Semiannual Report to Congress

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OFFICE OF INSPECTOR GENERAL
E PLURIBUS UNUM
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DEPARTMENT OF LABOR

A Message from the Inspector General

After being confirmed by the United States Senate, I assumed the position of Inspector General for the U.S. Department of Labor (DOL) on November 4, 2013. I am honored to lead the Office of Inspector General (OIG) and to work to improve DOL programs and operations. It is thus my privilege to submit this Semiannual Report to the Congress, which highlights the most significant activities and accomplishments of this office for the six-month period ending September 30, 2013.

During this reporting period, the OIG issued 30 audit and other reports that, among other things, recommended that $440.4 million in funds be put to better use. The OIG also questioned approximately $8.4 million in costs relating to DOL programs. Significant findings reported herein include the following:

- Significant budget overruns in the Job Corps program, which ultimately resulted in the temporary freezing of student enrollment, were caused by a lack of managerial oversight by Employment and Training Administration senior leadership.
- Additional guidance and oversight to employee benefit plans holding as much as $1 trillion in hard-to-value alternative investments are needed to protect retiree assets.
- Job Corps contracts totaling $353 million were awarded on a sole-source basis when they should have been competed to ensure best value to the government.
- The Mine Safety and Health Administration did not fully comply with federal laws and regulations and did not implement adequate internal controls while planning and organizing its biennial Mine Rescue Training Contests.

The OIG's investigative work also yielded impressive results, with a total of 257 indictments, 293 convictions, and $36.8 million in monetary accomplishments. Results highlighted in this report include that the following:

- The founder and former president of the National Association of Special Police and Security Officers in Washington, D.C., was sentenced to 76 months in prison and ordered to pay restitution of more than $252,000 for stealing funds from the union's pension plan.
- The former president of Massey Energy Company's Green Valley Resource Group was sentenced in West Virginia to 42 months of incarceration for his role in conspiring to impede MSHA inspections and to violate mine safety and health laws.
- A Louisiana woman was sentenced to 57 months in prison for creating false identification documents and impersonating a federal Occupational Safety and Health Administration trainer.
- A New Jersey man was sentenced to 27 months in prison and ordered to pay restitution of more than $1.6 million for his role in an Unemployment Insurance fraud scheme.

I look forward to working with the Department and Congress to ensure the effectiveness, efficiency, and integrity of DOL programs and operations, and to combat labor racketeering in all its forms.

Scott S. Dahl
Inspector General

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Selected Statistics

Investigative recoveries, cost-efficiencies, restitutions, fines and penalties, forfeitures, and civil monetary action	$36.8 million
Investigative cases opened	248
Investigative cases closed	253
Investigative cases referred for prosecution	204
Investigative cases referred for administrative/civil action	106
Indictments	257
Convictions	293
Debarments	14
Audit and other reports issued	30
Total questioned costs	$8.4 million
Funds recommended for better use[1]	$440.4 million
Outstanding questioned costs resolved during this period[2]	$1.2 million
Allowed	$0.5 million
Disallowed	$0.7 million

1 The term "recommendation that funds be put to better use" means a recommendation by the OIG that funds could be used more efficiently or achieve greater program effectiveness if management took actions to implement and complete the recommendation. This term is defined by the Inspector General Act and includes, among other things: reductions in future outlays; deobligation of funds from programs or operations; costs not incurred in the future by implementing recommended improvements related to the operations of the establishment, a contractor, or grantee; and any other savings specifically identified, including reverting funds to the U.S. Treasury to be used for other purposes.

2 As defined by the IG Act, questioned costs include alleged violations of law, regulations, contracts, grants or agreements; costs not supported by adequate documentation; or the expenditure of funds for an intended purpose that was unnecessary or unreasonable. Disallowed costs are costs the OIG questioned during an audit as unsupported or unallowable and the Grant/Contracting Officer has determined the auditee should repay. The Department is responsible for collecting the debts established. The amount collected may be less than the amount disallowed, and monies recovered usually cannot be used to fund other program operations and are returned to the U.S. Treasury.

Significant Concerns

The OIG works with the Department of Labor and Congress to provide information and recommendations that will be useful in their management or oversight of the Department. The OIG has identified the following areas of significant concern and particularly vulnerable to mismanagement, error, fraud, waste, or abuse. Most of these issues appear in our annual Top Management Challenges report required under the Reports Consolidation Act of 2000. The Top Management Challenges report can be found in its entirety at www.oig.dol.gov.

Protecting the Safety and Health of Workers

With more than eight million establishments under the oversight of the Occupational Safety and Health Administration (OSHA), the OIG remains concerned with OSHA's ability to best target its compliance activities to those areas where it can have the greatest impact. OSHA carries out its enforcement responsibilities through a combination of self-initiated and complaint investigations but can reach only a fraction of the entities it regulates. Consequently, OSHA must strive to target the most egregious and persistent violators and protect the most vulnerable worker populations. We are also concerned with OSHA's ability to measure the impact of its policies and programs and those of the 21 states authorized by OSHA to operate their own safety and health programs.

Protecting the Safety and Health of Miners

The OIG is similarly concerned with the ability of the Mine Safety and Health Administration (MSHA) to effectively manage its resources to meet statutory mine inspection requirements, while successfully administering other enforcement responsibilities. Our audits have shown that MSHA remains challenged in maintaining a cadre of experienced and properly trained enforcement staff to meet its statutory enforcement obligations. MSHA also faces challenges in establishing a successful accountability program, and some deficiencies continue to recur. MSHA has taken several steps in the past year to address findings found in previous audits and reports, but MSHA needs to continue its efforts to help ensure that miners are afforded all protections so they can safely return home at the end of each work day.

Improving Performance Accountability of Workforce Investment Act Grants

Another area of concern for the OIG is the Department's ability to ensure that the Workforce Investment Act (WIA) grant programs are successful in training and placing workers in suitable employment to reduce chronic unemployment, underemployment, and reliance on social payments by the population it serves. Our audit work over several decades, primarily as it relates to discretionary grants, has documented the difficulties encountered by the Department in obtaining quality employment and training providers; ensuring that performance expectations are clear to grantees and sub-grantees; obtaining accurate and reliable data by which to measure and assess the success of grantees and states in meeting the program's goals; providing active oversight of the grant

making and grant execution process; disseminating proven strategies and programs for replication; and, most critically, ensuring that training provided by grantees leads to placement in training-related jobs paying a living wage.

Ensuring the Effectiveness of the Job Corps Program

The Job Corps program's administrative and financial management weaknesses and, in particular, recent budget overruns that affected program operations remain a significant concern for the OIG. In addition to identifying weak management oversight over program expenditures, our audits have found that the Department is challenged in providing a safe, residential and nonresidential education and training program which results in outcomes that truly assist at-risk, disadvantaged youth (ages 16 to24) in turning their lives around, including placement in training-related employment, entrance into advanced vocational/apprenticeship training, entrance into higher education, or enlistment in the military. Over the years, the OIG has consistently documented the Department's difficulty in ensuring the quality of residential life, a critical component of the Job Corps' intensive intervention experience. Specifically, our audits have disclosed safety and health hazards and physical maintenance needs at various centers as well as, in some instances, a lack of enforcement of disciplinary policies. Our audits have also demonstrated the challenge the Department faces in obtaining and documenting desired program outcomes. The OIG continues to recommend that Job Corps provide rigorous oversight of contractors at all centers to: ensure they provide a safe environment that is conducive to learning; improve the transparency and reliability of performance metrics and outcomes; and ensure that center operators and other service providers provide best value services to the government and comply with applicable procurement requirements.

Reducing Improper Payments

The Department's ability to identify and reduce the rate of improper payments in the Unemployment Insurance (UI), Federal Employees Compensation Act (FECA) and WIA programs continues to be a concern for the OIG. Notably, the Office of Management and Budget (OMB) has designated the UI and WIA programs as being at risk for improper payments. For fiscal year (FY) 2013, the Department reported improper payments totaling approximately $7.68 billion for the UI program, which are mainly the result of claimants who have returned to work and continue to claim UI benefits. OIG investigations also continue to uncover fraud committed by individual UI recipients who do not report or underreport earnings, as well as fraud related to fictitious employer schemes. Similarly, we remain concerned with the Department's ability to identify the full extent of improper payments in the FECA and WIA programs. As highlighted in past OIG audits, the estimation method used for the FECA program does not appear to provide a reasonable estimate of improper payments. OIG investigations continue to identify significant amounts of FECA compensation and medical provider fraud. For the WIA program, the Department has attempted to identify the full extent of improper payments by including estimates from other sources, but it should continue to consider other sampling methods in order to provide a more complete estimate of improper payments. Further, the Department needs to provide full disclosure in the Agency Financial Report regarding the limitations of the data used to estimate WIA overpayments.

Maintaining the Integrity of Foreign Labor Certification Programs

The Department's administration of the foreign labor certification process, which permits U.S. businesses access to foreign workers to meet their workforce needs while protecting the jobs and wages of U.S. workers, has been a concern the OIG has raised

since the mid-1990s. Our latest audit work continues to identify the need for a more active, meaningful role for the Department in ensuring the integrity of its foreign labor certification programs. Among our concerns is that DOL is statutorily required to certify H-1B applications unless it determines them to be "incomplete or obviously inaccurate." In addition, OIG audits and investigations have shown the H-1B program to be susceptible to significant fraud and abuse, particularly by immigration attorneys, labor brokers, and transnational organized crime groups. Our investigations have revealed schemes where fraudulent applications were filed with DOL on behalf of fictitious companies, individuals, and unscrupulous businesses seeking to acquire foreign workers. Similarly, two audits of the H-2B program issued in 2011 and 2012 identified systemic weaknesses in the self-attestation system used by employers in support of their labor certification application requests.

Ensuring the Security of Employee Benefit Plan Assets

Limited enforcement authority and resources present challenges to DOL in achieving its mission of administering and enforcing Employee Retirement Income Security Act (ERISA) requirements protecting approximately 141 million participants and beneficiaries. Given the number of benefit plans that the agency oversees relative to the number of investigators, the Employee Benefits Security Administration (EBSA's) has to focus its available resources on investigations that it believes will most likely result in the deterrence, detection, and correction of ERISA violations. Among EBSA's challenges over the past couple of decades has been the fact that billions in pension assets held in otherwise regulated entities, such as banks, escape audit scrutiny. These concerns were renewed by recent audit findings that as much as $3.3 trillion in pension assets received these types of limited-scope audits, providing no assurances to participants as to the financial health of their plans. EBSA is further challenged by the many changes that have taken place in the employee benefit plan community since ERISA was enacted in 1974, such as the shift from defined benefit retirement plans to defined contribution retirement plans, as well as the large increase in the types and complexity of investment products available to pension plans. In fact, an audit of EBSA's oversight of employee benefit plans that hold alternative investments totaling almost $3 trillion found that EBSA needs to do more to ensure plan Administrator properly identify and value hard-to-value investments. In addition, beginning in FY 2014, key provisions of the Affordable Care Act (ACA) will come into effect, and EBSA will be responsible for ensuring plan sponsors and their benefit plans comply with the new law.

Securing and Protecting Information Management Systems

Safeguarding data and information systems is a continuing challenge for all federal agencies, including DOL. Recent OIG audits have identified deficiencies in configuration management, account management, vulnerability management, as well as security and access controls weaknesses in key departmental financial and support systems. These deficiencies can pose an increased risk to the security of data and information maintained in DOL systems.

Ensuring the Effectiveness of Veterans' Employment and Training Services Programs

Providing meaningful employment and training services to military veterans and members transitioning to civilian employment remains a challenge for the Department. The Veterans' Employment and Training Service (VETS) issues grants to State Workforce Agencies to assist veterans in obtaining and maintaining gainful employment. Our audits have

found that VETS needs to do a better job of accurately assessing veterans' needs and documenting the intensive services it provides, such as career planning and counseling, to help veterans overcome significant barriers to employment.

Improving Procurement Integrity

Ensuring the integrity of the Department's procurement activities is also of concern to the OIG. Until procurement and programmatic responsibilities are properly separated and effective controls are put into place, DOL will continue to be at risk for wasteful and abusive procurement practices. Our most recent audits and investigations of DOL's procurement activities have identified the need for better control and monitoring of procurement activities delegated to program agencies.

Employment and Training Programs

Employment and Training Grants

The Department's Employment and Training Administration (ETA) administers numerous grant programs pursuant to the Workforce Investment Act (WIA). WIA adult employment and training services are provided through formula grants to states and territories, or through competitive grants to service providers to design and operate programs for disadvantaged, often unemployed persons. ETA awards grants to states to provide reemployment services and retraining assistance to individuals dislocated from their employment. Youth programs are funded through grant awards that support program activities and services to prepare low-income youth for academic and employment success, including summer jobs. In addition, ETA administers the Senior Community Service Employment Program, which was authorized by the Older Americans Act to provide subsidized, service-based training for low-income persons aged 55 or older who are unemployed and have poor employment prospects. ETA also received funding as part of the American Recovery and Reinvestment Act of 2009 (Recovery Act).

Recovery Act: Required Employment and Case Management Services Under the Trade and Globalization Adjustment Assistance Act of 2009

Under the Recovery Act, the Trade and Globalization Adjustment Assistance Act (TGAAA) reauthorized the Trade Adjustment Assistance program (TAA) and required cooperating state agencies to make available eight specific employment and case management services to eligible workers who lost jobs due to imports, outsourcing, or other trade policies. In June 2009, ETA distributed more than $455 million in additional TAA funds, $17 million of which was for employment and case management services.

We conducted a performance audit to assess the use of funds provided for employment and case management services to determine whether states offered eligible workers these services, whether ETA could demonstrate that the additional funding resulted in job placement and retention for participants, and to what extent eligible workers who received services or training were placed in training-related jobs that resulted in continued employment. We reviewed a statistical sample of 255 participants in 8 states for the period from the Recovery Act's inception through the end of May 2012.

Our audit found that the surveyed states provided some of the services required by TGAAA, but could not demonstrate that they offered all eight case management services. Our testing disclosed that all 255 sampled participants were eligible for the TGAAA program. However, files for 78 (31 percent) of them did not contain adequate documentation to support that all employment and case management services were offered. Although ETA issued guidance that states must document the offering of these services, most states in our sample had not effectively implemented that guidance. As a result, participants may not have received all benefits to which they were entitled under the law to increase their opportunities for employment.

We also found that ETA could not demonstrate that additional funding for employment and case management services had resulted in job

placement and retention for participants. ETA implemented the Trade Activity Participant Reports (TAPR) system in FY 2010 to streamline the TAA program activities reporting structure and to track and provide data as mandated by TGAAA. Our review of both participant files and data elements in the TAPR database did not find clear evidence that the employment and case management services had resulted in job placement and retention. We found certain data reported in TAPR were inaccurate or not supported, and therefore were not reliable. This lack of reliable data about the impact of the additional employment and case management services on the program impairs the ability of ETA, Congress, and other stakeholders to make informed decisions about the program.

We made four recommendations to ETA to improve procedures, guidance, data validations, and transparency related to the TGAAA program. ETA agreed with the recommendations and described planned actions, as well as actions already in process to implement the recommendations. (Report No. 18-13-003-03-33, August 6, 2013)

Job Corps

The Job Corps program provides residential education, training, and support services to approximately 60,000 disadvantaged, at-risk youths, ages 16–24, at 125 Job Corps centers nationwide, both residential and nonresidential. The goal of this $1.7 billion program is to offer an intensive intervention to this targeted population as a means to help them turn their lives around and prevent a lifetime of unemployment, underemployment, dependence on social programs, or criminal behavior.

ETA Needs to Strengthen Controls over Job Corps Funds

At the request of the then-Secretary of Labor Hilda Solis, we conducted a performance audit of Job Corps' internal controls over decentralized Job Corps contract operations nationwide. The Secretary had notified the OIG of cost overruns in Job Corps' program year (PY) 2011 operations that forced Job Corps to transfer $26.2 million from Job Corps' Construction, Rehabilitation, and Acquisition (CRA) funds to its operations account. In January 2013 Job Corps imposed a 3-month enrollment freeze to avoid a projected $61.5 million budget overrun for Program Year 2012. Our audit covered Job Corps funds and expenditures, including contracting activities, for PY 2011 (July 1, 2011, through June 30, 2012) and the first five months of PY 2012 (July 1, 2012, through November 30, 2012).

We found that a number of programmatic, budgetary, and managerial factors caused Job Corps' PY 2011 cost overruns. Job Corps could not demonstrate that it had (1) established a sound budget or spending plan, (2) reconciled all Job Corps financial systems to ensure that financial data were complete and accurate, and (3) routinely monitored budgeted costs to actual costs. At the beginning of PY 2011, Job Corps projected a shortfall in its operations funds and planned to cover the shortfall by using PY 2010 surpluses and other amounts transferred from its PY 2011 CRA funds. However, as PY 2011 progressed, the PY 2010 surpluses did not materialize and projected operating costs significantly increased,

primarily from Job Corps' erroneous exclusion of three center contracts, totaling $18 million, from its initial projected costs. In April 2012, an ETA budget analyst identified the cost overruns, triggering communication within Job Corps and ultimately to the ETA Assistant Secretary. The Secretary of Labor was notified in May 2012, but options for addressing the matter were limited because the program year ended at the end of June 2012.

ETA implemented a number of oversight and cost-saving measures once it became aware of Job Corps' PY 2011 funding problems. ETA instituted a management oversight process to provide advice on short term and long-term planning and established the Office of Financial Administration (OFA), which was tasked with strengthening and coordinating existing internal controls and with creating new controls to monitor costs. OFA, in coordination with ETA's Office of Contracts Management, was also tasked with ensuring that Job Corps would more promptly and accurately account for costs incurred in its cost-reimbursement contracts.

During the first five months of PY 2012, Job Corps, ETA, the Office of the Chief Financial Officer, and other DOL offices held frequent meetings to address PY 2012's potential funding shortfall and other matters. While this oversight structure was used to address the immediate Job Corps funding issues, this type of oversight had not been established as departmental policy. Without adequate oversight and communication of funding issues to the agency head and the chief financial officer, cost overruns could reoccur, which would in turn require actions such as another moratorium on student enrollments.

We made six recommendations to ETA related to improving internal controls over Job Corps funds and expenditures, including establishing necessary criteria and thresholds for detecting, documenting, and communicating potential financial and program risks; conducting a formal assessment of human capital resources needed for processes and internal controls over Job Corps funds; periodically reviewing and updating the cost model policy to incorporate the use of more current guidance and assumptions; and formally reconciling data between Job Corps–related systems on a routine basis. ETA agreed with the recommendations, stating that a number of measures have already been taken and it has planned corrective actions to address all of them. (Report No. 22-13-015-03-370, May 31, 2013)

Job Corps National Contracting Needs Improvement to Ensure Best Value and That Costs Are Justified

The ETA Office of Contract Management executes Job Corps' operational acquisition authority and is authorized to perform contracting for the Job Corps national and regional offices. During 2006, this acquisition authority was transferred from ETA to the Office of the Assistant Secretary for Administration and Management (OASAM), and in 2010 it was transferred back to ETA. With the transfers of Job Corps' operational acquisition authority, both ETA and OASAM awarded Job Corps national contracts during that period. We conducted a performance audit of Job Corps' national contracts to determine whether they were awarded, and costs were claimed, in accordance with Federal Acquisition Regulation (FAR) requirements. We reviewed 16 national contracts — 4 awarded by ETA and 12 by OASAM — as well as their associated claimed costs, that were awarded and managed by ETA and OASAM for the five-year period from January 1, 2008, to December 31, 2012. These contract awards represented $466 million, or 92 percent, of the total value of Job Corps' national contracts.

Our audit found that ETA and OASAM awarded 10 sole-source contracts, totaling $353 million, citing that only one responsible source responded to the procurement posting. However, ETA and OASAM could not support this assertion. In particular, for 8 of these contracts, the Department stated that no companies responded to the sources sought notice posted in Federal Business Opportunities, but had any responses been received, they would have been assessed to determine their capability to provide the needed services. We believe the lack of response to the sources sought notice was indicative of the restrictive qualifications specified by OASAM. For example, one of the qualifications required was that the proposed contractors have direct access to a large nation-wide membership related to the trades and national and local apprenticeship programs, which ETA and OASAM stated was necessary for student success while in the program and after termination from the program. This requirement eliminated potential competition because regional contractors that may have had superior apprenticeship and/or job placement records would not have been considered because they do not have a national network.

We also found three competitively awarded contracts totaling $38 million that were missing award documentation from the contract. As a result of these findings, ETA and OASAM could not ensure that these contracts were of best value to the government. Job Corps may achieve future cost savings if ETA and OASAM improve their internal controls to ensure contracting officers provide for full and open competition in soliciting offers and awarding contracts.

In addition, claimed costs for Job Corps national contracts were not always reviewed and supported as required. For eight national training contracts awarded sole-source, contractors submitted only monthly spreadsheets for their claimed costs, not the required invoice documentation. Job Corps paid $335 million for these contracts without requesting the proper documentation as required by the contract clause and, except for travel-related expenses, performed no verifications in lieu of invoice documentation. These deficiencies occurred because ETA and OASAM had not established a control environment to ensure that contracts were awarded in accordance with applicable laws, policies, and procedures and that claimed costs were adequately validated. Based on our testing, we questioned $351,207 in claimed costs for which contractors did not provide supporting documentation as required by ETA and FAR.

For the other eight national contracts reviewed, in general we found claimed costs were supported and had been reviewed by ETA. Based on our statistical sampling of the $25 million paid to contractors in FY 2011, we estimated that at least $24 million (96 percent) was adequately supported.

We recommended that ETA provide training and oversight to ensure compliance with FAR and DOL requirements, develop standard operating procedures for requesting documentation before making payments, and adhere to the internal control standards of the federal government. ETA management agreed that contractors had not provided proper evidence that costs claimed and paid were valid. However, ETA and OASAM disagreed that sole-source justifications were inadequate and key documentation was missing from the contract files. ETA and OASAM did not provide additional information that changed our conclusions. Despite the disagreements, ETA management accepted all four of our recommendations. (Report No. 26-13-004-03-370, September 27, 2013)

Foreign Labor Certification Program

The Employment and Training Administration (ETA) administers a number of foreign labor certification (FLC) programs that allow U.S. employers to employ foreign workers to meet American worker shortages. The H-1B visa specialty workers' program requires employers that intend to employ foreign specialty-occupation workers on a temporary basis to file labor condition applications with ETA stating that appropriate wage rates will be paid and that workplace guidelines will be followed. The H-2B program establishes a means for U.S. nonagricultural employers to bring foreign workers into the United States to meet temporary worker shortages. The Permanent Foreign Labor Certification program allows an employer to hire a foreign worker to work permanently in the United States.

New York Lawyer Sentenced for Role in Massive Foreign Labor Visa Fraud

Earl David, a former immigration lawyer, was sentenced on April 10, 2013, to 5 years in prison and 24 months of supervised release, and ordered to pay more than $2.5 million in restitution. David previously pled guilty for his role in an immigration fraud scheme involving the DOL foreign labor certification program.

From 1996 until early 2009, David operated a Manhattan-based immigration law firm that made millions of dollars in fees from foreign-national clients for purportedly securing them legal immigration status. In return for fees of up to $30,000 per client, David's law firm applied for and obtained thousands of DOL labor certifications based on false employment sponsorship and fabricated documents. David and his employees also recruited others to participate, including individuals who, in exchange for payment, agreed to falsely represent to DOL that they were sponsoring foreign nationals for employment. David also enlisted the help of corrupt accountants, who created false tax returns for the fictitious employers, and a corrupt DOL contractor, who helped ensure the DOL certifications were granted. As a result, DOL issued thousands of labor certifications, and immigration authorities granted legal status to David's clients to which they were not entitled.

In connection with the scheme, 26 individuals have been charged. As of the publication of this report, 24 of those individuals have been convicted and 2 remain fugitives.

This was a joint investigation with Immigration and Customs Enforcement–Homeland Security Investigations (ICE-HSI). *United States* v. *Earl Seth David et al.* (S.D. New York)

Colorado Man Found Guilty of Human Trafficking and Foreign Labor Visa Fraud

Kizzy Kalu, a Colorado business owner, was found guilty on July 1, 2013, of 89 counts of mail fraud, visa fraud, human trafficking, and money laundering for his role in an H-1B visa fraud scheme. Kalu's co-defendant, Philip Langerman, previously pled guilty for his role in the scheme.

From 2008 through 2010, Kalu, through his companies Foreign Healthcare Professional Group and Advanced Education and Training for Foreign Healthcare

Professionals Group, LLC, recruited foreign nationals and on their behalf filed labor condition applications with DOL so they could obtain H-1B visas. As part of the scheme, Kalu told the foreign nationals that they would be working as nursing instructors/supervisors for a local university, although the school existed in name only. In reality, the workers were subcontracted by Kalu's company to work as nurses at long-term care facilities.

Kalu also required the foreign nationals to sign a contract that imposed a $25,000 penalty if they ceased working for his company and threatened others with cancellation of their H-1B visas if they stopped working.

This was a joint investigation with U.S. Department of State–Diplomatic Security Service and ICE-HSI. *United States* v. *Kizzy Kalu et al.* (D. Colorado)

Former California Immigration Consultant Convicted of Encouraging Illegal Immigration and Mail Fraud

Evelyn Sineneng-Smith was convicted on July 30, 2013, of three counts of encouraging or inducing illegal immigration for private financial gain and three counts of mail fraud.

Sineneng-Smith operated an immigration consultation business in San Jose, California, and exploited foreign nationals for financial gain. From 2005 to 2007, Sineneng-Smith advised foreign nationals, mainly Filipino citizens who came to the United States on visitors' visas, to apply for labor certifications from DOL as a path toward obtaining lawful permanent residence. Sineneng-Smith filed hundreds of labor certifications with DOL. She charged each of the foreign nationals $5,900 to file a labor certification knowing they would not qualify under existing immigration regulations to become permanent residents. As a result, Sineneng-Smith received more than $3.3 million in payments from clients.

This was a joint investigation with ICE-HSI, the Internal Revenue Service–Criminal Investigation Division, and the U.S. Postal Inspection Service. *United States* v. *Evelyn Sineneng-Smith* (N.D. California)

Workforce Investment Act

In FY 2013, the Department's Employment and Training Administration (ETA) was appropriated $2.6 billion for the Workforce Investment Act (WIA) Adult, Dislocated Worker, and Youth programs. WIA adult employment and training services are provided through formula grants to states and territories, or through competitive grants to service providers to design and operate programs for disadvantaged, often unemployed persons. ETA also awards grants to states to provide reemployment services and retraining assistance to individuals dislocated from their employment. Youth programs are funded through grant awards that support program activities and services to prepare low-income youth for academic and employment success, including summer jobs.

Improvements Are Needed by the Northwest Pennsylvania Workforce Investment Board to Ensure Services Are Documented and Participants Find Jobs Related to the Training Received

We initiated a performance audit of the WIA Title IB programs operated by the Northwest Pennsylvania Workforce Investment Board and its fiscal agent, the Regional Center for Workforce Excellence (RCWE). This audit was in response to a request from a senator and a member of the House of Representatives for a fiscal and programmatic audit of the board's and RCWE's compliance with WIA. For program year (PY) 2011 (July 1, 2011, through June 30, 2012), the board reported $4.2 million in WIA Title IB expenditures and 2,290 participants served. At the time of the request, the Pennsylvania Bureau of Audits had initiated a performance audit of fiscal issues at the board based on a request the bureau received from the Pennsylvania Department of Labor and Industry (L&I), the State Workforce Agency (SWA) responsible for administering WIA in Pennsylvania. Therefore, our audit focused on programmatic issues and how well the board met its performance goals.

Our audit found that the board met its performance goals to provide WIA-funded services to participants to meet the workforce development needs of the local area. Specifically, the board exceeded the negotiated performance level for eight of its nine performance measures and met at least 80 percent of the negotiated level for the remaining performance measure.

However, we found the board did not always ensure that services-related data that case workers entered into the L&I Commonwealth Workforce Development System (CWDS) were supported by documentation in participant case files. CWDS automatically exits participants from programs 90 days after the last date they receive services. Accurately documenting the last service date is important because the participant's exit date starts the time period for measuring participant outcomes. Our review of a random sample of 288 participants found that 14 (approximately 5 percent) had inaccurate exit dates. While our statistical results showed these errors did not materially impact the board's performance results for PY 2011, there is a risk that they could do so in future program years if, for example, the exit date is manipulated to augment performance results.

Our analysis of services provided to the 1,161 participants who exited the WIA programs between April 1, 2010, and March 31, 2011, identified 316 who received training. Of these 316 participants, 132 (42 percent) either did not obtain employment, or their employment was unrelated to the training they received. We found these overall percentages to be comparable to those reported by SWAs and at the national level. Although not required by WIA, we believe ETA should consider requiring this type of analysis to help further ensure the efficiency of the program.

We also noted that 72 percent of participants who received staff-assisted services were employed in at least the first three quarters after exit, and their wages increased 76 percent during this period compared to their wages in the three quarters before they entered the program.

We made four recommendations to ETA to ensure that case workers comply with ETA requirements and maintain proper documentation of services provided to WIA participants, and conduct a study or analysis to determine why participants did not obtain employment related to the training they received and use the results to develop strategies to increase the percentage of participants who find employment related to the training they received. As it did in a previous audit with a similar finding, ETA strongly disagreed with OIG's conclusion that the Board should have goals for the percentage of participants who received training and found training-related employment, stating that WIA does not have such a requirement. ETA also reiterated that as Congress moves forward to reauthorize WIA, it and the Administration may consider additional policy positions such as including a performance measure for training services, but emphasized that it cannot predict whether that is likely, nor could it commit to pursue a law change within the context of its response. L&I and the board generally agreed with the findings and recommendations. (Report No. 03-13-002-03-390, September 30, 2013)

Navajo Nation Did Not Adequately Manage $16.5 Million in WIA Grant Funds and Could Have Served More Participants with Available Funds

We conducted a performance audit of WIA grants awarded to the Navajo Nation to determine whether grant funds were properly expended and program targets met in accordance with federal and grant requirements.

WIA authorizes Congress to provide funds for the Indian and Native American Program (INAP), which serves the workforce development needs of Indian and Native American adults and youth. The purpose of INAP grants—of which the Navajo Nation is the largest recipient—is to fully develop academic, occupational, and literacy skills of eligible participants; make them more competitive in the workforce; and promote economic and social development of Native American communities. The Navajo Department of Workforce Development (NDWD) administers INAP grant funds on behalf of the Navajo Nation. During PYs 2010 and 2011, NDWD spent $25.2 million and served 1,916 adults and 2,607 youth.

Our audit questioned $8 million of NDWD's grant expenditures. NDWD could not show that personnel costs of $6.7 million were based on active participants, personnel activity reports, or an approved substitute system, as required by OMB Circular A-87. Additionally, we questioned non-personnel costs totaling $1.3 million due to other unallowable expenditures.

We also found that NDWD had retained $8.5 million in unspent funds that exceeded the end of year carryover limit. Despite having retained these excess funds, NDWD served only 62 percent of its planned number of adults, had waiting lists of prospective participants, and had policies that limited re-enrollment for participants that may have needed additional services.

ETA awarded funds to 125 other Native American grantees, and in PY 2011, approximately one-third of them carried over a total of $2.7 million more than WIA regulations allowed. ETA was aware of the large amount of unspent funds remaining at the end of each program year. However, it had yet to develop a policy to recapture and reallocate excess carryover funds.

We recommended that ETA recover $8 million in questioned costs, develop a policy for recapturing and reallocating excess carryover funds for INAP grants, ensure that appropriate follow-up is performed to resolve findings and to take corrective actions after on-site monitoring reviews, and require NDWD to implement accounting policies and procedures to properly allocate costs and conduct training with staff on participant follow-up procedures. ETA concurred with all recommendations except to require NDWD to train staff on participant follow-up procedures. ETA contended that, due to limited staffing and resources, tracking participants after exit often presents a challenge to grantees. We recognize the challenge grantees face in tracking participants after exit but maintain that participant follow-up is needed to ensure they receive the help necessary to be more competitive in the workforce. (Report No. 02-13-202-03-355, September 30, 2013)

Former Ohio Apprenticeship Manager Sentenced for Fraudulently Billing a WIA Program

Eric Rader, a former recruiter and apprenticeship manager for the Building Trades Institute (BTI), was sentenced on July 17, 2013, to three years of probation and ordered to pay $66,000 in restitution to the Delaware County Department of Job and Family Services. Rader previously pled guilty to conspiracy to commit fraud by submitting fraudulent bills in connection with a federally funded job training program.

From October 2009 to December 2010, Rader devised a scheme to defraud the Project Hometown Investment in Regional Economies (HIRE) initiative. Project HIRE was designed to help employers in targeted growth industries hire dislocated or unemployed workers. Project HIRE was funded with Recovery Act statewide workforce funds. Rader forged the signature of an officer of a company claiming that jobs existed for people who were to receive solar panel installation training. Rader then falsified and submitted letters, service and supply orders, and invoices relating to jobs that did not exist or training that had already been provided. As a result, Rader caused BTI to fraudulently receive $66,000 in job training funds.

This was a joint investigation with the Federal Bureau of Investigation. *United States* v. *Eric M. Rader* (S.D. Ohio)

Worker Safety, Health, and Workplace Rights

Mine Safety and Health Administration

The federal Mine Safety and Health Act of 1977 (Mine Act), as amended by the Mine Improvement and New Emergency Response Act of 2006 (MINER Act), charges the Mine Safety and Health Administration (MSHA) with setting standards to protect the health and safety of more than 300,000 men and women working in our nation's mines.

MSHA Should Continue to Reassess and Make Improvements to its Role in Mine Rescue Contests

MSHA conducts biennial Mine Rescue Training Contests in alternating years for each of its two major program areas, (1) Coal and (2) Metal and Nonmetal (MNM). MSHA uses these contests as a training tool to improve the skills required to respond to a mine rescue emergency and to strengthen cooperation between mining companies, equipment manufacturers, and federal and state agencies. Through 2010 the five most recent MNM contests were in Reno, Nevada; and in 2011, the most recent coal contest was in Columbus, Ohio.

We initiated a performance audit of MSHA's MNM contests after receiving several complaints alleging that MSHA wasted taxpayer dollars by sending employees to Reno, Nevada, for these contests, and that MSHA received upgraded and free hotel rooms. During our audit fieldwork, MSHA also informed us it had concerns about the use of a nongovernment bank account to hold the fees from coal contests. Therefore, we expanded our work to include MSHA's handling and use of the fees collected for both MNM and coal contests. Our interim audit results, which we previously reported to MSHA, found MSHA did not follow proper approval and contracting procedures, document its fee structure methodology, or fully account for MNM contest fees and costs. We did not find that MSHA employees received inappropriate complimentary rooms or room upgrades.

MSHA's previous decisions to plan and organize contests were permissible given its mission. However, it failed to comply with related federal regulations, and implement adequate internal controls in doing so, and may have failed to comply with federal laws.

For example, MSHA did not perform cost comparisons as required by the Federal Travel Regulations when planning the 2006-10 MNM contests. MSHA violated the FAR by not justifying its use of sole-source contracts with the Reno-Sparks Convention and Visitors Authority in 2006 and 2010. It also included impermissible indemnification clauses when it entered into contracts with Reno-Sparks and the Peppermill Hotel. MSHA also impermissibly guaranteed rooms for mine rescue teams with the Peppermill in 2012. The contest was cancelled and the Peppermill may be entitled to collect a penalty from MSHA.

MSHA did not follow Federal Acquisition Regulation (FAR) requirements when it contracted for contests' space and hotels. MSHA failed to justify its use of a sole-source contract with the Reno-Sparks Convention and Visitors Authority (RSCVA) for space for the 2006 and 2010 MNM contests. MSHA failed to remove standard contract provisions in agreements with RSCVA and the Peppermill hotel for the canceled 2012 MNM contest. Each contract included impermissible penalties. The terms of the

agreement may have entitled the Peppermill to collect all or a portion of a $194,910 room cancellation penalty for both MSHA and nongovernment contest participants. Significantly, the majority of funds potentially owed to the Peppermill Hotel were for costs that MSHA would not have used appropriated funds to pay: the guestroom fees of nongovernment contest participants.

Finally, MSHA may have lacked specific statutory authority to charge and retain fees for its coal contests and may have violated the Miscellaneous Receipts Act (MRA) and possibly the Antideficiency Act by collecting fees and not depositing them with the Treasury. Without specific authority or other permissible basis for collecting the fees, MSHA may be required to deposit with the Treasury some or all of the funds collected as well as the approximately $326,000 that remained unspent after the 2011 coal contest. Additionally, MSHA may potentially have an Antideficiency Act violation if it is found MSHA spent funds it should have deposited with the Treasury and does not have sufficient funds currently available to deposit.

The deficiencies we identified were caused by MSHA's lack of management oversight and resulted in MSHA spending excessive, unnecessary, and potentially unallowable funds on planning and conducting the contests, and exposing the agency to significant legal and financial liabilities.

In addition to five recommendations we made in our interim report (which were all closed as a result of corrective action taken by MSHA), we made four recommendations to MSHA: (1) issue guidance requiring MSHA's contracting officials' involvement throughout the procurement process; (2) further develop policies and controls to ensure the contests are operated in compliance with laws and regulations or relinquish MSHA's role as organizer and host of all future contests; (3) ensure that the $326,000 coal fund balance is secured and none of the funds are spent until a decision has been made as to the appropriate disposition of those funds; and (4) request a decision from the Government Accountability Office as to whether MSHA could legally charge and retain fees for its contests pursuant to the Independent Offices Appropriations Act or any other statute. MSHA agreed with our recommendations and noted that the agency has already taken significant steps to address two of them. (Report No. 05-13-004-06-001, September 30, 2013)

MSHA Can Improve Its Section 110 Special Investigations Process

Under Section 110(c) of the Mine Act, each MSHA district conducts investigations of corporate operators that violate mandatory health or safety standards or knowingly violate or fail, or refuse to comply with any citations or orders MSHA issues. The Technical Compliance and Investigations Office (TCIO) within MSHA is responsible for the overall administration of the National Special Investigations Program, which governs Section 110 special investigations. In FY 2012, MSHA completed 292 such investigations and proposed $861,620 in penalties against agents of mine operators. We conducted a performance audit to determine whether MSHA was appropriately initiating and completing Section 110 special investigations during the period of FY 2010 through FY 2012.

In general we found that MSHA conducted Section 110 special investigations properly once it initiated them. However, in many cases MSHA did not initiate investigations and review case files within the time frame goals established in its Special Investigations Procedures Handbook. The primary causes MSHA not meeting the general time frames were competing demands for investigative resources and the nature of some investigations which required additional

time to complete. According to MSHA's goals, after which are not mandatory or performance goals, the district manager approves the start of an investigation, districts are to initiate cases within 60 calendar days and submit cases for which the district recommends a civil penalty to TCIO within 150 calendar days. In our review of a sample of 93 cases, we found 90 instances in 65 cases (70 percent) in which MSHA did not meet its time frame goals. Given this result, the agency should reevaluate either the program's activities, the reasonableness of the time frame goals, or both. Without knowing whether the time frame goals are reasonable, MSHA cannot properly evaluate the performance of its Section 110 special investigations program or make informed decisions regarding the resources devoted to the program.

Moreover, MSHA did not always document its rationale for not pursuing certain investigations and did not include necessary documentation in some investigative case files. Without complete information, MSHA cannot ensure that the investigations conducted adequately supported the conclusions reached or that all investigations that were warranted were in fact initiated.

Additionally, MSHA was not ensuring the proper tracking of credentials for the special investigators who conduct the Section 110 investigations. MSHA developed a draft standard operating procedure (SOP) and a prototype database for tracking credentials, but neither one had been completed or implemented. Without implemented SOPs and complete information in its database, MSHA may not be able to ensure that all special investigators were credentialed, expired credentials were renewed, and credentials that were no longer needed were properly disposed of in accordance with departmental requirements.

Each of these weaknesses was compounded by an IT system that did not allow TCIO to compile or track all data related to Section 110 investigations. To compensate, TCIO maintained some data related to the events and cases in an ad hoc database, but this system made it cumbersome to manage the data and to ensure complete and accurate information regarding all aspects of the investigation process.

We made three recommendations to MSHA: reevaluate its Section 110 activities or goals to better measure the program's performance, assess and revise documentation guidance; and take steps to consolidate information into a single source to facilitate the management of all aspects of investigations. MSHA disagreed with the OIG's first recommendation, stating that special investigators' need to balance demands and prioritize other work assignments impacts Section 110 time frames. MSHA agreed with the recommendations on documentation guidance and on information for managing special investigations. (Report No. 05-13-008-06-001, September 30, 2013)

Former President of Massey's Green Valley Resource Group Sentenced for Conspiracy

David Hughart, former president of Massey's Green Valley Resource Group (Massey), was sentenced on September 10, 2013, to 42 months' incarceration followed by 3 years of supervised release for conspiracy. Hughart previously pled guilty to conspiracy to impede MSHA inspections and to violate mine safety and health laws.

Hughart admitted that he and others at Massey conspired to violate mine safety and health laws and to conceal and cover up violations by warning mining operators when MSHA inspectors were arriving to conduct mine inspections. Hughart is the highest-ranking mine official ever convicted of conspiracy to impede MSHA inspections or conspiracy to violate

mine, health, and safety standards. This was a joint investigation with the FBI and the IRS Criminal Investigation Division. *United States* v. *David Hughart* (S.D. West Virginia)

Occupational Safety and Health Administration

The Occupational Safety and Health Administration (OSHA) was established by the Occupational Safety and Health Act of 1970 (OSH Act). OSHA's mission is to ensure that every working man and woman in the American workplace has safe and healthy working conditions. OSHA does this by setting and enforcing workplace safety and health standards; providing training, outreach, and education; and encouraging continuous improvement in workplace safety and health.

Recovery Act: OSHA Activities Under the Recovery Act

The Recovery Act designated $80 million for department management purposes, of which approximately $13.6 million was transferred to OSHA for enhanced inspection and enforcement activities. According to OSHA's Recovery Act plan, the agency intended to use these funds to increase the number of inspections by 2,725 over FYs 2009, 2010, and 2011. OSHA anticipated the inspections to be in connection with Recovery Act–funded construction, transportation, and related projects. We conducted a performance audit to determine how OSHA spent the money it received under the Recovery Act and whether OSHA achieved its objectives for increased compliance assistance, construction data, and state plan state enforcement activities. We also examined whether OSHA conducted additional inspections and enforcement activities.

Our audit found that OSHA obligated $7.7 million of the Recovery Act funds it received; $5.9 million was returned to the U.S. Treasury when the funds' availability expired at the end of FY 2010. In accordance with OSHA's Recovery Act plan, OSHA used the obligated funds for contracts for outreach programs, discretionary grants for enforcement to states with a state plan, and salaries and expenses for inspections and enforcement activities. The reasons OSHA did not obligate funds included delays in federal and state distribution of Recovery Act funds for projects; the low number of states with a state plan responding to OSHA's discretionary grant solicitation; return of grant funds from two grant recipients; and insufficient notification methods to find out when projects started, resulting in inspectors' arriving at worksites to find that projects were not yet under way.

OSHA's information databases reflected that the agency surpassed its goal to increase federal Recovery Act inspections over FYs 2009, 2010, and 2011 by conducting 5,669 inspections. However, our testing of a statistical sample of 163 inspections that were coded as Recovery Act found that 35 (21 percent) did not contain documentation to support such coding. This lack of documentation makes it impossible for OSHA to accurately measure whether it met or surpassed its goal to increase federal Recovery Act inspections.

We recommended that OSHA develop a framework for implementing temporarily funded inspection programs, and identify and record the source of inspection in its information databases. OSHA accepted the recommendations and agreed to develop a framework for implementing them. (Report No. 18 13-004-10-105, July 16, 2013)

Louisiana Woman Sentenced After Posing as an OSHA Trainer

Connie Knight was sentenced on May 16, 2013, to 57 months in prison and 3 years of supervised release, and ordered to pay more than $25,000 in restitution for posing as an OSHA trainer. Knight previously pled guilty to creating false identification documents and impersonating a federal official.

In the wake of the Deepwater Horizon oil spill, Knight created fraudulent credentials to represent herself as a certified OSHA instructor. Knight produced and issued fraudulent OSHA certificates, which workers were required to have in order to assist with the oil spill cleanup. After the spill, many fisheries in the gulf were closed, causing workers in that industry to seek employment as oil spill cleanup personnel. Knight enticed more than 1,000 individuals, predominantly from fishing communities in southern Louisiana, to sign up for her fraudulent training courses. Knight charged each individual between $150 and $300 for a false OSHA certification, while misrepresenting that such certification would guarantee employment with the oil spill cleanup efforts.

This was a joint investigation with the U.S. Environmental Protection Agency–Criminal Investigation Division (EPA-CID), with the assistance of OSHA. *United States* v. *Connie Knight* (E.D. Louisiana)

Wage and Hour Programs

The Wage and Hour Division (WHD) is responsible for enforcing labor laws, such as those that cover minimum wage and overtime pay, child labor, record keeping, family and medical leave, and migrant workers, among others. Additionally, WHD administers and enforces the prevailing wage requirements of the Davis-Bacon Act and other statutes applicable to federal contracts for construction and the provision of goods and services. The Davis-Bacon Act and related acts require the payment of prevailing wage rates and fringe benefits on federally financed or assisted construction.

Texas Business Owners Sentenced for Offering a Gratuity to a DOL Wage and Hour Investigator

Ying Hui Wang and Kong Sheng Wang, owners of the Famous Cajun Grill restaurant, were sentenced on August 15, 2013, for illegally paying a gratuity to a public official. Ying Wang was sentenced to two years' probation and ordered to pay a $2,500 fine. Kong Wang was sentenced to time served and 11 months of supervised release, and ordered to pay a $1,000 fine.

Ying Wang and Kong Wang offered a WHD investigator $2,000 cash to influence him to reduce the amount of back wages owed to certain employees of the restaurant, located in Humble, Texas. WHD contacted the OIG, and arrangements were made for the WHD investigator to meet with the defendants. At the second meeting, the defendants made an offer and paid $5,000 cash to the WHD investigator to eliminate more than $39,000 in back wages owed to all employees of the restaurant.

This was a joint investigation with the FBI and assistance from WHD. *United States* v. *Ying Hui Wang et al.* (S.D. Texas)

Illinois Trucking Company Owner Convicted for Making False Statements on Payroll Certifications

William Clark, owner of Clark Trucking and Excavation, LLC (Clark Trucking), was found guilty on September 12, 2013, of making false statements on certified payrolls.

Clark Trucking received $1.6 million to provide hauling services on a federally funded construction project. As a subcontractor, Clark Trucking was required to comply with the provisions of the Davis-Bacon and Related Acts and to pay its employees at the prevailing wage rate. Our investigation revealed that from August 2009 to October 2009, Clark underpaid truck drivers working on the project by paying them anywhere from $13 to $15 per hour, rather than the required prevailing wage of $35.45 per hour. Clark also signed a sworn affidavit falsely claiming that Clark Trucking had complied with labor laws regarding payment of prevailing wages. As a result of underpaying the truck drivers, Clark was able to illegally profit from the scheme.

This was a joint investigation with the Internal Revenue Service–Criminal Investigation Division and EPA-CID. *United States* v. *William Clark* (S.D. Illinois)

Worker and Retiree Benefit Programs

Employee Benefit Plans

The Department's Employee Benefits Security Administration (EBSA) is responsible for protecting the security of retirement, health, and other private-sector-employer-sponsored benefit plans for America's workers, retirees, and their families. EBSA is charged with protecting about 141 million workers, retirees, and their families who are covered by nearly 684,000 private retirement plans, 2.4 million health plans, and similar numbers of other welfare benefit plans that together hold estimated assets of $7.6 trillion.

EBSA Needs to Provide Additional Guidance and Oversight to ERISA Plans Holding Hard to Value Alternative Investments

Almost half of the United States' population has approximately $6.5 trillion invested in retirement accounts. How employee benefit plans invest these funds has a direct—and sometimes harmful—effect on plan participants' retirement security. The Employee Retirement Income Security Act of 1974 (ERISA) governs asset investment in private-sector employee benefit plans and charges the Secretary of Labor with overseeing the management of these plans.

Within the Department, EBSA carries out the Secretary's oversight role. EBSA faces challenges in meeting its mission because some plans have increasingly shifted assets from traditional investments, such as stocks and bonds, into an array of complex, hard-to-value alternative investments, which include private equity funds, hedge funds, and real estate.

As of 2010, employee benefit plans had amassed almost $3 trillion in alternative investments, one-third of which EBSA estimated to be hard to value. Plan administrators cannot easily determine the fair market value of these alternative investments for a number of reasons, including that alternative-investment entities may not be audited, listed on any national exchange, or subject to state or federal regulation. This lack of transparency and accountability places participants and beneficiaries at increased risk for losses.

We conducted a performance audit to determine whether EBSA is providing adequate oversight of employee benefit plans that use alternative investments. Our audit found that while EBSA provided oversight of plans that hold alternative investments, these plans' participants and beneficiaries need stronger assurances that EBSA's guidance and oversight is effective. EBSA's efforts have included issuing guidance on certain types of investments, providing compliance assistance and outreach, conducting regional enforcement projects on plans with hard-to-value investments, and targeting studies on how plans report fair market valuation. Despite these efforts, further action by EBSA is needed for the following reasons:

- Uniform guidance for hard-to-value alternative investments was lacking. We found EBSA had not yet implemented recommendations from the ERISA Advisory Council, the Government Accountability Office, and the American Institute of Certified Public Accountants to provide guidance to fiduciaries using alternative investments.

- Hard-to-value alternative investments lacked appropriate and independent valuation. Approximately 90 percent of plans we sampled either did not obtain independent valuations or did

not demonstrate an analytical process to determine their fair market value. These plans also relied on client statements and general partners' estimated values without additional analysis to ensure that the alternative investments were reported at fair market value.

- The use of limited-scope audits was increasing. In 2010, approximately $3 trillion in assets received only limited-scope audits, up from $520 billion in 1989. Limited-scope audits present challenges for plan administrators in accurately valuing and reporting hard-to-value alternative investments because such audits perform no auditing procedures that test for the existence or valuation of plan assets held and "certified" by a qualifying financial institution. We previously recommended that EBSA seek repeal of the limited-scope audit and, in the interim, clarify the requirements needed to hold and certify plan assets, as well as provide guidance to plan administrators to identify and adequately support the current value of plan assets in limited-scope audits. EBSA has agreed and, in the past, proposed changes to ERISA. However, Congress has not acted to make these changes, and EBSA has not proposed eliminating the limited-scope audit provision since 1997.

- EBSA lacked specific investigative review procedures. Our sample of regional office case files found that EBSA lacked specific investigative procedures to identify whether plans obtained independent valuations or plan managers had established a process to evaluate the fair market value of all hard-to-value plan investments. EBSA also lacked specific procedures to refer cases in which it found potentially substandard audit work to its Office of Chief Accountant, which is tasked with reviewing audit quality issues.

- Form 5500, which EBSA used for reporting and data collection for hard-to-value investments, had certain limitations. The form is an important compliance, research, and disclosure tool for EBSA, but it is limited in its ability to capture information on hard-to-value investments. The form's Schedule H provides information on specific asset classes but does not contain sufficient data to determine the specific types of plan investments that lack a generally recognized market. More detailed asset information is generally contained in the plans' financial statements that are attached to the Form 5500 filing. However, EBSA cannot adequately electronically search and correlate the data in the attachment. As a result, EBSA can neither effectively determine the total amount of hard-to-value investments nor target plans for compliance with reporting requirements.

Without adequate assurances that plan managers and administrators prudently select, monitor, and value plan investments, ERISA plans invested in these types of assets can sustain losses from imprudent, speculative, Ponzi, and other fraudulent schemes. Participants and beneficiaries invested in plans to accrue retirement income are at an increasing risk of loss as employee benefit plan assets invested in alternative investments grow.

We recommended that EBSA propose and formalize guidance and evaluate the recommendations provided by the ERISA Council; improve procedures in enforcement reviews; and improve Form 5500 data collection, analysis, and targeting. EBSA responded that it did not believe the trillions of dollars of plan assets invested in alternative investments and hard-to-value assets pose significant valuation concerns, that EBSA already provided sufficient guidance, that its investigative procedures were sufficient, and that Form 5500 already focuses on asset valuation. EBSA agreed to further consider the OIG recommendations but did not provide any explicit corrective actions. (Report No. 09-13-001-12-121, September 30, 2013)

Office of Workers' Compensation Programs

The Office of Workers' Compensation Programs (OWCP) administers four workers' compensation programs: the Energy Employees Occupational Illness Compensation program (EEOICPA), the Federal Employees' Compensation Act (FECA) program, the Longshore and Harbor Workers' Compensation Act program, and the Coal Mine Workers' Compensation program.

Federal Employees' Compensation Act Program

The FECA program provides workers' compensation coverage to approximately 2.8 million federal, postal, and certain other employees for work-related injuries and illnesses. Benefits include wage loss benefits, medical benefits, vocational rehabilitation benefits, and survivors' benefits for covered employees' employment-related deaths. In FY 2012, the FECA program made more than $2.1 billion in wage loss compensation payments to claimants and processed approximately 20,000 initial wage loss claims. At the end of FY 2012, nearly 50,000 claimants were receiving regular monthly wage loss compensation payments.

Texas Postal Worker Sentenced for Falsifying Travel Records

Mytasha Henry, a former U.S. Postal Service (USPS) letter carrier, was sentenced on April 26, 2013, to 24 months in prison and 3 years of supervised release, and ordered to pay more than $171,000 in restitution. Henry was previously convicted for falsifying medical travel refund requests submitted to OWCP.

From September 2007 to May 2012, Henry filed medical travel refund requests, claiming mileage, parking, and toll fee reimbursements for physician and rehabilitation appointments she did not attend. Henry fraudulently claimed that she had attended two or three appointments daily for rehabilitation treatment up to six or seven days a week, including holidays. However, Henry actually had only 19 appointments with a physician or rehabilitation specialist pertaining to her on-the-job injury. In addition, Henry claimed parking and toll fees on her medical travel refund requests even though the medical facilities had free parking and were accessible without using toll roads. Henry defrauded OWCP of more than $171,000.

This was a joint investigation with the USPS–Office of Inspector General (USPS-OIG). *United States* v. *Mytasha Henry* (S.D. Texas)

Former California Medical Biller Sentenced for Health Care Fraud

Farideh Heidarpour, a medical biller, was sentenced on June 3, 2013, to 12 months in prison and 36 months of supervised release, and ordered to pay a fine of more than $1.88 million, reimburse the United States $1 million, and pay OWCP restitution in the amount of $120,000, for her role in a scheme to commit health care fraud. On August 29, 2013, the court ordered that $810,000 of the $1 million reimbursement be paid to OWCP. Heidarpour previously pled guilty for fraudulently billing OWCP.

From 2005 through 2009, Heidarpour was the owner of A.B.C. Billing, Inc., and the medical biller for Advanced Clinics in Oklahoma City, Tulsa, Dallas, and Oakland. The majority of Advanced Clinics' patients were injured U.S. postal workers receiving medical benefits from OWCP. In her role as a billing manager, Heidarpour fraudulently billed OWCP for unnecessary medical evaluations and services not rendered. She also double-billed for services provided and manipulated billing codes to fraudulently obtain higher reimbursements.

This was a joint case with the USPS–OIG, with the assistance of OWCP. *United States* v. *Farideh Heidarpour* (W.D. Oklahoma)

Montana Electrician Pleads Guilty for Fraudulent FECA Scheme

William Szudera, a former electrician, was sentenced on September 26, 2013, to 48 months' probation and ordered to pay more than $83,000 in restitution to OWCP. Szudera previously pled guilty to mail fraud for providing false documents to OWCP.

Szudera collected FECA benefits for an injury he suffered while performing duties as an electrician for the Bureau of Reclamation. Szudera falsely reported to OWCP that he was not self-employed or involved in any business enterprise, when in fact he had owned and operated a shooting supply company, B&G Shooting Supply. By not reporting his business activities, Szudera was able to collect FECA benefits to which he was not entitled.

This was a joint investigation with the Department of Energy–OIG. *United States* v. *William Szudera* (D. Montana)

Chicago Man Pleads Guilty to Defrauding OWCP for Travel Costs to Medical Appointments

Donald Bayless, a former security officer with the Transportation Security Administration (TSA), pled guilty on July 18, 2013, to one count of mail fraud. Bayless had been previously charged for his role in a scheme to fraudulently receive FECA travel benefits.

Bayless fraudulently claimed reimbursement for transportation costs that he did not incur to attend medical and rehabilitation appointments. He also claimed reimbursement for inflated travel costs for appointments that he actually attended. From August 2005 through April 2009, Bayless submitted approximately 160 fraudulent medical travel refund requests, claiming he had incurred more than $74,000 in medically related travel expenses.

This was a joint investigation with TSA. *United States* v. *Donald Bayless* (N.D. Illinois)

Unemployment Insurance Programs

Enacted more than 80 years ago as a federal–state partnership, the Unemployment Insurance (UI) program is the Department's largest income-maintenance program. This multibillion-dollar program assists individuals who are unemployed due to lack of suitable work. While the framework of the program is determined by federal law, the benefits for individuals are dependent on state law and are administered by State Workforce Agencies (SWAs) in 53 jurisdictions covering the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, under the oversight of the Employment and Training Administration (ETA).

New Jersey Man Sentenced After Defrauding UI Program of $1.6 Million

Derek Gaters was sentenced on April 30, 2013, to 27 months in prison and 3 years of supervised release, and ordered to pay restitution of more than $1.6 million to the New Jersey Department of Labor and Workforce Development (NJDLWD). Gaters previously pled guilty for his role in a scheme to fraudulently obtain UI benefits from NJDLWD.

Between 2003 and 2007, Gaters prepared and submitted false UI applications to NJDLWD on behalf of approximately 233 individuals, including his 3 co-conspirators. Gaters and his co-conspirators recruited other individuals into the scheme and used their names and other personally identifiable information to fraudulently apply for UI benefits. The applications claimed that the individuals had been employed by Regal Unloading Services, Inc., a defunct company Gaters had owned but that ceased operating in 2003. NJDLWD mailed the UI checks to the claimants who then paid Gaters approximately $200 from each UI check received. As a result, NJDLWD was defrauded out of more than $1.6 million. Gaters' three co-conspirators were previously convicted and sentenced.

United States v. *Derek Gaters* (D. New Jersey)

Florida Man Sentenced for Executing Fraudulent UI Scheme

Denny Hughes was sentenced on August 7, 2013, to more than 5 years in prison and 3 years of supervised release, and ordered to pay more than $290,000 in restitution to the State of Florida Department of Economic Opportunity (DEO) and the Massachusetts Department of Unemployment Assistance (DUA). Hughes previously pled guilty to wire fraud and aggravated identity theft.

Hughes obtained the personally identifiable information of approximately 21 individuals and submitted quarterly wage reports to DEO falsely representing that they were laid-off employees of a fictitious company, Mortgage Relief America, LLC (MRA). Hughes also submitted falsified W-2 forms to DEO to create the appearance that these individuals had worked for MRA. Hughes then filed fraudulent applications with DEO seeking UI benefits on their behalf. Once approved, Hughes certified the UI claims weekly or biweekly, causing UI benefits to be deposited directly into his bank account. As a result, Hughes fraudulently received more than $220,000 in UI benefits from DEO. Hughes devised a similar scheme by creating another fictitious company under the name of Commonwealth Global Corp., located in Massachusetts. In that scheme, Hughes utilized the personally identifiable information of at least 23

individuals to fraudulently apply for and receive more than $70,000 in UI benefits from DUA.

This was a joint investigation with the Florida Department of Economic Opportunity. *United States* v. *Denny Hughes* (S.D. Florida)

Las Vegas Man Sentenced for Manufacturing UI Checks

Michael Juliano was sentenced on September 24, 2013, to more than 3 years in prison, and ordered to pay more than $17,000 in restitution. Juliano had previously pled guilty on June 26, 2013, for his role in creating and negotiating counterfeit State of Nevada UI checks.

From May 2011 to February 2012, Juliano obtained or purchased personally identifiable information by various means, such as by stealing from mailboxes and burglarizing apartment complex files. He used the information to manufacture at least 57 counterfeit State of Nevada UI checks, which he and others negotiated at retailers for cash. Juliano used at least 43 different stolen identities on the counterfeit UI checks and created driver's licenses to match the identities using his own driver's license photo. In order to cash a check, Juliano would enter the stolen identities and Social Security numbers into the retailer's check verification system. As a result of this scheme, Juliano was able to negotiate more than $26,000 in counterfeit Nevada UI checks.

This was a joint investigation with the United States Postal Inspection Service and the Social Security Administration (SSA)–OIG. *United States* v. *Michael Juliano* (D. Nevada)

Former Army Soldier Sentenced to Four Years in Prison for Unemployment Benefits Fraud Scheme

Christopher Wilson, a former U.S. Army private, was sentenced on April 12, 2013, to 48 months in prison and 3 years' supervised release, and ordered to pay $143,000 in restitution to the New York State Department of Labor's Unemployment Insurance Division for UI benefit fraud. Wilson previously pled guilty to theft of government funds and mail fraud for filing fraudulent applications for UI benefits intended for qualified military veterans

Between August 2010 and September 2011, Wilson conspired with others to file dozens of fraudulent applications for Unemployment Compensation for Ex-servicemembers program (UCX) benefits to which they were not entitled. They did so by obtaining the names and Social Security numbers of unknowing individuals and creating fraudulent Certificate of Release from Active Duty discharge forms and other documents, which indicated that these individuals had served in and been honorably discharged from the military. The defendants then submitted these fraudulent documents to states, including New York, in support of claims for UCX benefits. As a result, Wilson received approximately $143,000 in benefits to which he was not entitled. Wilson is the last defendant to be convicted.

This was a joint investigation with the New York State Department of Labor (NYS-DOL) and Defense Criminal Investigative Service. *United States* v. *Christopher Wilson* (S.D. New York)

Ohio Woman Sentenced for Committing UI Fraud in Eight States

Audrey Costar was sentenced on August 9, 2013, to 48 months in prison and 3 years of supervised release, and ordered to pay restitution of more than $78,000 to the 8 states from which she fraudulently obtained UI benefits. Costar previously pled guilty to aggravated identity theft and theft of government property.

From February 2009 until December 2012, Costar electronically filed false UI claims with Alaska, Minnesota, Montana, Arizona, Utah, Ohio, Colorado, and Pennsylvania workforce agencies using 50 stolen identities. Costar used some of the identities to open bank accounts and obtain cash-value cards over the Internet in order to collect UI benefits. As a result of this scheme, Costar obtained more than $78,000 in fraudulent UI benefits.

This was a joint investigation with SSA-OIG and the United States Secret Service. *United States* v. *Audrey Costar* (S.D. Ohio)

Maryland Couple Sentenced for Fictitious Employer Scheme

Brian Johnson was sentenced on August 28, 2013, to 18 months in prison and 3 years of supervised release for his role in a fictitious employer scheme that enabled him to fraudulently obtain UI benefits from the State of Maryland. Johnson's wife and accomplice, Beatrice Sampson-Johnson, was sentenced on September 11, 2013, to 4 months of home detention and 24 months of probation. Both were also ordered to pay $15,000 in restitution, jointly and severally, after pleading guilty to conspiracy to commit wire fraud.

From January 2011 through May 2012, Johnson and Sampson-Johnson executed a fictitious employer scheme to collect UI benefits. As part of the scheme, Johnson made false representations to the Maryland Department of Labor, Licensing, and Regulation, claiming to be the former employee of a company that in fact did not exist. Once the claims were approved, Johnson and Sampson-Johnson filed for and received UI benefits biweekly.

In addition, during most of the scheme, Johnson was actually incarcerated at a correctional facility in Baltimore. Despite Johnson's incarceration, he remained in frequent telephone contact with Sampson-Johnson about filing fraudulent UI claims, and she continued to falsely certify that Johnson was able and available for full-time work without restrictions. As a result of the scheme, the couple received more than $15,000 in fraudulent UI benefits.

United States v. *Brian L. Johnson et al. (*D. Maryland)

New York Man Sentenced to Pay More Than $190,000 in Restitution

Paul Pappas was sentenced on August 16, 2013, to 13 months in prison and ordered to pay restitution of more than $192,000 for his role in perpetrating a UI fraud scheme against the New York State Department of Labor (NYS-DOL). Pappas previously pled guilty to wire fraud for his role in a UI fraud scheme.

Pappas falsely reported to NYS-DOL that certain individuals worked for C&P Graphics, a business operated by Pappas. He then filed false UI claims for himself and other purported employees and had the UI benefits deposited into bank accounts he controlled. He accomplished this by using the personally identifiable information of individuals without their knowledge both when filing for and when certifying UI benefits. As a result of this scheme, Pappas received more than $190,000 in UI benefits to which he was not entitled. This was a joint investigation with NYS-DOL. *United States* v. *Paul Pappas* (S.D. New York)

Guilty Pleas in Michigan Fictitious Employer Scheme

Tamera Smith pled guilty on April 8, 2013, for her leading role in a fictitious employer scheme. Smith's co-conspirators, Verlon Hogan, Aprilell Packnett, and Tanisha Ford previously pled guilty for their roles in the scheme. Hogan and Packnett were sentenced on August 9, 2013, to serve two years of probation and pay more than $83,000 in restitution, jointly and severally. Ford was sentenced on April 9, 2013, to three years' supervised release, and ordered to pay restitution of more than $89,000.

Smith created a fictitious employer, First Priority, for the sole purpose of filing fraudulent UI benefit claims. From October 2009 to January 2011, Smith filed fraudulent UI claims with the Michigan Unemployment Insurance Agency (MUIA) under the names of nonexistent employees. Smith used the names of her friends and relatives and other names that she received from her co-conspirators, Ford, Packnett, and Hogan, to file the fraudulent claims. Smith and her co-conspirators withdrew funds that were deposited on the UI debit cards biweekly. For each deposit, Smith received a kickback of $250. As a result of the scheme, Smith and her co-conspirators defrauded MUIA of approximately $350,000.

This was a joint investigation with MUIA. *United States* v. *Tanisha Ford et al.* (E.D. Michigan)

Illinois Man Pleads Guilty After Receiving More Than $300,000 in Fraudulent UI Benefits

Todd Leparski, President of Leparski, Inc., pled guilty on September 3, 2013, to one count of wire fraud for his role in a fictitious employer scheme.

Leparski fraudulently applied for, or assisted 21 individuals in applying for, UI benefits with the Illinois Department of Employment Security (IDES), by claiming that they had been laid off from his company, Leparski, Inc. Leparski also submitted quarterly wage reports to IDES that falsely stated the length of employment and the amount of money earned by the individuals. For some of these claims, Leparski arranged for the UI benefits to be deposited to his accounts. For others, he received the claimant's first UI benefit payment and a percentage of the claimant's subsequent UI benefit payments. As a result, Leparski defrauded IDES of more than $300,000 in UI benefits.

United States v. *Todd Leparski* (N.D. Illinois)

Labor Racketeering

Labor Racketeering

The OIG at DOL has a unique responsibility to investigate labor racketeering and/or organized crime influence involving unions, employee benefit plans, and labor-management relations. The Inspector General Act of 1978 transferred responsibility for labor racketeering and organized crime–related investigations from the Department to the OIG. In doing so, Congress recognized the need to place the labor racketeering investigative function in an independent law enforcement office free from political interference and competing priorities. Since then, OIG special agents, working in association with the Department of Justice's Organized Crime and Gang Section, as well as various U.S. Attorneys' Offices, have conducted criminal investigations to combat labor racketeering in all its forms.

Labor racketeering relates to the infiltration, exploitation, and/or control of a union, employee benefit plan, employer entity, or workforce. It is carried out through illegal, violent, or fraudulent means for profit or personal benefit.

Labor racketeering impacts American workers, employers, and the public through reduced wages and benefits, diminished competitive business opportunities, and increased costs for goods and services.

The OIG is committed to safeguarding American workers from being victimized through labor racketeering and/or organized crime schemes. The following cases are illustrative of our work in helping to eradicate both traditional and nontraditional labor racketeering in the nation's labor unions, employee benefit plans, and workplaces.

Labor racketeering and organized crime groups have been involved in benefit plan fraud, violence against union members, embezzlement, and extortion. Our investigations continue to identify complex financial and investment schemes used to defraud benefit fund assets, resulting in millions of dollars in losses to plan participants. The schemes include embezzlement or other sophisticated methods, such as fraudulent loans or excessive fees paid to corrupt union and benefit plan service providers. OIG investigations have demonstrated that abuses involving service providers are particularly egregious due to their potential for large dollar losses and because the schemes often affect several plans simultaneously. Thus, benefit plan service providers, such as accountants, attorneys, contract administrators, and medical providers, as well as corrupt union officials, plan representatives, and trustees, continue to be a strong focus of OIG investigations.

Benefit Plan Investigations

The OIG is responsible for combating corruption involving funds in union-sponsored employee benefit plans. Pension and health and welfare benefit plans hold hundreds of billions of dollars in assets. Our investigations have shown that assets in such plans remain vulnerable to labor racketeering schemes and/or organized crime influence. Benefit plan service providers, including accountants, actuaries, attorneys, contract administrators, investment advisors, insurance brokers, and medical providers, as well as corrupt union officials, plan representatives, and trustees, continue to be a strong focus of OIG investigations.

Founder and President of Labor Union Sentenced for Stealing from Union's Treasury and Pension Fund

Caleb Gray-Burriss, the founder and former president of the National Association of Special Police and Security Officers (NASPSO), was sentenced on April 8, 2013, to 70 months in prison, 3 years of supervised release, restitution of more than $252,000, and 100 hours of community service. Gray-Burriss had previously been found guilty by a jury of conspiracy to embezzle from a labor organization, mail fraud, obstruction of justice, criminal contempt, and union record-keeping offenses. NASPSO represents private security guards assigned to protect federal buildings in the metro Washington area.

From June 2004 through February 2011, Gray-Burriss wrote numerous unauthorized checks to himself or to third parties from the NASPSO pension plan checking account. He spent more than $100,000 of the pension plan funds while falsely maintaining that the account was an operational fund that he was administering to provide promised benefits to plan beneficiaries. In addition, while an officer and employee of NASPSO, Gray-Burriss stole more than $150,000 in NASPSO funds consisting of cash withdrawals to himself; unauthorized salary increases and bonuses to himself and another person; fraudulently drawn checks to himself, purportedly for employment taxes on behalf of NASPSO; and NASPSO funds unlawfully used to pay his personal fines in a civil lawsuit. Gray-Burriss also committed obstruction-of-justice violations by destroying or concealing NASPSO financial records during a grand jury investigation, failed to file or falsified annual reports required of NASPSO, and failed to properly maintain records NASPSO was required to keep. Because of these convictions, Gray-Burriss is prohibited by federal law from serving as an officer of or being employed by a labor union or employee benefit plan for 13 years following his release from prison.

This was a joint investigation with the Employee Benefits Security Administration (EBSA) and Office of Labor-Management Standards (OLMS). *United States* v. *Caleb Gray-Burriss* (District of Columbia)

Florida Plan Administrator Sentenced After Stealing $400,000

Angela DeLeon, a former employee of Advanced Administration, Inc. (AAI), was sentenced on August 21, 2013, to 24 months in prison, 1 year of supervised release, and $594,000 in restitution.

As the third-party administrator for the Ironworkers Local 808 Annuity Fund, AAI was responsible for processing members' payment applications and

paying the fund-related bills. DeLeon's duties at AAI included performing data entry and processing payments. From September 2010 through November 2011, DeLeon wrote 46 checks from the fund, totaling more than $427,000, to individuals who were not members of Local 808, participants in the fund, or otherwise entitled to fund payments. Those individuals cashed the checks and provided DeLeon with a share of the proceeds. To cover up the scheme and avoid detection, DeLeon falsified the fund's records.

The $594,000 in restitution that DeLeon was ordered to pay consists of the more than $427,000 that she stole from the fund plus the amounts spent by the fund to audit and reconstruct the records that were impacted by DeLeon's scheme.

This was a joint investigation with EBSA. *United States* v. *Angela DeLeon (*M.D. Florida)

Former Benefit Plan Employee Pleads Guilty to Embezzlement

Angela Heninger, a former employee of the Mobilization, Optimization, Stabilization, and Training Trust (MOST), pled guilty on August 22, 2013, to one count of theft from an Employee Retirement Income Security Act (ERISA)- covered plan.

From 2006 through 2012, Heninger as an employee of MOST and through her positions, had access to a joint labor trust fund of the National Association of Construction Boilermaker Employees and the International Brotherhood of Boilermakers. As part of the scheme, Heninger would write checks to pay two personal credit cards in her name as well as a credit card and loan in the name of her son. Heninger also made unauthorized personal charges on her MOST-issued credit card and, using her position, arranged to have the charges paid with benefit plan funds. As a result of her activities, Heninger embezzled more than $400,000 from the joint Boilermaker Trust Fund.

This was a joint investigation with EBSA. *United States* v. *Angela Heninger* (D. Kansas)

Former New York Union President Pleads Guilty to Conspiracy

Hector Lopez, the former president of the Metal Polishers Union (Local 8A-28A) and chairman of the board of trustees of the local's welfare fund, pled guilty on April 9, 2013, to charges of conspiracy to commit mail fraud and wire fraud, in addition to tax evasion.

Lopez admitted to engaging in several schemes to steal from the union welfare fund, including accepting kickbacks from the plan's third-party administrator in exchange for ensuring the retention of that administrator. In addition, Lopez accepted kickbacks from the employer trustee of the local's welfare fund in exchange for authorizing the welfare fund to pay inflated invoices for a union hall renovation. He also admitted accepting a kickback from the trustee in exchange for rigging the bidding process to ensure that a sprinkler installation job was awarded to a company the trustee controlled. Per the plea agreement, Lopez agreed to pay $698,000 in restitution to the Local 8A-28A Welfare Fund.

This was a joint investigation with the IRS, OLMS, and EBSA. *United States* v. *Hector Lopez* (E.D. New York)

Massachusetts Construction Company Owner Pleads Guilty to Defrauding Union Benefit Funds

Juan Alonso, owner of Aguila Construction Company, pled guilty on September 4, 2013, to theft of funds from an ERISA benefit plan, falsifying ERISA documents, and making false statements.

Between 2008 and 2011, Aguila Construction, a unionized construction company located in Fitchburg, Massachusetts, secured a contract covering several publicly funded projects, including 12 projects funded by the U.S. Department of Transportation pursuant to the American Recovery and Reinvestment Act of 2009. As part of the scheme, Alonso had a portion of this contract worked by his nonunion company, Alonso Construction, rather than Aguila Construction, the contract signatory. In connection with this project and in furtherance of the scheme, Aguila Construction completed and sent to the Massachusetts Department of Transportation certified payroll records falsely stating the identities of Aguila Construction employees, their number of hours worked, and wages paid to them. By running this scheme, and paying the employees in cash, the defendants avoided paying approximately $782,824. Of this amount, $752,520 related to contributions to the Massachusetts Laborers' Benefit Funds and the Laborers International Union of North America's Benefit Funds. Another $30,304 was related to other trusts associated with the Laborers International Union of North America and the collective bargaining agreement signed by the defendants.

This was a joint investigation with the U.S. Department of Transportation—OIG and EBSA. *United States* v. *Juan J. Alonso and Aguila Construction Company, Inc*. (D. Massachusetts)

Labor-Management Investigations

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

Ohio Businessman Sentenced to 97 Months in Prison for Bribing County Officials

Michael Forlani, a Cleveland area businessman, was sentenced on April 1, 2013, to more than 8 years in federal prison followed by 36 months' supervised release. Forlani was also ordered to pay $136,251 in restitution and to forfeit $900,000 for his role in schemes wherein he bribed multiple Ohio county officials to illegally obtain financing for several government-funded projects. Forlani's sentence follows his August 2012 guilty plea to RICO conspiracy, Hobbs Act violations, and conspiracy to commit wire fraud, among other charges.

Between 2002 and 2009, Forlani sought and obtained assistance from Jimmy Dimora, a former Ohio county commissioner. Dimora was sentenced to 28 years in prison for his role in the scheme, which included helping to influence the appointment of Robert Peto, executive secretary/treasurer of the Ohio and Vicinity Regional Council of Carpenters (OVRCC) and an OVRCC ERISA fund trustee, to the Cuyahoga County Port Authority board. Peto's appointment to the board and his OVRCC affiliations ensured that Forlani would obtain financing from the Port Authority and OVRCC for various construction projects, including a $125 million U.S. Department of Veterans Affairs 2,080-space parking garage, an office building, and a 122-bed dwelling for homeless veterans. To gain Dimora's support, Forlani compensated him with free home improvements, sporting event tickets, and payments covering automobile rentals, discounts, and maintenance. As a result, Dimora voted to appoint Peto to the Port Authority board in December 2004 and again in January 2008. As repayment for Forlani's help in securing his board appointments and for the various bribes paid to him by Forlani, Peto used or agreed to use his Port Authority board and OVRCC positions to help Forlani obtain the desired financing from the Port Authority, OVRCC, and- ERISA-covered OVRCC accounts.

Both Dimora and Peto previously pled guilty and were sentenced for their roles in this scheme. This was a joint investigation with the FBI, EBSA, and the U.S. Department of Veterans Affairs–OIG. *United States* v. *Michael Forlani (*N.D. Ohio)

Illinois Construction Company Owner Sentenced on Attempted Extortion Charges in Complex Public Corruption Scheme

In previous semiannual reports the OIG reported on investigations involving Jacob Kiferbaum and Stuart Levine. During this reporting period Kiferbaum, who provided substantial assistance to the prosecution regarding Levine, was sentenced for his role in a public corruption scheme.

Kiferbaum, owner of Kiferbaum Construction Company (KCC), was sentenced on July 31, 2013,

to 27 months in prison, followed by 2 years of supervised release, and ordered to pay a $250,000 fine. Kiferbaum was also ordered to have KCC pay $7,050,000 in restitution to Rosalind Franklin University of Medicine and Science (RFUMS). This amount represents the net profits that KCC realized from two falsely inflated construction project contracts.

Kiferbaum conspired with Stuart Levine to fraudulently obtain millions of dollars of illegal kickbacks via artificially inflated construction contracts and extortive behavior. Using their positions on the RFUMS trustee board and Levine's position on the Illinois Health Facilities Planning Board (IHFPB), Kiferbaum and Levine forced hospitals planning new construction to use KCC for the work lest the hospitals' applications for state-required certificates of need be denied.

Kiferbaum provided substantial assistance in the government's investigation of Levine, who sat on the board for the $30 billion Illinois State Teachers Retirement System (TRS) and was subsequently indicted on several pension plan kickback schemes affecting TRS. Largely due to Kiferbaum's assistance, Levine pled guilty to mail fraud and money laundering charges and provided essential assistance in the government's successful investigations of political power brokers such as former governor Rod Blagojevich, Antoin Rezko, William Cellini, and Edward Vrdolyak for schemes relating to extortion, politically motivated kickbacks, and the bartering of a U.S. Senate seat. Kiferbaum, the last defendant in the case, was sentenced for attempted extortion.

This was a joint investigation with the FBI, the United States Postal Inspection Service, and the IRS. *United States* v. *Jacob Kiferbaum* (N.D. Illinois)

Internal Union Corruption Investigations

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

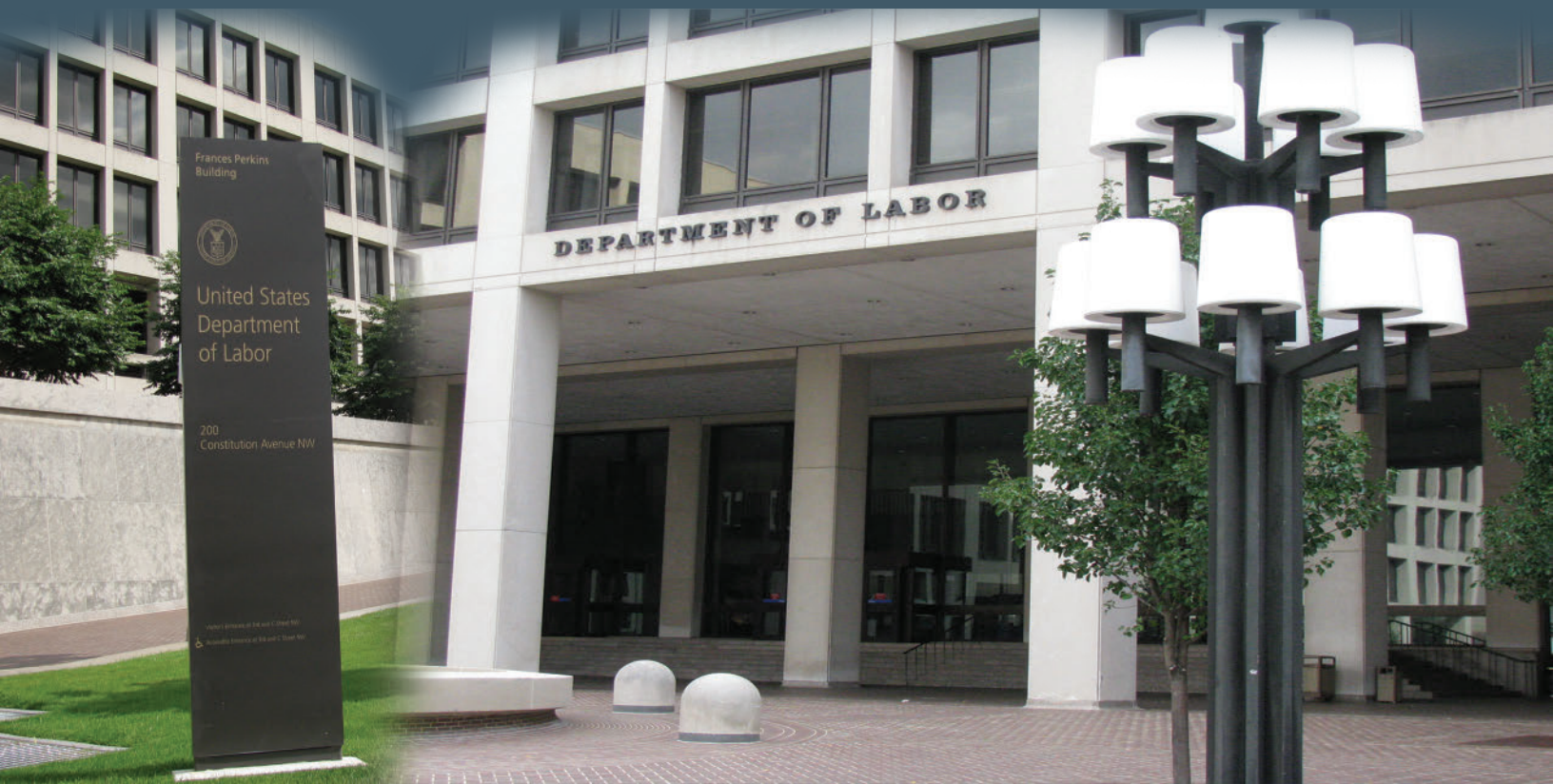
Former Yuba City Plumbers Union Business Manager and His Wife Sentenced for Misappropriation of Labor Union Funds

On May 17, 2013, Robert Carr was sentenced to 30 months in prison and his wife, Theresa Carr, was sentenced to 3 months in prison. Both were ordered to cumulatively pay $120,000 in restitution to Local Union No. 228, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States, Canada, and Australia (Plumbers Union). The Carrs previously pled guilty to conspiracy to embezzle labor union funds and embezzlement of labor union funds.

Robert Carr was the financial secretary-treasurer and business manager of the Plumbers Union, and Theresa Carr worked at various times as an employee of the union. By virtue of the offices he held in the union, Robert Carr had access to the union's checking accounts and credit cards. Between January 2000 and May 2009, the Carrs wrote checks for numerous unauthorized salary advances, bonuses, and fictitious reimbursements. They also unlawfully used the Plumbers Union checks and credit cards to pay for goods and services for their personal benefit and the benefit of their family. These included charges for clothing, sporting goods, jewelry, meals, lodging, and concert tickets. As a result of this scheme, the Carrs caused approximately $120,000 in losses to the union.

This was a joint investigation with OLMS. *United States* v. *Robert L. Carr and Theresa Ann Carr* (E.D. California)

Departmental Management



Controls over Travel Card Accounts Need Strengthening

When a former senior-level employee notified us that he had received a new travel card after separating from DOL, we initiated a performance audit of the Department's travel card program to determine whether it was being adequately administered. The Travel and Transportation Reform Act of 1998 requires that government employees only use travel cards for travel expenses when on official business. It is important to note that DOL reimburses travelers for authorized expenses. Therefore, employees, not DOL, are responsible for paying their account balances.

We reviewed travel card use by active employees during FY 2011 through the first two quarters of FY 2012 and by separated employees who participated in the program from FY 2009 through FY 2011 and the first two quarters of FY 2012.

Our audit found that DOL does not have adequate controls to administer the travel card program and that improvements are needed to ensure that travel cards are used only for authorized purposes and are canceled promptly when necessary. Specifically, we found that 21 percent (37 of 174) of statistically sampled travel card accounts of current employees incurred $50,094 in transactions while not on official travel, and 7 card accounts incurred $5,367 in unauthorized transactions while on official travel. In addition, 10 percent (934 of 8,959) of active employees reviewed had travel card accounts that they had not used for at least a two year period, and more than 79 percent (1,123 of 1,414) of travel card accounts of separated employees were not promptly canceled upon the employees' separation, of which 198 took a year or more to be canceled.

We also found that employees did not always submit required supporting receipts for lodging and transactions that exceeded $75. Of the 174 employee travel accounts reviewed, 25 employees violated federal travel regulations by not submitting required supporting receipts for transactions such as lodging, air-fare, and car rental. While we verified that the transactions in question had occurred and were legitimate official business expenses, agency officials approved vouchers for these trips in the absence of supporting receipts.

We made six recommendations to the chief financial officer (CFO) to address these weaknesses and improve administration of the Department's travel card program. The CFO agreed that certain employees improperly incurred charges on their travel cards, but stated employees are responsible for charges and they do not represent a financial liability to DOL. We agree with the CFO's assertion; however, any travel card accounts that remain open after employee separation, are not closed in a timely manner, or are used inappropriately represent internal control deficiencies that should concern DOL in its management over the travel card program. The CFO agreed with the recommendations and has planned actions to address them. (Report No. 17-13-001-13-001, September 9, 2013)

Deficiencies Continue to Be Identified in the Department's IT Security Program

DOL systems contain vital, sensitive information that is central to the Department's mission and to the effective administration of its programs. These systems are used to determine and house the nation's leading economic indicators, such as the unemployment rate and the Consumer Price Index. They also maintain critical data related to areas that include law enforcement, worker safety and health, pensions, welfare benefits, job training services, and legal matters.

As part of FY 2013 Federal Information Security Management Act work completed by the end of this reporting period, the OIG identified deficiencies related to the following IT control families: access control, audit and accountability, identification and authentication, contingency planning, configuration management, risk assessment, planning, personnel security, security assessment and authorization, incident response, and physical and environmental controls.

Correcting deficiencies in a timely manner is an integral part of management accountability. In FY 2013, we performed testing to verify whether DOL agencies had implemented prior-year IT security recommendations. We found that the Department has continued making progress in correcting IT security weaknesses, as 93 percent of the prior-year IT security recommendations tested had been implemented successfully. (23-13-010-01-100, September 26, 2013, 23-13-011-08-001, September 24, 2013, 23-13-012-12-001, September 30, 2013, 23-13-013-06-001, September 30, 2013, 23-13-015-13-001, September 20, 2013, 23-13-017-12-001, September 20, 2013, 23-13-018-11-001, September 20, 2013, 23-13-019-06-001, September 24, 2013, 23-13-020-01-080, September 26, 2013, 23-13-021-01-001, September 30, 2013, 23-13-022-01-060, September 26, 2013, 23-13-023-04-421, September 26, 2013, 23-13-024-04-001, September 30, 2013, 23-13-025-03-001, September 26, 2013, 23-13-026-12-001, September 26, 2013, 23-13-027-06-001, September 26, 2013)

Single Audits

Office of Management and Budget (OMB) Circular A-133 describes audit requirements for state and local governments, colleges and universities, and nonprofit organizations receiving federal awards. Under A-133, covered entities that expend $500,000 or more per year in federal awards are required to obtain an annual organization wide audit that includes the auditor's opinion on the entity's financial statements and compliance with federal award requirements. Non-federal auditors, such as public accounting firms and state auditors, conduct these single audits. The OIG reviews the resulting audit reports for findings and questioned costs related to DOL awards, and to ensure that the reports comply with the requirements of A-133.

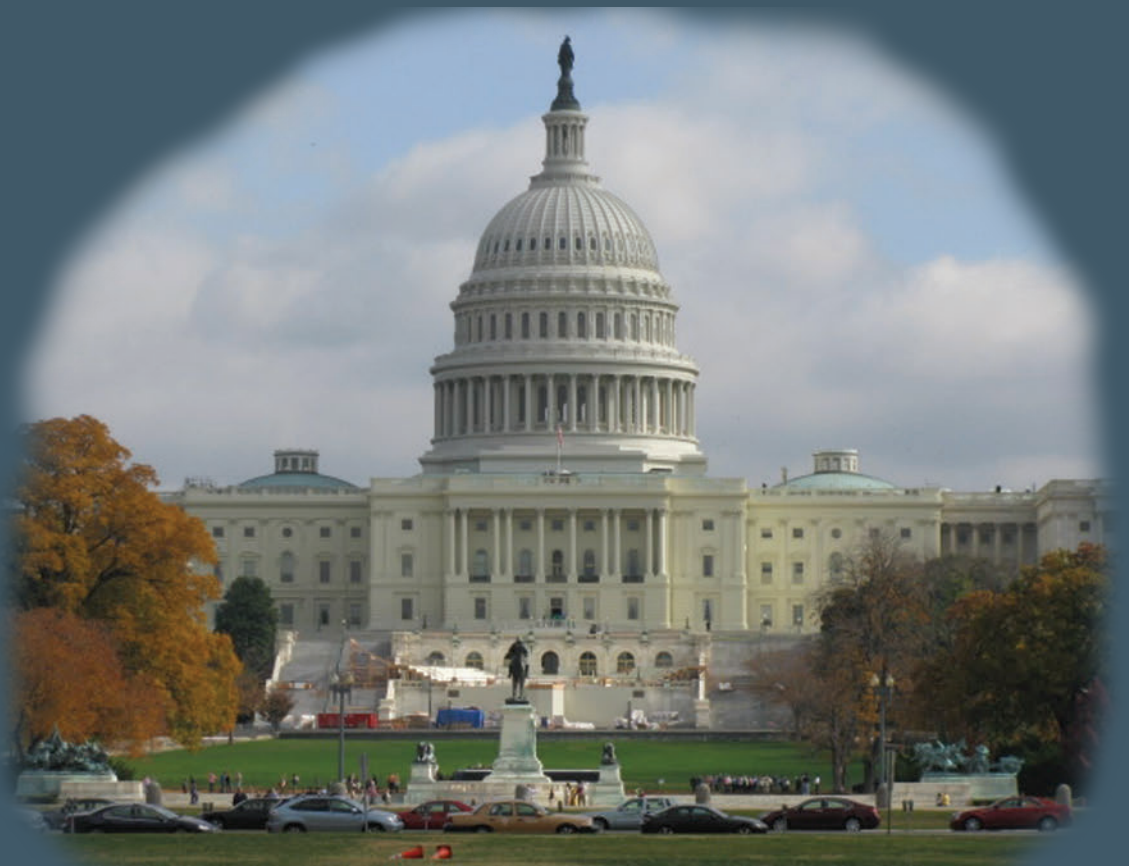
Single Audits Identify Material Weaknesses and Significant Deficiencies in 64 of 113 Reports

We reviewed 113 single audit reports this period, covering DOL expenditures of about $84 billion. These expenditures included about $8 billion related to Recovery Act funding. The non-federal auditors issued 20 qualified opinions, 1 adverse opinion, and 1 disclaimer of opinion on awardees' compliance with federal grant requirements, their financial statements, or both. In particular, the auditors identified 217 findings as material weaknesses or significant deficiencies and more than $5 million in questioned costs in 64 of 113 reports reviewed, indicating improvements are needed in those auditees' management of DOL funds and compliance with the requirements of major grant programs. We reported these 217 findings and 251 related recommendations to DOL management for corrective action.

Recipients expending more than $50 million a year in federal awards are assigned a cognizant federal agency for audit, and the cognizant agency is responsible for conducting or obtaining quality control reviews of selected A-133 audits. In FY 2013 DOL was the cognizant agency for 19 recipients.

During this reporting period, we conducted a quality control review (QCR) of AARP Foundation auditors' reports and supporting audit documentation. The purpose of the review was to determine whether (1) the audit was conducted in accordance with applicable standards and met single audit requirements, (2) any follow-up audit work was needed, and (3) there were any issues that may require management's attention. In the QCR, we determined the audit work performed was acceptable and met single audit and A-133 requirements. No follow-up work was required, and there were no issues that required management's attention.

Legislative Recommendations



Legislative Recommendations

The Inspector General Act requires the OIG to review existing or proposed legislation and regulations and to make recommendations in the Semiannual Report concerning their impact both on the economy and efficiency of the Department's programs and on the prevention of fraud and abuse. The OIG's legislative recommendations have remained markedly unchanged over the last several semiannual reports, and the OIG continues to believe that the following legislative actions are necessary to increase efficiency and protect the Department's programs.

Allow DOL Access to Wage Records

Wage records are a valuable source of information, both as an audit and program tool to reduce overpayments in employee benefit programs such as Unemployment Insurance (UI), the Federal Employees' Compensation Act (FECA), and Disaster Unemployment Assistance, and as an investigative resource to identify and combat fraud in Department programs.

For example, states cross-match UI claims against National Directory of New Hires (NDNH) data, which are maintained by the Department of Health and Human Services, to better detect overpayments to UI claimants who have gone back to work but continue to collect UI benefits. However, the law (42 U.S.C. 653 (i)) does not permit DOL or the OIG access to the NDNH.

Moreover, access to Social Security Administration (SSA) wage records and state UI data would allow the Department to measure the long-term impact of employment and training services on job retention and earnings. Outcome information of this type for program participants is otherwise difficult to obtain.

Accordingly, the Department and the OIG need legislative authority to obtain complete access to state UI wage records, SSA wage records, and NDNH data. While the OIG can currently use its subpoena authority to obtain state wage records, this process can be inefficient and untimely, and the OIG cannot use its subpoena authority for SSA or NDNH records.

Amend Pension Protection Laws

Legislative changes to the Employee Retirement Income Security Act (ERISA) and criminal penalties for ERISA violations would enhance the protection of assets in pension plans. To this end, the OIG recommends the following:

- **Expand the authority of the Employee Benefits Security Administration (EBSA) to correct substandard benefit plan audits and ensure that auditors with poor records do not perform additional plan audits.** Changes should include providing EBSA with greater enforcement authority over registration, suspension, and debarment, and the ability to levy civil penalties against employee benefit plan auditors. The ability to correct substandard audits and take action against auditors is important because benefit plan audits help protect participants and beneficiaries by

ensuring the proper value of plan assets and computation of benefits.

- **Repeal ERISA's limited-scope audit exemption.** This provision excludes pension plan assets invested in financial institutions, such as banks and savings and loans, from audits of employee benefit plans. The limited-scope audit prevents independent public accountants who are auditing pension plans from rendering an opinion on the plans' financial statements in accordance with professional auditing standards. These "no opinion" audits provide no substantive assurance of asset integrity to plan participants or the Department.

- **Require direct reporting of ERISA violations to DOL.** Under current law, a pension plan auditor who finds a potential ERISA violation is responsible for reporting it to the plan administrator, but not directly to DOL. To ensure that improprieties are addressed, we recommend that plan administrators or auditors be required to report potential ERISA violations directly to DOL. This would ensure the timely reporting of violations and would more actively involve auditors in safeguarding pension assets, providing a first line of defense against the abuse of workers' pension plans.

- **Strengthen criminal penalties in Title 18 of the United States Code.** Three sections of U.S.C. Title 18 serve as the primary criminal enforcement tools for protecting pension plans covered by ERISA. Embezzlement or theft from employee pension and welfare plans is prohibited by Section 664; making false statements in documents required by ERISA is prohibited by Section 1027; and giving or accepting bribes related to the operation of ERISA-covered plans is prohibited by Section 1954. Sections 664 and 1027 subject violators to up to five years' imprisonment, while Section 1954 calls for up to three years' imprisonment. We believe the maximum penalty should be raised to 10 years for all three violations to correspond with the 10-year penalty imposed by 18 U.S.C. § 669 (theft from health care benefit programs), to serve as a greater deterrent and further protect employee pension plans.

Provide Authority to Ensure the Integrity of the H-1B Program

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

Improve the Integrity of the FECA Program

The OIG believes reforms should be considered to improve the effectiveness and integrity of the FECA program in the following areas:

- **Statutory access to Social Security wage records and the NDNH.** Currently, the Department can access Social Security wage information only if the claimant gives it permission to do so, and it has no access to the NDNH. Granting the Department routine access to these databases would aid in the detection of fraud committed by individuals

receiving FECA wage loss compensation but failing to report income they have earned.

- **Benefit rates when claimants reach normal federal or Social Security retirement age.** Alternate views have arisen as to whether and how benefit rates should be adjusted when beneficiaries reach federal or Social Security retirement age. The benefit rate structure for FECA should be reassessed to determine what an appropriate benefit should be for those beneficiaries who remain on the FECA rolls into retirement. Careful consideration is needed to ensure that the benefit rates ultimately established will have the desired effect while ensuring fairness to injured workers, especially those who have been determined to be permanently injured and thus unable to return to work.

- **Three-day waiting period.** The FECA legislation provides for a three-day waiting period intended to discourage the filing of frivolous claims. As currently written, the legislation places the waiting period at the end of the 45-day continuation of pay period, thereby negating its purpose. Legislation passed in 2006 placed the waiting period immediately after an employment-related injury for postal employees. If the intent of the law is to have a true waiting period before applying for benefits, then it should likewise come immediately after an employment-related injury for all workers.

Clarify MSHA's Authority to Issue Verbal Mine Closure Orders

The Mine Safety and Health Act of 1977 (Mine Act) charges the Secretary of Labor with protecting the lives and health of workers in coal and other mines. To that end, the Mine Act contains provisions authorizing the Secretary to issue mine closure orders. Specifically, Section 103(j) states that in the event of any accident occurring in a coal or other mine where rescue and recovery work is necessary, the Secretary or an authorized representative of the Secretary shall take whatever action he or she deems appropriate to protect the life of any person. Under Section 103(k), the Mine Act states that an authorized representative of the Secretary, when present, may issue such orders as he or she deem appropriate to ensure the safety of any person in the coal or other mine.

The primary purpose of the Mine Act is to give the Secretary the authority to take appropriate action—including ordering a mine closure—to protect lives. As such, the OIG recommends a technical review of the existing language under Section 103(k) to ensure that MSHA's long-standing and critically important authority to take whatever actions may be necessary, including issuing verbal mine closure orders, to protect miner health and safety is clear and not vulnerable to challenge.

Appendices

Reporting Requirements Under the Following Acts:

Inspector General Act of 1978

REPORTING	REQUIREMENT	PAGE
Section 4(a)(2)	Review of Legislation and Regulation	48
Section 5(a)(1)	Significant Problems, Abuses, and Deficiencies	ALL
Section 5(a)(2)	Recommendations with Respect to Significant Problems, Abuses, and Deficiencies	ALL
Section 5(a)(3)	Prior Significant Recommendations on Which Corrective Action Has Not Been Completed	60
Section 5(a)(4)	Matters Referred to Prosecutive Authorities	61
Section 5(a)(5) and Section 6(b)(2)	Summary of Instances Where Information Was Refused	NONE
Section 5(a)(6)	List of Audit Reports	55
Section 5(a)(7)	Summary of Significant Reports	ALL
Section 5(a)(8)	Statistical Tables on Management Decisions on Questioned Costs	54
Section 5(a)(9)	Statistical Tables on Management Decisions on Recommendations That Funds Be Put to Better Use	53
Section 5(a)(10)	Summary of Each Audit Report Over Six Months Old for Which No Management Decision Has Been Made	60
Section 5(a)(11)	Description and Explanation of Any Significant Revised Management Decision	NONE
Section 5(a)(12)	Information on Any Significant Management Decisions With Which the Inspector General Disagrees	NONE

Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010

Section 3(d)	Peer Review Reporting	62

American Recovery and Reinvestment Act of 2010

Section 1553(b)(2)(B)(iii)	Whistleblower Reporting	63

Funds Recommended for Better Use

Funds Put to a Better Use* Agreed to by DOL	Number of Reports	Dollar Value ($ millions)
For which no management decision had been made as of the commencement of the reporting period	1	42.1
Issued during the reporting period	3	440.4
Subtotal	4	482.5
For which management decision was made during the reporting period:		
• Dollar value of recommendations that were agreed to by management	2	471.0
• Dollar value of recommendations that were not agreed to by management		0.0
For which no management decision had been made as of the end of the reporting period	2	11.5

Funds Put to a Better Use Implemented by DOL	Number of Reports	Dollar Value ($ millions)
For which final action had not been taken as of the commencement of the reporting period	6	344.5
For which management or appeal decisions were made during the reporting period	2	471.0
Subtotal	8	815.5
For which final action was taken during the reporting period:		
• Dollar value of recommendations that were actually completed	0	0.0
• Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed		0.0
For which no final action had been taken by the end of the period	8	815.5

* The term "recommendation that funds be put to better use" means a recommendation by the OIG that funds could be used more efficiently or achieve greater program effectiveness if management took actions to implement and complete the recommendation. This term is defined by the Inspector General Act and includes, among other things, reductions in future outlays; deobligation of funds from programs or operations; costs not incurred in the future by implementing recommended improvements related to the operations of the establishment, a contractor or grantee; and any other savings specifically identified, including reverting funds to the U.S. Treasury to be used for other purposes.

Questioned Costs

Resolution Activity: Questioned Costs*		
	Number of Reports	**Questioned Costs ($ millions)**
For which no management decision had been made as of the commencement of the reporting period (as adjusted)	11	9.8
Issued during the reporting period (not including single audits)	2	8.3
Single audits	19	5.5
Subtotal	32	23.6
For which a management decision was made during the reporting period:		
• Dollar value of disallowed costs		0.7
• Dollar value of costs not disallowed		0.5
For which no management decision had been made as of the end of the reporting period	21	22.4
For which no management decision had been made within six months of issuance	3	9.1

Closure Activity: Disallowed Costs		
	Number of Reports	**Disallowed Costs ($ millions)**
For which final action had not been taken as of the commencement of the reporting period (as adjusted)	54	31.9
For which management or appeal decisions were made during the reporting period	4	0.7
Subtotal	58	32.6
For which final action was taken during the reporting period:		
• Dollar value of disallowed costs that were recovered		0.1
• Dollar value of disallowed costs that were written off by management		5.3
• Dollar value of disallowed costs that entered appeal status		
For which no final action had been taken by the end of the reporting period	54	27.2

*As defined by the IG Act, question costs include alleged violations of law, regulations, contracts, grants or agreements; costs not supported by adequate documentation; or the expenditure of funds for an intended purpose that was unnecessary or unreasonable. Disallowed costs are costs that the OIG questioned during an audit as unsupported or unallowable and the Grant/Contracting Officer has determined the auditee should repay. The Department is responsible for collecting the debts established. The amount collected may be less than the amount disallowed, and monies recovered usually cannot be used to fund other program operations and are returned to the U.S. Treasury.

Final Audit Reports Issued

Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)	Funds Put to Better Use ($)
Employment and Training Programs			
Trade Adjustment Assistance Program			
Recovery Act: Required Employment and Case Management Services Under the Trade and Globalization Adjustment Assistance Act of 2009; Report No. 18-13-003-03-330; 08/06/13	4	0	0
Indian and Native American Programs			
Navajo Nation Did Not Adequately Manage Workforce Investment Act Grants and Could Serve More Participants With Available Funds; Report No. 02-13-202-03-355; 09/30/13	3	8,000,000	11,200,000
Job Corps Program			
The U.S. Department of Labor's Employment and Training Administration Needs to Strengthen Controls over Job Corps Funds; Report No. 22-13-015-03-370; 05/31/13	13	0	0
Job Corps National Contracting Needs Improvement to Ensure Best Value, Report No. 26-13-004-03-370; 09/27/13	3	351,207	0
Workforce Investment Act			
Improvements Are Needed By the Northwest Pennsylvania Workforce Investment Board to Ensure Services Are Documented and Participants Find Jobs Related to the Training Received; Report No. 03-13-002-03-390; 09/30/13	4	0	0
Goal Totals (5 Reports)	**27**	**8,351,207**	**11,200,000**
Worker Benefit Programs			
Federal Employees' Compensation Act			
Service Auditor's Report on the Integrated Federal Employees' Compensation System and Service Auditor's Report on the Central Bill Processing System for the period October 1, 2012 to March 31, 2013; Report No. 22-13-008-04-431; 08/23/13	0	0	0
Employee Benefits Security Administration			
EBSA Needs to Provide Additional Guidance and Oversight to ERISA Plans Holding Hard to Value Alternative Investments; Report No. 09-13-001-12-121; 09/30/13	6	0	0
Goal Totals (2 Reports)	**6**	**0**	**0**
Worker Safety, Health, and Workplace Rights			
Mine Safety and Health			
MSHA Should Continue to Reassess and Make Improvements to Its Role in Mine Rescue Contests; Report No. 05-13-004-06-001; 09/30/13	3	0	326,308
MSHA Can Improve Its Section 110 Special Investigations Process; Report No. 05-13-008-06-001; 09/30/13	3	0	0
Occupational Safety and Health			
Recovery Act: OSHA Activities Under The Recovery Act; Report No.18-13-004-10-105; 07/16/13	2	0	0
Goal Totals (3 Reports)	**8**	**0**	**326,308**
Departmental Management			
Office of the Chief Financial Officer			
Controls Over Travel Card Accounts Need Strengthening; Report No. 17-13-001-13-001; 09/13/13	6	0	0
Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements For the Year Ended September 30, 2012; Report No. 22-13-006-13-001; 06/04/13	32	0	428,900,000
Goal Totals (2 Reports)	**38**	**0**	**428,900,000**
Final Audit Report Totals (12 Reports)	**79**	**8,351,207**	**440,426,308**

Other Reports

Report Name	# of Nonmonetary Recommendations	Questioned Costs $
Verification of Office of Disability Employment Policy Remediation Efforts of Prior-Year Information Technology Security Recommendations; Report No. 23-13-020-01-080; 09/26/13	0	0
Quality Control Review Single Audit of AARP Foundation for the Year Ended December 31, 2012; Report No. 24-13-010-03-360; 07/26/13	0	0
Verification of ETA Remediation Efforts for Prior-Year Information Technology Security Recommendations; Report No. 23-13-025-03-001; 09/27/13	0	0
Verification of BLS Remediation Efforts of Prior-Year Information Technology Security Recommendations; Report No. 23-13-018-11-001; 09/20/13	0	0
Fiscal Year 2013 Federal Information Security Management Act: Appeals Management System Testing; Report No. 23-13-010-01-100; 09/27/13	2	0
Verification of OWCP Remediation Efforts of Prior-Year Information Technology Security Recommendations; Report No. 23-13-024-04-001; 09/30/13	0	0
Fiscal Year 2013 Federal Information Security Management Act: EBSA General Support System Testing; Report No. 23-13-012-12-001; 09/30/13	2	0
Verification of EBSA Remediation Efforts of Prior-Year Information Technology Security Recommendations; Report No. 23-13-017-12-001; 09/20/13	0	0
Fiscal Year 2013 Federal Information Security Management Act: Employee Retirement Income Security Act Filing Acceptance System Testing; Report No. 23-13-026-12-001; 09/26/13	2	0
Verification of Office of Labor Management Standards Remediation Efforts of Prior-Year Information Technology Security Recommendations; Report No. 23-13-023-04-421; 09/26/13	0	0
Fiscal Year 2013 Federal Information System Management Act: Mine Safety and Health Administration General Support System Testing; Report No. 23-13-013-06-001; 09/30/13	2	0
Verification of MSHA Remediation Efforts of Prior-Year Information Technology Security Recommendations; Report No. 23-13-019-06-001; 09/24/13	0	0
Fiscal Year 2013 Federal Information System Management Act: Mine Safety and Health Administration Standard Information System Testing; Report No. 23-13-027-06-001; 09/27/13	2	0

Other Reports, continued

Departmental Management		
Office of Public Affairs		
Verification of Office of Public Affairs Remediation Efforts for Prior-Year Information Technology Security Recommendations; Report No. 23-13-021-01-001; 09/30/13	0	0
Office of Administrative Law Judges		
Verification of Office of Administrative Law Judges Remediation Efforts of Prior-Year Information Technology Security Recommendations; Report No. 23-13-022-01-060; 09/26/13	0	0
Office of the Assistant Secretary for Administration and Management		
Summary of Findings Related to Selected Systems Tested During the FY 2012 Consolidated Financial Statement Audit and the Statement on SSAE No. 16 SOC 1 Examination for the Period October 1, 2011, through June 30, 2012; Report No. 22-13-007-07-001; 04/03/13	0	0
Office of the Solicitor		
Fiscal Year 2013 Federal Information Security Management Act: Matter Management System Testing; Report No. 23-13-011-08-001; 09/24/13	2	0
Office of the Chief Financial Officer		
Verification of OCFO Remediation Efforts of Prior-Year Information Technology Security Recommendations Report; Report No. 23-13-015-13-001; 09/20/13	0	0
Goal Totals (5 Reports)	**2**	**0**
Other Report Totals (18 Reports)	**12**	**0**

Single Audit Reports Processed

Program/Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)
State of Georgia; Report No. 24-13-552-03-315; 04/08/13	7	12,922
State of Missouri; Report No. 24-13-561-03-315; 04/08/13	1	0
State of Colorado; Report No. 24-13-563-03-315; 04/08/13	2	410
State of Connecticut; Report No. 24-13-570-03-390; 04/08/13	11	0
Youthbuild Lake County, Inc.; Report No. 24-13-553-03-340; 04/12/13	2	0
Commonwealth of Puerto Rico Department of Labor and Human Resources – Unemployment Insurance Service; Report No. 24-13-555-03-315; 04/15/13	12	0
Commonwealth of Puerto Rico Department of Labor and Human Resources – Veterans Employment and Training; Report No. 24-13-556-02-201; 04/15/13	2	0
Metro United Methodist Urban Ministry; Report No. 24-13-554-03-390; 04/17/13	1	0
State of Texas c/o Controller of Public Accountants; Report No. 24-13-557-03-390; 04/22/13	1	0
State of Delaware; Report No. 24-13-558-03-390; 04/22/13	7	14,995
Commonwealth of Kentucky; Report No. 24-13-559-03-315; 04/26/13	1	0
State of Louisiana; Report No. 24-13-560-03-315; 04/26/13	2	29,004
Young Adult Development in Action, Inc.; Report No. 24-13-564-03-390; 05/08/13	1	10,821
State of California; Report No. 24-13-562-03-315; 05/09/13	6	0
State of Maine; Report No. 24-13-565-03-315; 05/09/13	2	0
State of Vermont; Report No. 24-13-566-03-315; 05/16/13	3	79,007
State of Tennessee; Report No. 24-13-568-03-315; 05/16/13	12	1,153,326
State of Hawaii, Department of Accounting and General Services; Report No. 24-13-571-03-315; 05/16/13	7	0
State of Washington c/o Office of Financial Management; Report No. 24-13-572-03-315; 05/17/13	2	440,925
State of Rhode Island and Providence Plantations; Report No. 24-13-573-03-315; 05/20/13	6	0
Workforce, Inc. D/B/A Recycle Force; Report No. 24-13-574-03-390; 05/22/13	2	0
State of Oregon; Report No. 24-13-575-03-390; 05/22/13	4	267,748
New Mexico Department of Workforce Solutions – Unemployment Insurance Service; Report No. 24-13-583-03-315; 05/23/13	5	0
New Mexico Department of Workforce Solutions – Veterans Employment and Training; Report No. 24-13-585-02-201; 05/23/13	3	0
State of New Jersey; Report No. 24-13-578-03-390; 05/28/13	2	0
State of Iowa; Report No. 24-13-580-03-390; 05/28/13	1	0
State of Alaska; Report No. 24-13-586-03-390; 05/28/13	3	14,749
State of Hawaii Department of Labor and Industrial Relations; Report No. 24-13-589-03-315; 05/28/13	2	0
State of West Virginia; Report No. 24-13-590-03-315; 05/28/13	1	0
State of Ohio; Report No. 24-13-591-03-315; 05/28/13	1	0
State of Oklahoma; Report No. 24-13-592-03-315; 05/28/13	1	0
State of Nebraska; Report No. 24-13-576-03-390; 05/29/13	7	4,477
AARP Foundation; Report No. 24-13-593-03-390; 05/29/13	1	0
SER Jobs for National Progress; Report No. 24-13-577-03-390; 06/03/13	1	124,427
Providence Health Foundation; Report No. 24-13-579-03-390; 06/03/13	1	0
Learning Works; Report No. 24-13-581-03-315; 06/03/13	2	0
State of Florida; Report No. 24-13-587-03-390; 06/03/13	4	0
State of Idaho; Report No. 24-13-588-03-390; 06/03/13	1	0
State of Kansas; Report No. 24-13-582-03-315; 06/17/13	3	62,618

Single Audit Reports Processed, continued

State of South Dakota; Report No. 24-13-596-03-315; 06/17/13	3	0
American Indian Community House, Inc.; Report No. 24-13-597-03-355; 06/17/13	3	0
Governor's State University; Report No. 24-13-598-03-390; 06/17/13	1	0
Goodwill Industries of the Inland Northwest; Report No. 24-13-599-02-201; 06/17/13	1	0
Commonwealth of Pennsylvania; Report No. 24-13-600-03-315; 06/24/13	7	0
State of Nevada; Report No. 24-13-601-03-315; 06/24/13	6	2,176
Housing Authority of East Baton Rouge Parish; Report No. 24-13-584-03-315; 07/15/13	1	0
Covenant House of New Jersey; Report No. 24-13-594-03-390; 07/15/13	1	0
City of Richmond; Report No. 24-13-602-03-390; 07/15/13	5	222,740
University of Illinois; Report No. 24-13-603-10-001; 07/15/13	9	0
California Veterans Assistance Foundation, Inc.; Report No. 24-13-604-02-201; 07/23/13	2	0
Mississippi Action for Community Education, Inc.; Report No. 24-13-605-03-315; 07/23/13	1	0
State of Arizona; Report No. 24-13-569-03-315; 08/02/13	2	0
State of Illinois Governor's Office of Management and Budget; Report No. 24-13-606-03-315; 08/02/13	4	0
Berkshire Union Free School District; Report No. 24-13-607-03-390; 08/02/13	3	139,629
Mescalero Apache Tribe; Report No. 24-13-608-03-390; 08/02/13	1	0
South Carolina Department of Employment Workforce; Report No. 24-13-609-03-315; 08/02/13	3	0
The Navajo Nation; Report No. 24-13-595-03-390; 08/05/13	1	0
State of New Hampshire; Report No. 24-13-610; 08/06/13	4	0
State of Indiana; Report No. 24-13-611-03-315; 08/21/13	2	0
Government of the District of Columbia; Report No. 24-13-612-03-315; 09/04/13	3	0
State of Michigan; Report No. 24-13-613-03-315; 09/04/13	2	17,755
Territory of American Samoa; Report No. 24-13-614-03-390; 09/12/13	3	2,538,651
State of North Carolina; Report No. 24-13-615-03-390; 09/19/13	6	0
Center for Community Alternatives; Report No. 24-13-616-03-390; 09/23/13	2	0
State of Minnesota; Report No. 24-13-617-03-315; 09/26/13	5	315,248
Single Audit Report Totals (65 Reports)	**214**	**5,451,628**

Unresolved Audit Reports Over Six Months Old

Agency	Report Name	# of Nonmonetary Recommendations	Questioned Costs ($)
Nonmonetary Recommendations and Questioned Costs			
Status Changed to Unresolved Based on Follow-Up Work			
OWCP	Selected ESA Information Technology Systems That Support the FY 2005 Financial Statements; Report No. 23-06-003-04-001; 01/23/06	1	0
Final Management Decision/Final Determination Issued Did Not Resolve; OIG Negotiating with Agency			
MSHA	MSHA's Accountability Program Faces Challenges, But Makes Improvements; Report No. 05-12-002-06-001; 09/28/12	1	0
OLMS	OIG Audit of OLMS Compliance Audit Program; Report No. 09-12-001-04-421; 09/13/12	1	0
MSHA	MSHA Has Improved Its Roof Control Plan Review and Monitoring Process But Could Do More; Report No. 05-13-002-06-001; 03/29/13	1	0
Final Determination Not Issued by Grant/Contracting Officer by Close of Period			
VETS	Black Veterans for Social Justice; Report No. 24-12-514-02-201; 04/06/12	1	0
VETS	Goodwill Industries of Greater Rapids, Inc.; Report No. 24-12-548-02-201; 03/19/12	2	40,000
ETA	District of Columbia Department of Employment Services Did Not Have Adequate Controls for the Financial Management of Funds for Grants Awarded By ETA; Report No. 03-13-001-03-315; 03/27/13	2	8,853,820
ETA	National Academy of Sciences; Report No. 24-12-619-03-390; 08/24/12	1	0
VETS	Puerto Rico Department of Labor and Human Resources; Report No. 24-13-547-02-001; 03/14/13	2	0
ETA	Town of Guadalupe; Report No. 24-13-519-03-390; 12/27/13	3	222,598
VETS	University of Puerto Rico; Report No. 24-13-523-02-201; 01/03/13	4	0
ETA	Harlem Children's Zone, Inc. and Subsidiaries; Report No. 24-13-526-03-390; 01/08/13	2	0
VETS	Way Station, Inc. & Subsidiary; Report No. 24-13-539-02-001; 02/26/13	2	0
MSHA	New Mexico Institute of Mining and Technology; Report No. 24-13-540-06-001; 02/26/13	1	0
Final Decision Not Issued by Agency by Close of Period			
EBSA	Changes Are Still Needed in the ERISA Audit Process to Increase Protection for Employee Benefit Plan Participants; Report No. 09-12-002-12-121; 09/28/12	5	0
Total Nonmonetary Recommendations, Questioned Costs		**29**	**9,116,418**
Other Monetary Impact			
Final Management Decision Issued by Agency Did Not Resolve; OIG Negotiating with Agency			
OSHA	OSHA Needs to Evaluate and Use of Hundreds of Millions of Dollars in Penalty Reductions as Incentives for Employers to Improve Workplace Safety and Health; Report No. 02-10-201-10-105; 09/30/10	2	318,200,000
Total Other Monetary Impact		**2**	**318,200,000**
Total Nonmonetary Recommendations, Questioned Costs, and Other Monetary Impact		**31**	**327,316,418**

Investigative Statistics

	Division Totals	Total
Cases Opened:		248
Program Fraud Labor Racketeering	196 52	
Cases Closed:		253
Program Fraud Labor Racketeering	198 55	
Cases Referred for Prosecution:		204
Program Fraud Labor Racketeering	166 38	
Cases Referred for Administrative/Civil Action:		106
Program Fraud Labor Racketeering	98 8	
Indictments:		257
Program Fraud Labor Racketeering	206 51	
Convictions:		293
Program Fraud Labor Racketeering	240 53	
Debarments:		14
Program Fraud Labor Racketeering	3 11	
Recoveries, Cost-Efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions:		$36,867,692
Program Fraud Labor Racketeering	$33,268,238 $3,599,454	

Recoveries: The dollar amount/value of an agency's action to recover or to reprogram funds or to make other adjustments in response to OIG investigations	$2,225,864
Cost-Efficiencies: The one-time or per annum dollar amount/value of management's commitment, in response to OIG investigations, to utilize the government's resources more efficiently	$5,017,161
Restitutions/Forfeitures: The dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations	$23,505,664
Fines/Penalties: The dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations	$2,718,798
Civil Monetary Actions: The dollar amount/value of forfeitures, settlements, damages, judgments, court costs, or other penalties resulting from OIG criminal investigations	$3,400,205
Total:	**$36,867,692**

Peer Review Reporting

The following meets the requirement under Section 989C of the Dodd–Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) that the Inspectors General include their peer review results as an appendix to each semiannual report. Federal audit functions can receive a rating of "pass," "pass with deficiencies," or "fail." Federal investigation functions can receive a rating of "compliant" or "noncompliant."

Peer Review of DOL-OIG Audit Function

The Social Security Administration–OIG conducted a peer review of the system of quality control for DOL-OIG's audit function for FY 2012. The peer review report, which was issued on March 15, 2013, resulted in an opinion that the system of quality control was suitably designed and provided reasonable assurance of DOL-OIG's conforming to professional standards in its conduct of audits. The peer review gave DOL-OIG a pass rating and made no recommendations.

Peer Review of DOL-OIG Investigative Function

In FY 2013, the Department of Homeland Security–OIG conducted a peer review of the system of internal safeguards and management procedures for DOL-OIG's investigative function for the period ending March 31, 2013. This peer review, which concluded in September 2013, found DOL-OIG to be compliant and did not identify any observations, findings, or deficiencies. This peer review recognized a best practice in case management.

DOL-OIG Peer Review of DOJ-OIG Investigative Function

DOL-OIG conducted an external peer review of the Department of Justice (DOJ)–OIG's system of internal safeguards and management procedures for the investigative function for the period ending October 31, 2012. This peer review, which concluded in April 2013, found DOJ-OIG to be compliant and did not identify any observations, findings, or deficiencies. This peer review recognized four best practices–two in computer forensics, one in case management, and one in training.

Whistleblower Reporting

Under the American Recovery and Reinvestment Act of 2009 (Recovery Act) (P.L. 111-5), an employee of any non-federal employer receiving covered Recovery Act funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information that the employee reasonably believes is evidence of (1) gross mismanagement of an agency contract or grant relating to covered funds; (2) a gross waste of covered funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of covered funds; (4) an abuse of authority related to the implementation or use of covered funds; or (5) a violation of law, rule, or regulation related to an agency contract or grant awarded or issued relating to covered funds. Further, the Recovery Act states that any person who believes he or she has been subjected to a prohibited reprisal may submit a complaint to the appropriate OIG, and the OIG must, subject to several limited exceptions, investigate the complaint and submit a report to the agency head.

The following meets the requirements under this act that the Inspectors General include in each semiannual report a list of those investigations for which the Inspector General received an extension beyond the applicable 180-day period to conduct an investigation and submit a report (Section 1553(b)(2)(B)(iii)) and a list of those investigations the Inspector General decided not to conduct or continue (Section 1553(b)(3)(C)).

The OIG decided not to conduct two Recovery Act whistleblower investigations during this semiannual reporting period:

First, an individual submitted a complaint to the OIG claiming that his firm's contract to provide weatherization services was terminated as a result of disclosures that he made regarding waste, fraud, and abuse with respect to the expenditure of Recovery Act funds. The OIG determined that the Recovery Act funds in question were appropriated to the Department of Energy, and the OIG advised the individual to contact the Department of Energy–OIG about his retaliation complaint.

Second, an individual submitted a complaint to the OIG claiming that he had reported fraud with respect to the activities of a workforce development company that received Recovery Act funds, that he was subsequently terminated from his position with the company, and that company officials have undermined his efforts to obtain other employment in this field. As reported in the previous DOL-OIG *Semiannual Report to Congress*, the OIG and the individual agreed to an extension of the 180-day period for the OIG to conduct an investigation and submit a report the Secretary of Labor. During this reporting period, the OIG confirmed that the workforce development company in question was no longer an ongoing operation and was operating only to dispose of property and undertake other closeout actions. Further, the company was not receiving any additional funds from the Department of Labor. Accordingly, there did not appear to be a viable remedy under the Recovery Act whistleblower provisions, and the OIG closed its investigation.

OIG Hotline

The OIG Hotline provides a communication link between the OIG and persons who want to report alleged violations of laws, rules, and regulations; mismanagement; waste of funds; abuse of authority; or danger to public health and safety. During the reporting period April 1, 2013, through September 30, 2013, the OIG Hotline received a total of 1,400 contacts. Of these, 209 were referred for further review and/or action.

Complaints Received (by Method Reported):	**Totals**
Telephone	889
E-Mail/Internet	369
Mail	115
Fax	26
Walk-In	1
Total	**1,400**
Complaints Received (by Source):	**Totals**
Complaints from Individuals or Nongovernment Organizations	1,358
Complaints/Inquiries from Congress	7
Referrals from GAO	7
Complaints from Other DOL Agencies	16
Complaints from Other (Non-DOL) Government Agencies	12
Total	**1,400**
Disposition of Complaints:	**Totals**
Referred to OIG Components for Further Review and/or Action	56
Referred to DOL Program Management for Further Review and/or Action	122
Referred to Non-DOL Agencies / Organizations	31
No Referral Required / Informational Contact	1,224
Total	**1,433***

* During this reporting period, the Hotline office referred several individual complaints to multiple offices or entities for review (e.g., to OIG components, or to an OIG component and DOL program management and/or a non-DOL agency).

Office of Inspector General, U.S. Department of Labor
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http://www.oig.dol.gov/

Office of Inspector General
United States Department of Labor

Report Fraud, Waste, and Abuse

Call the Hotline

202.693.6999 800.347.3756

Email: hotline@oig.dol.gov
Fax: 202.693.7020

The OIG Hotline is open to the public and to Federal employees 24 hours a day, 7 days a week to receive allegations of fraud, waste, and abuse concerning Department of Labor programs and operations.

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