' ability to detect unreported work violations by UI claimants working in other states or for certain multi-state employers who may report all new hires to only one state. ETA is working with the Department of Health and Human Services on implementation details and will encourage states to use the directory when it becomes accessible. ETA continues to promote activities to prevent and detect overpayments. In FY 2004, $2.3 million in funds is being made available to states that submitted acceptable proposals to implement or enhance benefit payment control activities such as computer cross-matches to detect overpayments. An example of these activities would

include the use of the states' Directories of New Hires as well as an electronic data exchange between state UI agencies and the Social Security Administration.

Federal Employees' Compensation Act Program Controls
While ESA agrees that obtaining current medical evidence for long-term disability cases is important, the absence of it is not evidence of or even a likely indicator of an improper payment. Existing procedures for requesting and verifying medical reports are manual and rely on ad-hoc tracking utilized by individual claims examiners in each of the FECA Program District Offices. The long-term solution rests with the FECA Program's new automated claims processing system, which will include a disability review function that determines the presence or absence of current medical evidence in file. This will update automated claims examiner task and reminder lists through the system's workload tracking function and will also provide supervisors with the ability to list overdue tasks and ensure follow-up. The new system will be deployed in FY 2005.

The Central Bill Processing service encountered a number of problems at start-up, many of which are documented in the audit findings. The audit also documents a significant reduction in medical bill processing problems by the third quarter of FY 2004. Throughout the start-up period and on an ongoing basis, as OWCP and the contractor identify problems, corrective actions were developed and put into place. For example, completion of the medical bill Receivables Tracking/Adjustment processing design will include automated recoupment of overpayments from future payments and completion of an interface with FECA's new claims processing system. This will enable review of previous adjustments made to medical bills and creation of receivable/credit records for those adjustments. The program will be able to record the overpayments and credits currently stored in Medical Bill History to the receivable system. The development of a medical bill processing audit plan for the FECA Program based on the successful Black Lung Program's model is ahead of schedule. Draft procedures for the plan will be developed by September, 2004, with plan implementation by October 2004.

Safeguarding Unemployment Insurance

DOL again notes that there is no Federal solvency standard, and that states can borrow to make up any shortfall during economic downturns.

Unemployment Trust Fund Resources
DOL shares the OIG concern regarding IRS overcharges for administering the Unemployment Trust Fund (UTF). ETA has had several meetings with IRS to learn details and provide input into the complex methodology that has been developed, the most recent meeting being August 5, 2004. The new methodology, which IRS intends to implement beginning October 1, 2004, produces charges of the same magnitude that the OIG reported to be excessive. ETA is particularly concerned about charges for compliance and the reliance on "area experts" to estimate the amount of time devoted to collection of Federal Unemployment Tax Act (FUTA) taxes when audits are conducted related to other taxes. Problems have also surfaced relating to how IRS scrutinizes returns from multi-state employers while charging the UTF for the service.

Identity Theft and Organized Crime Activity in Unemployment Insurance Fraud
On September 17, 2004, ETA announced a second round of funding for *Benefit Payment Control* integrity-related projects. These funds will provide additional resources to implement or enhance activities, such as various computer cross-matches to detect overpayments including fraud related to identity theft. Unemployment insurance data is cross-matched with a variety of data bases including states' Directories of New Hires, Bureau of Vital Statistics, Departments of Corrections, Departments of Motor Vehicles, as well as data exchanges with the Social Security Administration.

Integrity of Foreign Labor Certification Programs

To clarify, DOL does not admit aliens into the country who may pose national security risks. Our responsibility extends only to ascertaining whether the area of intended employment has been adequately tested such that there are no available, willing, able, and prepared U.S. workers for the position being proposed by an employer.

Problems with the Labor Certification Process
We concur that reinstating Section 245(i) of the Immigration and Nationality Act (INA) resulted in dramatic increases in applications for permanent labor certification creating a major backlog in the processing of applications. ETA has attempted to eliminate the large backlog through administrative means available, however additional resources have been appropriated to begin eliminating the entire backlog.

ETA has always required, and will continue to require, foreign labor certification applications to be processed in compliance with all applicable statutes, regulations, and policies. Notices of Findings are issued routinely, as warranted, by ETA Certifying Officers. Whether an alien has earned experience with the petitioning employer is addressed in ETA policy and is routinely reviewed during the certification adjudication process. ETA is establishing central processing centers where the majority of the permanent program backlog cases referenced in the OIG will be reviewed and adjudicated. We agree with the OIG recommendation to verify an employer's current in-business status prior to certification and refer to OIG Office of Labor Racketeering and Fraud Investigations any applications where the employer is determined not to be a *bona fide* employer; accordingly, we have already built this verification process into the case-management software.

Regarding automation of the Permanent Labor Certification Program, ETA has developed a fraud detection/prevention module for use in the new Program Electronic Review Management (PERM) system. This module is being designed to quickly validate applicant information and highlight signs of risk or fraud using a public record database to be supplied and updated by a third party vendor. ETA is considering the use of additional safeguards to authenticate the identity of an employer and to maintain the integrity of the process. Once the new system is implemented, the re-engineered PERM system will mark a significant change to the labor certification process in helping to validate information. The program will identify ineligible employers using automated system edit checks.

ETA believes that statutory limitations restricting ETA in reviewing H-1B applications for completeness and obvious inaccuracies is a structural flaw in the program. Requiring employers to conduct a labor market test as part of the application process could provide a reasonable degree of protection for U.S. workers.

Regulatory Change Needed
ETA is working with representatives from interested Federal agencies on the issue of fraud in the Permanent Labor Certification Program. To clarify the point regarding substitution of aliens on approved labor certifications, the Department of Homeland Security, not the Department of Labor, receives requests from employers for an alien substitution and decides whether or not to approve the request.

Labor Certification Fraud
When denying an application for H-2B Labor Certification, alien labor certification staff attach a detailed explanation outlining all deficiencies within the application. These explanations should reduce the number of overturns by U.S. Citizenship and Immigration Services (CIS). ETA continues to work with CIS to improve H-2B application processing. ETA meets quarterly with CIS and Department of State to discuss ways to reduce fraud in the foreign labor certification programs. ETA and CIS have formed a subgroup that meets monthly to improve information sharing on employers that are currently being investigated for fraud. ETA's Foreign Labor Certification program has filled a policy analyst position whose sole focus will be on quality control and fraud-related issues.

Financial and Performance Accountability

Financial Accounting
OCFO recognizes effective project management as among the most important factors affecting the eventual success of the New Core Financial Management System Project (NCFMS). Effective and responsive project monitoring, oversight, and controls, clear and effective direction, and systems of governance can mitigate the risk of missing the intended end result. Project risks for the NCFMS are managed through the use of detailed project plans and resourced Work Breakdown Structures (WBS), which also populate the Department's Earned Value Management System. The project plan and WBS enable effective management of tasks to be performed at the activity level, monitoring resource and time consumption, and comparing baseline estimates with actual costs and

schedule. The project plan includes activities associated with the testing of the various software deliveries against DOL requirements documents, as well as responding to regulatory requirements and changes.

Both the vendor and DOL employees will conduct thorough testing and piloting in the DOL test environment. After delivery is made, confirmation testing will occur in the production environment. The NCFMS project team has engaged an independent validation and verification contractor to ensure: (1) the technical integrity of products and processes; and (2) that all data from feeder and subsystems interface with the NCFMS. In order to conduct regression testing, a baseline set of test scripts will be developed and executed as a co-requisite to introducing changes to the software.

Since the adopted software, Oracle Federal Financials 11i, has been tested and certified by the Joint Financial Management Improvement Program (JFMIP), we assume that the functionality meets all the Federal standards for financial management systems, as well as all DOL user requirements. Despite these assurances from JFMIP, the NCFMS project team plans to continually test the baseline requirements whenever new functionality or changes are introduced, and conduct regression testing to ensure the system is indeed compliant in all material respects. In addition, OCFO's partnership with the OIG will help ensure that all Federal financial system requirements and user needs are met.

Managerial Cost Accounting
In FY 2002 and FY2003 the Secretary determined that the Department was in substantial compliance with the FFMIA. However, DOL did agree that integrating performance and cost information to support decision making was a top priority and initiated the Cost Analysis Manager (CAM) project. The CAM initiative made substantial progress in FY 2004. Cost models were completed for 15 agencies to provide cost information on outputs and activities of major agency programs. OCFO selected and put into production a managerial cost accounting software tool that will serve as the CAM system for ongoing model updates, revisions, and reporting. OCFO trained approximately 50 employees representing all the participating agencies were trained in managerial cost accounting principles and methodology; these are in addition to approximately 130 employees trained in FY 2003. Additional training for Agency managers is planned for the 1st quarter of FY 2004 on how to analyze cost information and use it for decision-making. In addition, designated agency staff will be trained on how to update and maintain the models in the CAM system. Agencies have already begun to make use of information from their cost models and identified future plans for using cost information. DOL submitted a Financial Data Integration Improvement Plan to the Office of Management and Budget (OMB) outlining how agencies intend to use CAM and demonstrating existing capabilities that help in improving operations and reporting results.

The CAM system uses financial information supplied by the Department's core accounting system (DOLAR$), along with labor distribution and workload information. As such, the CAM system provides DOL the capability to integrate performance and cost information to support agency program managers at all levels. As part of the cost model development process for each Agency, the OCFO CAM team analyzed and documented financial data for the agency cost models. Based on that analysis, the OCFO CAM team determined that the type and level of financial information provided by DOLAR$ meets the managerial cost accounting needs of the agencies and that no changes are needed to support the CAM system.

In FY 2005, agencies will update their models to include cost information for FY 2004. Agencies will also refine and expand their cost models to meet their specific cost information needs. OCFO expects to improve agency cost models by refining resource and activity assignments, adding and revising significant outputs, improving allocation of overhead and support costs, and further mapping of outputs to performance goals. Automation of data collection (from DOLAR$ core accounting system, agency workload and time tracking systems) and standard report preparation are also planned.

Quality Performance Data
ETA currently requires data validation for three employment and training programs: (1) Workforce Investment Act (WIA); (2) Employment Service (ES); and (3) Trade Adjustment Assistance (TAA). The agency is developing data validation software and guidance for three additional programs to be implemented during 2005: (1) National Farmworker Jobs Program (NFJP); (2) Indian and Native Americans (INA); and (3) Senior Community Service Employment Program (SCSEP). OMB approved DOL's request to collect data validation results from the states on August 31, 2004.

ETA issued Training and Employment Guidance Letter No. 3-03, Change 1, *Data Validation Policy for Employment and Training Programs,* in August, 2004 which gave states new timelines for data validation and provided guidance on acceptable source documents to be used in validating data elements related to eligibility and performance. States are required to complete report validation for WIA prior to submitting the Program Year 2003 Annual Report on October 1, 2004. ETA requires report validation and minimal data element validation. Report validation for the ETA 9002 and VETS 200 reports must be conducted prior to submission on November 15, 2004. States are required to conduct data element validation on the cumulative file of four quarters of the FY 2004 TAPR by February 1, 2005. ETA is continuing to provide data validation software and technical assistance to states during the validation process. NFJP grantees will receive data validation training in November 2004. Data element validation for PY 2003 must be completed by June 15, 2005. Validation software, instructions, training and timetables for INA and SCSEP will be issued at a later date.

Single Audit
We share the OIG's concerns about the adequacy of Single Audit Act (SAA) audit coverage of its programs. In our oversight and monitoring activities, we will continue our efforts to ensure that covered recipients and sub-recipients have required audits performed, that audit findings are appropriately resolved, and that audit results are used to improve program performance. In FY 2004 and beyond, DOL will establish quality controls more proactively through implementation of the Improper Payments Information Act of 2002. For every program/activity with significant erroneous payments, the Department will construct a statistically valid methodology and program design to estimate the annual amount of erroneous payments, analyze the causes of the errors, and ensure progress in reducing the amount of erroneous payments. These actions will allow the Department to more effectively target payment errors. DOL will also conduct periodic reviews to improve internal controls and train staff to provide guidance on maintaining these controls over the long term. ILAB completed an assessment which confirmed that the single audits conducted for ILAB's grantees do not provide all the information necessary for adequate oversight of the international child labor program. To address this, ILAB recently entered into a contract, with OIG's support, for an independent public accounting firm to examine grantees' compliance with applicable regulations and cooperative agreement provisions and the reliability of their financial and performance reports.

Systems Planning and Development

Information Systems Planning and Implementation
The Office of Chief Information Officer (OCIO) continues to implement a comprehensive project management structure that employs a rigorous system development life-cycle management process that includes checks and balances to ensure projects are being executed according to plan, within budget and meeting performance expectations. This is accomplished through systematic quarterly reviews carried out in accordance with the Department's Capital Planning, Investment, and Control Process. During this monitoring/review process, the OCIO and the Departmental Budget Center evaluate the progress of information technology (IT) projects against a range of parameters, including: cost, schedule and performance; enterprise architecture alignment; and compliance with security requirements. IT development projects are then rated on quarterly review "scorecards" in each of these categories.

Maturing this development life-cycle management process further, the Chief Information Officer established policy for and implemented through the OCIO an earned value management system (EVMS) for major IT investments in FY 2004. By memorandum of September 27, 2004, the Deputy Chief Information Officer issued detailed for guidance for implementation of the Department's EVMS. The EVMS routinely captures standardized, detailed information for monitoring the cost, schedule and performance of major IT investments over time. Systematic tracking of this data allows project managers and DOL top management to be informed in a timely manner about the progress of IT development projects; this facilitates their ability to make informed decisions about project direction and continued investment in projects. The Department's EVMS is in compliance with current standards and guidance from the Office of Management and Budget, including ANSI Standard 748.

The overall Departmental IT management structure continued to be strengthened. In FY 2004, three IT Project Management classes were conducted for DOL IT professionals; 48 staff members completed the training.

Fourteen IT professionals also submitted applications to complete the Project Management Professional (PMP) certification exam in FY 2004. Going forward in FY 2005, IT Project Management classes will be offered on a quarterly basis, and project management modules will be included in the Department's Skillsoft online learning library. Contracting Officers Technical Representative (COTR) training was also provided to the OCIO Programs and the Information Technology Center entire senior staff to enhance the management and oversight of systems planning and development services acquired through contract.

The Office of Management and Budget (OMB) continued in FY2004 to positively rate the Department's performance under the E-Government component of the President's Management Agenda (PMA). The Department has a modernization blueprint that focuses IT investments, has steadily improved its business cases for IT development projects and closely tracks cost, schedule and performance metrics for information systems implementation. DOL has been rated "green" for progress against these and other criteria for measuring E-Government performance since inception of the PMA scorecard and reached "green" for status in September 2004.

E-Payroll
DOL will migrate its payroll operations to the National Finance Center (NFC) in FY 2005. At the inception of the project, OCFO submitted a complete and approved conversion plan. Additionally, the OCFO validated that the pay-affecting data of its employees contained in Peoplepower, DOL's current payroll system, was complete and accurate. OASAM then implemented a department-wide data validation process to confirm OCFO's results. Furthermore, HR users and IT executives were involved in the project since inception leading training and telecommunication efforts.

Davis-Bacon Prevailing Wage Determination
ESA/WHD agrees with the OIG that the Davis-Bacon Act (DBA) wage determination process should be accomplished under the most efficient and effective system possible. ESA/WHD remains unconvinced, that the Audit Report provides adequate justification to promote statutory changes to the Davis-Bacon Act as recommended by the OIG. ESA/WHD also has several concerns with OIG conclusions relating to errors in the wage data, bias in the wage date, and the timeliness of wage decisions. ESA/WHD believes, as the Government Accountability Office (GAO) noted in May 1999, that the system changes currently being pursued under DBA program have the potential to improve wage determinations.

Although ESA/WHD did not agree with OIG concerns about the current universe survey approach as opposed to a sample survey approach, there is justification to reexamine our previous conclusions and intends to explore with the Bureau of Labor Statistics (BLS) the possibility of using BLS data for purposes of establishing prevailing wage rates under DBA. ESA/WHD believes that any change to a sample survey methodology for DBA wage determinations should involve the use of BLS data rather than create a whole new sample survey program conducted by ESA/WHD.

OSHA System Development Efforts
OSHA accepted the recommendations from the OIG. The agency had previously suspended further work on the IMIS Redesign and had contracted for an independent assessment of its IMIS Redesign activities. OSHA is awaiting the contractor's final report. Receipt of that evaluation will assist the agency in determining how best to proceed in complying with the OIG recommendations.

Information Systems Security

IT Security Controls
The Office of the Chief Information Officer (OCIO) performed a comprehensive review of the Department's Security Program to measure its efficiency and effectiveness. This review included a broad assessment of security vulnerabilities identified by the OIG, as well as applicable Departmental IT security policies and procedures. Based on this review, a DOL Plan of Actions and Milestones (POA&M) was developed which mapped out a strategy to mitigate identified security vulnerabilities and other program areas needing improvement. Agency senior management was advised by the Chief Information Officer to give priority and resources to their agency-specific vulnerabilities prior to funding new IT investments. Agencies were also advised to ensure these vulnerabilities and their corrective actions were documented in their Plans of Actions and

Milestones (POA&Ms). In addition, the OCIO established several focus groups comprised of representatives from multiple Departmental agencies to leverage agency expertise and assistance in enhancing the Department's Cyber Security Program.

Accomplishments in IT security improvements include:
- Completing mitigation activities to close 62 and resolve 21 of 99 outstanding OIG audit recommendations, including ten FECA recommendations that were closed and one that was resolved in FY 2004. Remaining FECA issues will be addressed in the new claims processing system, scheduled to be deployed in FY 2005. Progress was also made in implementing mitigating activities for State UI systems. Eight UI system recommendations were closed and six were resolved in FY 04. Additionally, data encryption and testing has been implemented for data transfers between the State UI systems and the Federal systems. A Federal IT team is working with the State Workforce agencies to provide guidance and instructions on computer security requirements.
- Developing Contingency Plans for 92% of major systems, and testing 64% of those plans.
- Revising the DOL Computer Security Handbook to include more comprehensive security procedures and guidance.
- Completing Authority to Operate documentation for 95% of Major Information Systems.
- Completing security testing and evaluation for over 90% of Major Information Systems.
- Completing Computer Security Awareness and Training for some 99% of employees and contractors.

The Department's completion of ATO's for the vast majority of DOL's Major Information Systems was favorably noted in OMB's 3rd Quarter PMA scorecard for E-Government. The Department will continue to assess the efficiency and effectiveness of its IT security controls and focus on mitigating security vulnerabilities. Currently, the Department is directing attention to improving its Contingency Planning testing and vulnerabilities associated with logical security controls and wireless technologies.

Security of Employee Benefit Plan Assets

Safeguards to Protect Pension Assets
Between 1991 and 1997, the Department submitted legislative proposals calling for the repeal of the limited-scope audit provision and calling for reforms to strengthen plan audits. During that same period, DOL also proposed legislative changes that would require direct reporting of certain criminal violations relating to employee benefit plans. Neither the House nor Senate reported legislation out of committee.

The Department continues to take steps to improve the audit process established by the Employee Retirement Income Security Act of 1974 (ERISA). In February 2003, EBSA initiated its second nationwide review to assess the quality of employee benefit plan audits. The study involved a statistical sample of 300 plan audits and assessed compliance with professional accounting and auditing standards; a report of study findings is being prepared. Ongoing DOL initiatives include cooperative efforts with the accounting profession, such as referral of deficient accountant work to State boards of accountancy and to the American Institute of Certified Public Accountants (AICPA) for appropriate remedial and disciplinary actions. In addition, EBSA will be coordinating closely with the Public Company Accounting Oversight Board (created by the Sarbanes – Oxley Act) and continue its active involvement with the AICPA and the Financial Accounting Standards Board (FASB) to develop accounting guidance for employee benefit plans and additional technical materials for CPAs to use in conducting audits of employee benefit plans.

Pension Plan Fraud
During the past few years, EBSA has stepped up its criminal enforcement program. During FY 2004, EBSA's criminal investigations led to the indictment of 121 individuals for crimes related to employee benefit plans. EBSA will continue to target criminal cases in various ways that have yielded successful results in the past (e.g., analyzing computer data, gathering information through civil investigations, leads from plan participants, plan officials, informants, and media sources, and information gained from other government agencies). EBSA also maintains close working relationships with other law enforcement agencies such as the U.S. Attorneys, the FBI, Postal Inspectors, and OIG.

For employer-sponsored 401(k) plans, including multi-employer 401(k) plans, EBSA has had a national enforcement project since 1995 focusing on the failure of employers to timely remit employee contributions to

401(k) plans. From the project's inception, EBSA has closed over 9,400 civil investigations (over 72% with violations and monetary results). EBSA has achieved monetary results of over $337 million nationwide through this project and criminally prosecuted 137 persons.

Finally, while not all violations can be prevented, EBSA is proactive in the early detection and prevention of wrongdoing by, among other things, aggressive outreach and education campaigns. Education campaigns create knowledgeable consumers who can assist in identifying issues within their own benefit plans. EBSA also seeks to leverage its enforcement resources. In its Strategic Enforcement Plan, published in April 2000, EBSA identified plan service providers as a national investigative priority. Investigations of plan service providers offer the opportunity to address abusive practices that may affect more than one plan. By focusing investigative resources on plan service providers, EBSA can address violations involving many plans.

EBSA's Voluntary Fiduciary Correction Program (VFCP) continues to enhance the security of pension assets. Through the VFCP, plan sponsors self-correct delinquent participant contributions and other ERISA violations. Sponsors that meet the conditions of the VFCP and a related Class Exemption receive relief from civil enforcement action and any applicable penalties and excise taxes. EBSA received 474 VFCP applications during FY 2004, and verified approximately $264 million in corrections. In FY 2004, EBSA contacted hundreds of 401(k) sponsors regarding delinquent contributions reported on the Form 5500 Annual Report. That initiative resulted in additional correction of losses and increased participation in the VFCP.

Cash Balance Pension Plans
The Department's regulatory and enforcement authority in this area is limited. DOL cannot take any enforcement action or begin working with the IRS on additional guidance until the IRS determines whether or not there were violations of Internal Revenue Code and ERISA. Consequently, the Department forwarded a copy of the OIG report and supporting work papers to the IRS for its review and comments. We await IRS' response, and will provide assistance in developing new guidance if IRS determines this action is warranted. However, Treasury appropriations law includes a provision prohibiting Treasury/IRS from spending funds to take action with respect to implementing rules or regulations concerning cash balance plans.

Corrupt Multiple Employer Welfare Arrangements (MEWAs)
Stopping the abusive practices of corrupt Multiple Employer Welfare Arrangements (MEWAs) and their operators is one of EBSA's top priorities. EBSA is fully committed to putting an end to the fraudulent and abusive practices of those individuals preying on the American worker, using a three-pronged approach.

First, we focus on prevention by educating employers and consumers. Secretary Chao released detailed guidance to over 80 leaders of America's small business community outlining steps they can take to avoid being taken in and asking them to inform their membership. EBSA has also published and distributed educational materials, including a booklet explaining Federal and State regulation of MEWAs, and guidance for workers on what to do when claims aren't paid or coverage is lost. All these materials are available on our website and are distributed in outreach sessions we hold with consumers, small employers, and service providers throughout the country. Second, EBSA aggressively pursues civil and criminal enforcement actions to shut down scams. By conducting parallel civil and criminal investigations, EBSA has battled hard to stem this abuse both by shutting down corrupt MEWAs through civil court orders and by criminally prosecuting those responsible for operating the illegal enterprises. Third, the Administration strongly supports legislation to establish a secure and affordable alternative for small businesses looking to purchase health insurance for their workers - Association Health Plans (AHPs). The AHP legislation contains strong provisions to combat fraud, including mandatory certification of all AHPs, solvency standards for both insured and self-insured arrangements, and rigorous State and Federal oversight. With AHPs, small employers and their workers will be assured that their health insurance is secure.

EBSA is well aware that corrupt MEWAs are not a federal issue alone but one where the states also have jurisdictional interest. In many instances, the states have filed cease and desist orders to shut down a corrupt MEWA before it causes significant harm. In other cases, the states have been able to revoke or suspend the licenses of insurance agents. EBSA has worked very closely with state insurance departments and the National Association of Insurance Commissioners (NAIC) to coordinate our enforcement efforts. NAIC coordinates the sharing of information regarding potential corrupt MEWAs with EBSA contacts in each of the regions, as well as with State department of insurance contacts. The NAIC also coordinates on-going MEWA activity through an e-

mail contact list which allows EBSA and various State departments of insurance representatives to communicate about on-going and emerging problems.

More recently, EBSA has encouraged the Department of Justice to prosecute these complex financial, white-collar crimes. EBSA has worked closely with the Department of Justice in identifying corrupt MEWAs as an emerging area of health care fraud. In April 2004 EBSA spoke with a number of United States Attorneys regarding corrupt MEWAs, educating U.S. Attorneys about the problem, and encouraging them to emphasize the prosecution of these MEWA operators. EBSA has also participated in the Department of Justice's national Health Care Fraud Working Group meetings to bring attention to the problem. The Department of Justice recently issued an advisory memorandum to all U.S. Attorneys emphasizing the need for increased prosecution of corrupt MEWA operators. EBSA assisted in preparing and coordinating the memorandum.

Accounting for Real Property

Job Corps Real Property
ETA completed its first annual (physical) inventory of Job Corp capitalized real property in January 2004. This effort served to resolve differences between the Job Corp site survey data and the CATARS, and reconciliation of CATARS to DOLAR$ for land has been completed. Procedures are in place to ensure that future Job Corp land acquisitions are entered in the CATARS, and that all additions and dispositions are processed timely.

State Workforce Agency Real Property
ETA is in general agreement with the OIG's concerns about the need to: (1) maintain an accurate, up-to-date inventory and valuation of State Workforce Agency (SWA) real property; and (2) insure that states properly handle the proceeds resulting from the disposition of real property with federal equity. Currently, ETA sends a letter to SWA Administrators every two years asking them to review and update the information in our property records. ETA then updates its inventory records with state-provided information. ETA acknowledges that, although this is the best information available, these records are not always current or accurate. ETA has a Training and Employment Guidance Letter (TEGL) on SWA real property in the final clearance process. This guidance requires states to report changes and/or updates to their real property data by November 30, 2004 and re-emphasizes the requirement that states must remit the proceeds from real property sales to DOL. ETA is working on issuing a Field Memorandum (FM) which requires ETA regional offices to follow-up and ensure that states promptly update their property inventory records.

Workforce Investment Act Reauthorization

As of September 2004, the House and Senate WIA reauthorization bills that were passed in 2003 are still awaiting conference. DOL has taken numerous steps to address the concerns outlined in the OIG findings, even while we await further action on WIA reauthorization. In addition to the specific steps referenced above, ETA convened two Federal/State Policy Forums in 2004 to discuss high-level policy issues such as those identified by the OIG. The continued implementation of the President's High-Growth Job Training Initiative is also helping to address these key issues by funding innovative partnerships between the workforce investment system, business and training providers to train adults and young people for jobs that are in demand.