



# Semiannual Report to Congress

*Office of Inspector General for the U.S. Department of Labor*





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# A Message from the Inspector General

The world is working through a serious health and economic crisis, the likes of which none of us has witnessed. More than 30 million Americans have filed for unemployment since the beginning of the crisis. Now more than ever we must ensure that vital U.S. Department of Labor (DOL) programs, such as unemployment insurance, occupational health and safety protection, and labor law compliance, deliver on their essential missions efficiently and effectively. As the federal agency with primary oversight of DOL, the Office of Inspector General (OIG) is committed to meeting these challenges and assisting DOL and Congress in protecting the American workforce and limiting the impact of the pandemic.

The OIG has already taken several steps to respond to the crisis. With the benefit of work on earlier disaster responses and stimulus bills, the OIG immediately developed a comprehensive Pandemic Response Oversight Plan to address known and expected risks resulting from the pandemic. These risks include fraud, waste, and abuse as well as the need for efficiency and effectiveness in providing benefits, guidance, training, and other assistance to help the country recover from the effects of the pandemic.

Our oversight will be conducted in four phases and focus on the Department's response to the pandemic, particularly under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Areas of review will include DOL's efforts to administer and oversee the expansion of unemployment benefits, protect workers and miners from exposure to COVID-19, and provide guidance and enforce CARES Act regulations relating to paid leave. For instance, we have already issued an advisory report on initial areas of concern relating to unemployment insurance based on our previous work. More information about how we are conducting oversight and responding to the pandemic is available in our Pandemic Response Oversight Plan, included herein and on our website.

We have also issued an important Fraud Alert relating to unemployment insurance. As part of our investigative program, we identified that scammers are taking advantage of workers who are applying for benefits. In one scheme, scammers offered to help individuals file claims in an attempt to obtain payment or personal information, including social security numbers and credit card information. The OIG is committed to safeguarding this essential program and will continue to alert the public and our law enforcement partners about any threats to the integrity of the unemployment insurance system.

The OIG is also a member of the Pandemic Response Accountability Committee, which was created to detect and prevent fraud, waste, abuse, and mismanagement of the more than \$2.4 trillion in funds provided by the CARES Act and other legislation. As part of this effort, we will work with our OIG partners to identify major risks that cut across DOL programs and agency boundaries.

Finally, in addition to highlighting our office's significant audit and investigative accomplishments during the reporting period, this report highlights several significant concerns, including many concerns relating to DOL's response to the pandemic.

We will continue to work constructively with the Department and Congress on our shared goals of identifying improvements to DOL programs and operations and protecting the interests and benefits of the nation's workers and retirees during this unprecedented time.



Scott S. Dahl  
Inspector General





## OIG Mission

The Office of Inspector General (OIG) at the U.S. Department of Labor (DOL) conducts audits to review the effectiveness, efficiency, economy, and integrity of all DOL programs and operations, including those performed by its contractors and grantees. This work is conducted in order to determine whether the programs and operations are in compliance with the applicable laws and regulations; DOL resources are efficiently and economically being utilized; and DOL programs achieve their intended results. The OIG also conducts criminal, civil, and administrative investigations into alleged violations of federal laws relating to DOL programs, operations, and personnel. In addition, the OIG conducts criminal investigations to combat the influence of labor racketeering and organized crime in the nation's labor unions in three areas: employee benefit plans, labor-management relations, and internal union affairs. The OIG also works with other law enforcement partners on human trafficking matters.

## Core Values

### **Excellence**

We deliver relevant, quality, timely, high-impact products and services through a workforce committed to accountability and the highest professional standards.

### **Integrity**

We adhere to the highest ethical principles and perform our work in an honest and trustworthy manner.

### **Independence**

We are committed to being free of conflicts of interest through objectivity and impartiality.

### **Service**

We are a unified team, vigilant to duty through dedicated public service.

### **Transparency**

We promote an environment of open communication through information sharing, accountability, and accurate reporting.

## Strategic Goals

**Goal 1:** Deliver timely, relevant, and high-impact results.

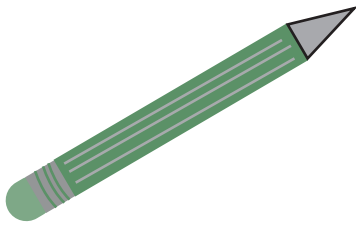
**Goal 2:** Foster an internal OIG culture that drives high performance and engagement.

**Goal 3:** Promote responsible stewardship of OIG financial and non-financial resources.

# Audit Statistics

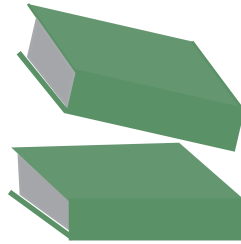
12

Audits and Other Reports Issued



57

Recommendations for Corrective Action



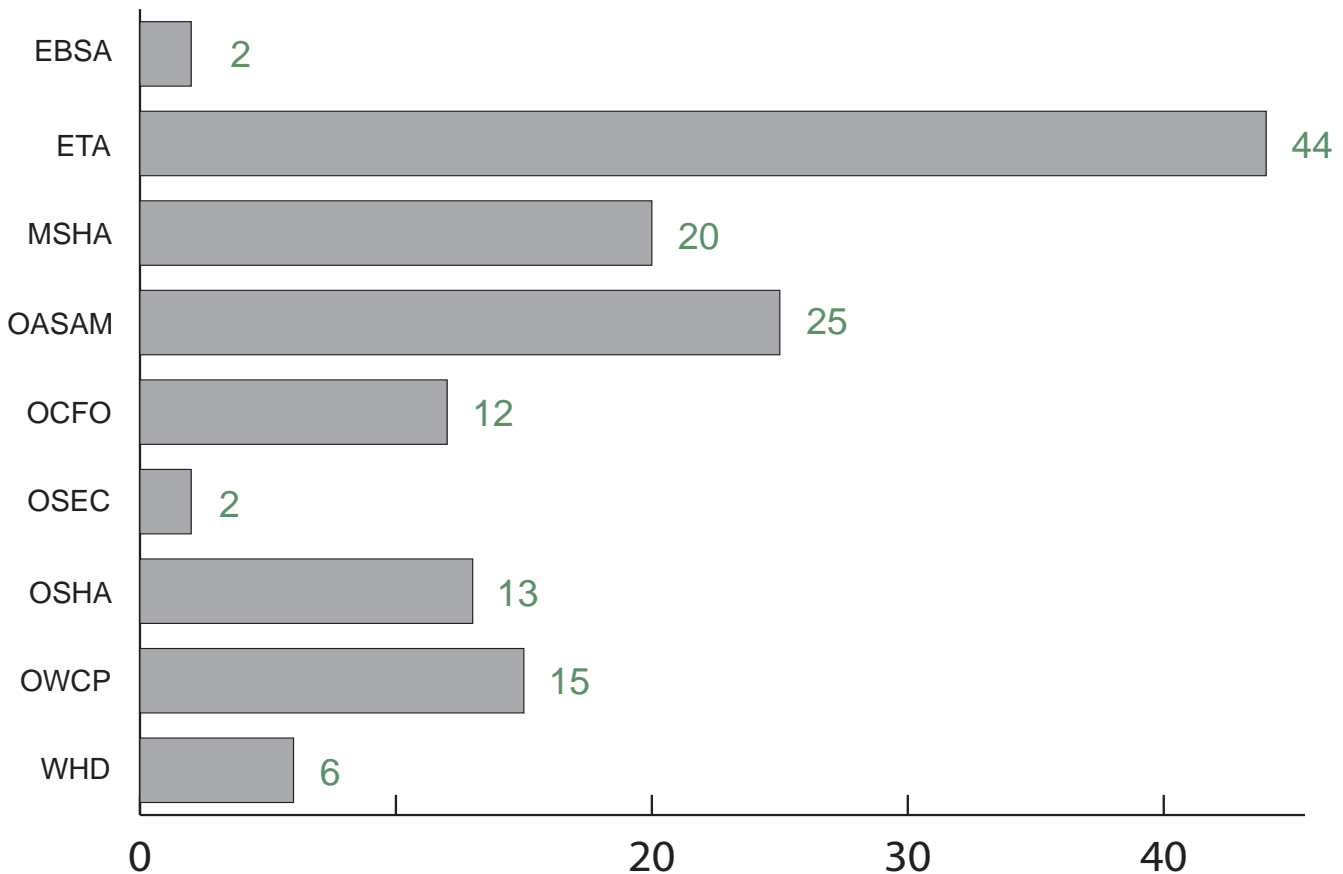
78

Recommendations Closed This Reporting Period



## OIG Unimplemented Recommendations

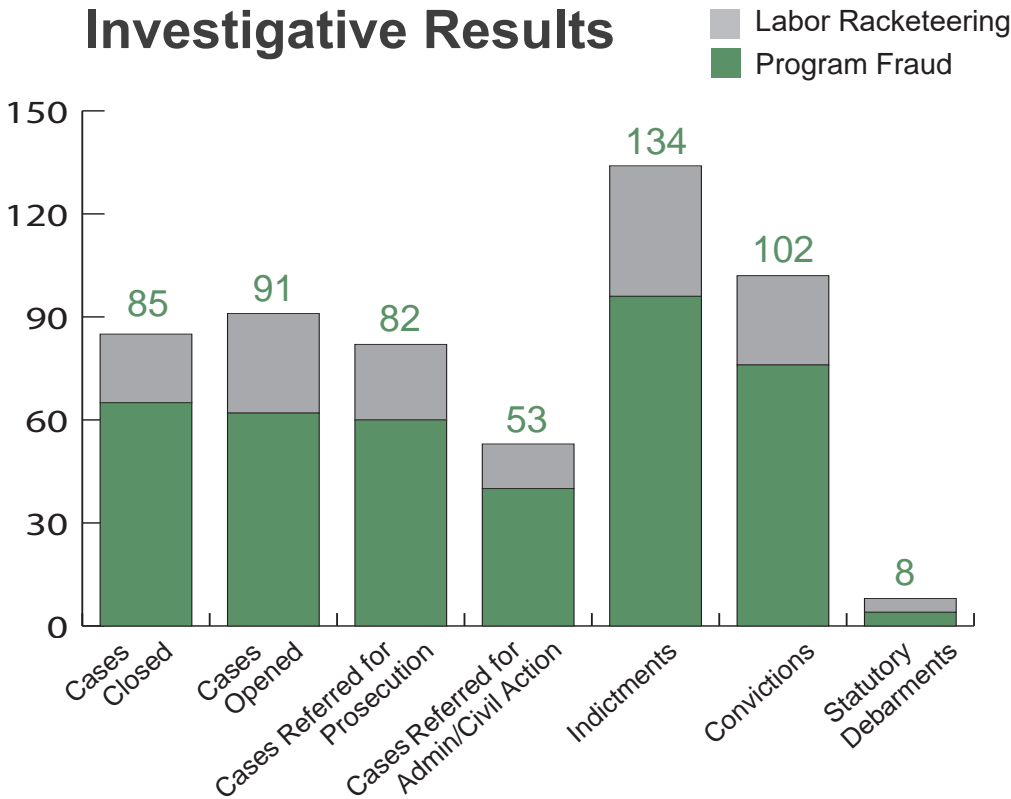
*OIG recommendations not fully implemented as of March 31, 2020*



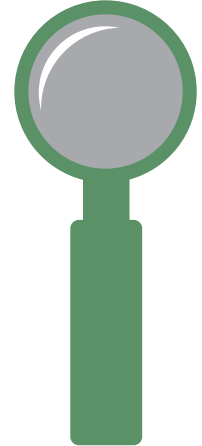


# Investigative Statistics

## Investigative Results

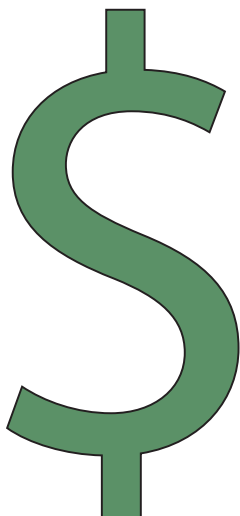


91 / 85



Over 90 investigative cases opened and 85 cases closed

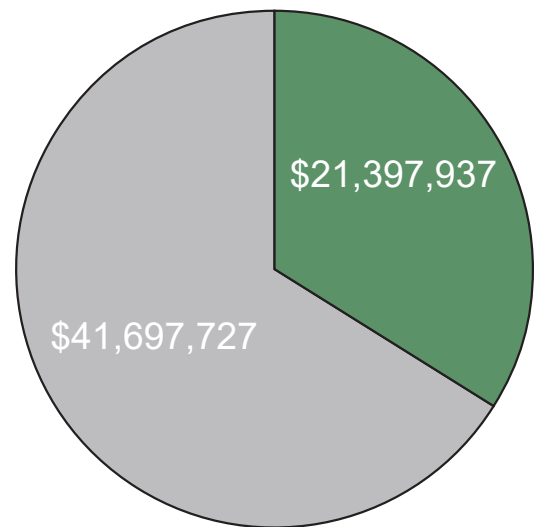
## Monetary Accomplishments



This includes:

- Recoveries
- Cost-Efficiencies
- Restitutions
- Fines/ Penalties
- Forfeitures
- Civil Monetary Actions

**\$63,095,664**  
Total



Legend: Labor Racketeering (Grey), Program Fraud (Green)

## Significant Concerns

The OIG has identified the following areas of significant concern that cause the Department to be at particular risk of fraud, mismanagement, waste, deficiencies, or abuse. The identified areas of concern reflect continuing matters as well as emerging issues. Most of these issues appear in our annual Top Management and Performance Challenges report, which can be found in its entirety at [www.oig.dol.gov](http://www.oig.dol.gov).



## Significant Concerns

### **Expediting Pandemic Response Efforts while Protecting Workers' Benefits**

The OIG has previously expressed concern with the Department's ability to deploy program benefits expeditiously and efficiently while ensuring adequate oversight, particularly in response to national emergencies and disasters. The OIG renewed this concern in light of the coronavirus/COVID-19 pandemic and the unprecedented levels of funding for the Unemployment Insurance (UI) program, which has received hundreds of billions of dollars under recently enacted legislation.

#### *Deploying UI Benefits Expeditiously while Reducing Improper Payments*

The OIG has reported, for many years, on the Department's ability to measure, report, and reduce improper payments in the UI program. While total improper payments decreased year over year by 24 percent, the improper payment rate remains over 10 percent and is also designated a "high-priority" program by the Office of Management and Budget. The UI program paid benefits totaling \$26.91 billion during the period from July 1, 2018, to June 30, 2019. Of this amount, the estimated improper payments totaled \$2.86 billion, with an estimated improper payment rate of 10.61 percent.

Our prior audit work revealed that the Department has not done enough to formally assess the various strategies available to combat improper payments and determine which issues persist, due in part to a lack of reliable state-reported data. Furthermore, improper payments stemming from fraudulent activity continue to pose a significant threat to the integrity of the UI program,

as identity thieves and organized criminal groups have found ways to exploit program weaknesses. For example, benefits paid via non-state-issued prepaid debit cards provide anonymity to those who submit fraudulent claims. The OIG anticipates such issues will be exacerbated by the significant funding increase in response to the coronavirus pandemic, resulting in the need for greater oversight scrutiny.

The Department needs to continue its ongoing work with states to implement strategies designed to reduce the UI improper payment rate, which would include sharing best practices identified among states. The Department also needs to provide guidance to states on how to deploy resources efficiently and expeditiously, establish performance measures for activities to ensure timely delivery of benefits to those in need, and develop required reporting to improve effectiveness and accountability. In addition, the Department needs to provide timely oversight to ensure states are effectively carrying out these critical responsibilities.

#### *Oversight of DOL Pandemic Response Efforts*

Under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the OIG received an appropriation of \$26 million to carry out oversight activities of DOL's response to the coronavirus pandemic. Specifically, the OIG received \$25 million to oversee the unprecedented expansion of the UI programs provisioned by the Act and \$1 million for oversight of DOL activities supported with funds appropriated to prepare for and respond to the coronavirus pandemic. The OIG's oversight will span four phases and cover multiple DOL agencies and their activities supported by appropriated funds to prepare for

## Significant Concerns

and respond to the coronavirus pandemic. Areas of focus will include the following:

- At the Employment and Training Administration—Office of Unemployment Insurance, we plan to monitor the agency’s CARES Act regulations and implementation guidance to State Workforce Agencies and timeliness of funds released to states and technical training provided to states. In order to provide oversight and prevent fraud and other improper payments, we also plan to monitor benefits paid to gig and self-employed workers as well as review information technology (IT) plans and resources for continuous operations.
- At the Occupational Safety and Health Administration (OSHA), we plan to monitor the agency’s efforts to protect health care workers on the front lines of this pandemic, particularly doctors, nurses, and emergency responders with increased exposure risk. We plan to also monitor OSHA’s interim employer guidance issued on preparing workplaces for COVID-19 and the pandemic’s impact on OSHA’s operations, including the number and types of inspections.
- At the Wage and Hour Division (WHD), we plan to monitor the agency’s efforts to provide outreach and enforcement to regional and district offices when implementing the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act in response to COVID-19. We plan to look into challenges WHD faces in implementing the agency’s efforts and any action it takes to resolve the issues.
- At the Employee Benefits Security Administration (EBSA), we plan to monitor how the agency implements DOL’s authority to extend certain time frames otherwise applicable to employee benefit plans and their participants and beneficiaries under The Employee Retirement Income Security Act (ERISA). We also plan to monitor EBSA’s activities to implement the Families First Coronavirus Response Act and the CARES Act, which generally require group health plans to provide coverage for certain items and services related to the diagnosis of COVID-19.
- At the Office of Workers’ Compensation Programs (OWCP), we plan to monitor the impact on programs as a result of COVID-19 claims from federal workers and OWCP’s oversight of compensation and medical claims related to COVID-19.

### Providing OIG Access to Wage Records

The OIG’s lack of direct access to wage records to reduce improper payments and combat fraud in employee benefit programs, including UI and Disaster Unemployment Assistance, is of significant concern.

The OIG must have easy and expeditious access to the National Directory of New Hires (NDNH), state UI wage records, and Social Security Administration (SSA) wage records to conduct appropriate oversight of UI funds. The NDNH is a nationally consolidated database operated by the U.S. Department of Health and Human Services Administration for Children and Families that contains new hire, quarterly wage, and UI information. The NDNH cannot be used for

## Significant Concerns

any purpose not authorized by federal law. In 2004, the law was amended to allow the State Workforce Agencies to cross-match UI claims against the NDNH to better detect overpayments to UI claimants who have returned to work but continue to collect UI benefits. However, the applicable law does not permit the OIG directly to obtain NDNH data, and the OIG cannot use its subpoena authority to obtain NDNH records. Similarly, the OIG needs authority to access states' UI wage records and SSA wage records. The OIG needs access to state UI and SSA records to verify eligibility for UI benefits, both for claimants' initial eligibility (and amount) and for continuing eligibility, by identifying claimants who are receiving benefits while having reported wages. We also would use those records to assess program outcomes for UI reemployment programs as well as other training programs, like YouthBuild and Job Corps, where employment and wage increases are important factors in determining a program's success.

Granting the OIG access to the NDNH, state UI wage records, and SSA wage records would provide the OIG with a valuable source of information for both audits and investigations. For example, OIG auditors could use these records to verify initial and continuing eligibility for unemployment compensation programs or to assess the effectiveness of training programs, such as the Job Corps program. In addition, OIG investigators could use these records to compare beneficiary UI compensation payments to the beneficiary's reported wages in the NDNH to determine eligibility.

### Protecting the Safety and Health of Workers

With more than 9 million establishments under the oversight of OSHA, the OIG remains concerned about OSHA's ability to target its compliance activities to areas where they can have the greatest impact. OSHA carries out its compliance responsibilities through a combination of self-initiated and complaint-based investigations. However, the program can reach only a fraction of the entities it regulates. Consequently,



Source: Image and information from the Occupational Safety and Health Administration.



## Significant Concerns

OSHA must strive to target the most egregious and persistent violators and protect the most vulnerable worker populations.

For example, about 2 million construction workers in the United States are exposed to silica at work. Employers are required to limit worker exposure to respirable crystalline silica and take other steps to protect workers. However, because of its limited resources, OSHA faces challenges in targeting workplaces where workers are exposed to silica dust.

### **Protecting the Safety and Health of Miners**

The Mine Safety and Health Administration's (MSHA's) ability to manage its resources effectively to ensure the safety and health of miners is a concern for the OIG. Mine operators' underreporting of occupational injuries and illnesses hinders MSHA's ability to focus its resources on addressing concerns at the most dangerous mines. In addition, we are concerned with the high incidence of powered haulage accidents in mines, which accounted for about half of all mine fatalities in 2017 and 2018 and a quarter of all mine fatalities in 2019. MSHA also needs to develop strategies to address lung disease in Appalachian coal-mining states. Quartz content in respirable dust can cause silicosis, a deadly and incurable disease, and black lung disease. Strategies also must be developed to address respiratory health risks arising from diesel particulate emissions.

### **Ensuring the Safety of Students and Staff at Job Corps Centers**

The OIG remains concerned about the ability of the Job Corps program to provide a safe environment for its students and staff. Controlling on-campus violence and other criminal behavior has been a challenge for Job Corps centers for years. OIG audits from 2015 and 2017 disclosed that some Job Corps centers failed to report and investigate serious misconduct, such as drug abuse and assaults. The audits also found some Job Corps centers downgraded incidents of violence to lesser infractions, creating an unsafe environment for students and staff. The follow-up work we completed in December 2017, and our ongoing review of Job Corps' corrective actions, showed that Job Corps has taken steps to improve center safety and security. However, the Department has not yet fully implemented its corrective action plan. The OIG continues to monitor Job Corps' progress in completing its various safety initiatives.

### **Improving Job Corps' Procurement Process**

Job Corps spends approximately \$1 billion on goods and services annually for its 121 centers nationwide and is currently transitioning center operations from cost reimbursement to fixed-price contracts. The Department believes that this transition will lower government risk, reduce administrative burdens, generate more preaward efficiencies, and encourage more participants to compete for contracts. Increased competition among contractors should lead to better contractor performance with fewer staff shortages and improved services, including those for centers' safety and security.



## Significant Concerns

Prior OIG work in this area found Job Corps' procurements did not ensure the best value for taxpayers. As the Department moves to fixed-price contracting, the Department must ensure that its contract requirements are well developed, contract competition is fair, and contractor payments align with performance metrics and related outcomes.

### Ensuring the Solvency of the Black Lung Disability Trust Fund

Miners and their survivors receive lifetime benefits when awarded black lung–related claims. Mine operators pay these benefits when possible. The Black Lung Disability Trust Fund (BLDTF) pays the benefits when a miner's former employer does not or cannot assume liability. The current annual income of the BLDTF (primarily from an excise tax on coal) is not sufficient to cover annual benefit obligations, meet administrative costs, and service past debt. According to DOL's Agency Financial Report, as of September 30, 2019, the BLDTF was carrying a \$5.8 billion deficit balance, projected to grow to nearly \$15.3 billion (in constant dollars) by September 30, 2044.

The U.S. Energy Information Administration projects coal production will decline through 2022. The downturn in the coal industry has resulted in several coal mine operators' filing for bankruptcy. Although some have emerged from bankruptcy, others, along with their many subsidiaries, have gone out of business. In some instances, the BLDTF will be responsible for benefit payments previously made by mine operators that were self-insured but that are now no longer able to cover their federal black lung liabilities.

In February 2020, the Government Accountability Office (GAO) issued a report concluding that operator bankruptcies have placed a financial strain on the fund and that DOL's insufficient oversight of the BLDTF exposed it to financial risk. The report recommended that DOL improve its oversight of the BLDTF, particularly with respect to self-insured mine operators.<sup>1</sup> OWCP agreed to implement all of GAO's recommendations.

<b>Self-Insured Coal Mine Operator Bankruptcies Affecting the Black Lung Disability Trust Fund, Filed from 2014 through 2016</b>			
<b>Coal operator</b>	<b>Amount of collateral at time of bankruptcy</b>	<b>Estimated transfer of benefit responsibility to the trust fund</b>	<b>Estimated number of beneficiaries for whom liability has been transferred to the trust fund</b>
Alpha Natural Resources	\$12.0 million	\$494 million	1,839
James River Coal	\$0.4 million	\$141 million	490
Patriot Coal	\$15.0 million	\$230 million	993
<b>Total</b>	<b>\$27.4 million</b>	<b>\$865 million</b>	<b>3,322</b>

Source: Department of Labor. | GAO-20-21

<sup>1</sup> *Black Lung Benefits Program: Improved Oversight of Coal Mine Operator Insurance Is Needed*, GAO-20-21, February 21, 2020, [www.gao.gov/products/GAO-20-21](http://www.gao.gov/products/GAO-20-21).

## Significant Concerns

On February 24, 2020, OWCP published a news release announcing reforms to the self-insurance process for coal mine operators to better protect the BLDTF.<sup>2</sup> It stated, “[i]n part, the assessment involves reviewing actuarial estimates of the operators’ liabilities and setting security amounts based on those liabilities and the operators’ risk of default.”

The excise tax that funds the BLDTF is levied on domestic sales of coal mined in the United States (coal exports and lignite, often referred to as “brown coal,” are not subject to the coal excise tax). Effective January 1, 2020, the tax rate and limits reverted to the higher pre-2019 levels of \$1.10 per ton of underground-mined coal or \$0.55 per ton of surface-mined coal. Nonetheless, the temporary tax rate reduction and the reduction in coal production will result in decreased cash inflows to the BLDTF.

From January 1 through December 31, 2019, the tax rates were reduced to the rates originally set when the trust fund was established in 1978: \$0.50 per ton of underground-mined coal or \$0.25 per ton of surface-mined coal. The Congressional Research Service reported in 2019 that “the decline in the excise tax rates will likely put additional financial strain on a trust fund that already borrows from the general fund to meet obligations.”<sup>3</sup> Moreover, the tax rate will once again revert to lower, pre-2020 levels beginning in January 2021, putting further strain on the BLDTF.

### Protecting the Security of Employee Benefit Plan Assets

The OIG remains concerned with DOL’s ability to administer and enforce ERISA requirements that protect the benefit plans of about 154 million plan participants and beneficiaries, particularly in light of statutory limitations on DOL’s oversight authority. One challenge EBSA has been facing for decades is that ERISA allows billions of dollars in pension assets held in otherwise regulated entities, such as banks, to escape full audit scrutiny. We have previously found that as much as \$3.3 trillion in pension assets, including an estimated \$800 billion in hard-to-value alternative investments, received limited-scope audits that provided few assurances to participants regarding the financial health of their plans.

In addition, given the number of benefit plans that the agency oversees relative to the number of investigators, EBSA needs to focus its available resources on investigations most likely to result in the deterrence, detection, and correction of ERISA violations. Finally, EBSA lacks the authority under the Federal Employees’ Retirement System Act to enforce its oversight of more than \$500 billion in Thrift Savings Plan (TSP) assets and to ensure the implementation of TSP audit recommendations.

<sup>2</sup> [www.dol.gov/newsroom/releases/owcp/owcp20200224](https://www.dol.gov/newsroom/releases/owcp/owcp20200224).

<sup>3</sup> S. Szymendera, *The Black Lung Program, the Black Lung Disability Trust Fund, and the Excise Tax on Coal: Background and Policy Options*, CRS Report No. R45261 (Washington, DC: Congressional Research Service, 2019).

## Significant Concerns

### Maintaining the Integrity of Foreign Labor Certification Programs

Foreign labor certification (FLC) programs are intended to permit U.S. businesses to hire foreign workers to meet their workforce needs while protecting the jobs, wages, and working conditions of U.S. workers. DOL's administration of the FLC programs under current laws has been an OIG concern for decades. OIG investigations have shown these visa programs, in particular the H-1B program for workers in specialty occupations, to be susceptible to significant fraud and abuse. Dishonest immigration agents, attorneys, labor brokers, employers, and organized criminal enterprises often perpetrate the fraud and abuse.

DOL is statutorily required to certify an H-1B application unless it determines that the application is "incomplete or obviously inaccurate." OIG investigations have revealed schemes in which fictitious companies or dishonest businesses seeking to acquire foreign workers filed fraudulent applications with DOL. Our investigations also have uncovered numerous instances of employers' misusing FLC programs to engage in human trafficking, with victims often exploited for economic gain.

In addition, rising application numbers and seasonal spikes in employer workforce demands have resulted in delays in processing visa applications for the H-2B program, which employers use to hire foreign workers for temporary nonagricultural jobs. DOL needs to continue its efforts to process H-2B applications in time for employers to hire foreign workers by the start dates needed while also protecting the interests of U.S. workers.

### Ensuring the Integrity of the DOL Rulemaking Process

The adequacy of DOL's procedures for issuing guidance that accurately reflects its rules and policies is of significant concern to the OIG. The Department issues rules, which can be standards or regulations, and guidance documents that explain the rules. Both rules and guidance are intended to help reduce hazards at 9 million worksites and protect 121 million workers.

Based on concerns about recently proposed and finalized rules, DOL faces challenges ensuring the rulemaking process is transparent to American taxpayers and consistent with the requirements of the Administrative Procedure Act as well as other applicable executive orders.

DOL also faces challenges in ensuring that it enters into rulemaking when appropriate rather than issuing guidance. For example, an OIG audit found that OSHA lacked a procedure to determine the appropriateness of issuing a document as guidance rather than as a rule. Issuing a document as guidance is appropriate if the document is interpretative or a general statement of policy and if it does not create, modify, or revoke a standard. Between 2014 and 2016, OSHA did not follow procedures for 80 percent of sampled guidance. The lapses included failure to (1) determine whether guidance was consistent with OSHA rules, (2) consider the anticipated reception of the guidance by significant stakeholders, and (3) obtain official approval to issue the guidance.

Our audit work continues to address this area of concern. In particular, we are currently reviewing the WHD's rulemaking process as it applied to its 2017 Notice of Proposed Rulemaking to rescind

## Significant Concerns

portions of WHD's tip regulations issued pursuant to the Fair Labor Standards Act. In addition, we are monitoring the Department's progress in reviewing its overall rulemaking process.

### Ensuring the Equitable Release of Economic Data

The Department issues a number of reports and statistics that include leading economic indicators, such as the UI Weekly Claims Report and the Producer Price Index. Because the data in these reports have the potential to move financial markets, the Department protects the information via an embargo. Under an embargo, the data cannot be disseminated or used in any unauthorized manner before the Department releases them to the public.

The Department provides a press lockup for approved news organizations to have prerelease access 30 minutes prior to the official release time, with the objective of improving the accuracy of initial news reports about the information. However, news organizations' use of preformatting and data queuing software to transmit the data enables their paying clients to trade on the data before the Department can post the information to its website for the public to access once the embargo is lifted. Even fractions of a second can provide these clients with a significant trading advantage over individuals and other organizations that cannot access the embargoed data.

To ensure an equitable release of these data, the Department must eliminate this competitive advantage by either changing or eliminating the press lockup process. Since we first reported this concern in January 2014, the Department has consulted with other federal agencies that conduct

similar press lockups. The Department has since announced and subsequently postponed changes indefinitely to the policy on press lockup that were intended to address the OIG's concerns. The postponement came after members of the news media filed a complaint with the Department about the policy. The Department communicated it would announce any policy change 14 days before implementation.

### Securing and Protecting Information Management Systems

We are concerned about the Department's long-standing information security deficiencies. The most recent deficiencies we reported crossed all five of the information security functional areas as defined by the National Institute of Standards and Technology Cybersecurity Framework. The deficiencies hinder the Department from identifying security weaknesses; protecting its systems and data; and detecting, responding to, and recovering from incidents. For example, DOL has not:

- provided adequate oversight of its systems that are either owned or operated by contractors or other federal entities on behalf of DOL,
- reported computer security incidents to the United States Computer Emergency Readiness Team (US-CERT) and law enforcement according to required timeframes for investigation and action,
- accurately determined its system inventory, as well as its hardware and software asset inventory, and
- implemented a program to identify system security vulnerabilities and ensure that appropriate actions are being taken.

## Significant Concerns

The Department's agencies obtain and create vast amounts of information and data in performing their missions. Included in these data are the personally identifying information and personal health information of citizens and federal employees. Securing these data is a growing concern because they are at risk from external and internal threats. Thus the Department needs to continually review its data privacy and protection controls. Ongoing OIG work has identified code sharing and program and system design flaws as risks to its data protection.

The Department has been unable to implement an effective asset management system since it was first identified as an issue in 2011. The Department maintains a significant number of desktops, laptops, tablets, and mobile devices for its employees. In addition, the Department maintains servers, routers, storage devices, and other IT. The Department, however, is unable to effectively procure, maintain, and dispose of its IT assets. These assets contain information and data that the Department must protect to have an effective information security program.

These deficiencies represent ongoing risks to the confidentiality, integrity, and availability of DOL's information systems, which are necessary to support DOL's mission. In addition, the Department has not adequately planned the implementation of technology tools required to manage and monitor IT security. We are concerned that these continuing issues do not provide the security required of the Department's systems, information, and assets. We are further concerned that the position of the Chief Information Officer does not report directly to the agency head. Such realignment would provide this position with greater independence and authority to implement and maintain an effective information security program.

### **Improving the Performance Accountability of Workforce Development Programs**

The OIG has concerns about the Department's ability to ensure its planned \$5 billion investment in workforce development programs is successful in advancing participants' skills and placing them in suitable employment. Critical to this task is the Department's ability to obtain accurate and reliable data with which to measure, assess, and make decisions regarding the performance of grantees, contractors, and states in meeting the programs' goals.

For example, a recently published report on the Face Forward grants found the reported performance outcomes for Face Forward participants aged 17 and under were unreliable because the underlying performance data were incomplete. The Face Forward grants were intended to help previously incarcerated youth overcome employment barriers and prevent recidivism (re-incarceration due to a new offense). Juvenile arrest and incarceration can follow youth for the rest of their lives and become a major barrier to inclusion in the workforce. The report found, however, reported performance for industry recognized credentials, employment placement, employment retention, high school diploma attainment, school retention, and recidivism were overstated. Overall, the reported performance indicated grantees did not achieve key goals for high school diploma attainment, expungements, and credentialing.

The Department also needs to ensure its investments in credential attainment align with the needs of local employers and are having the desired impact on participants' ability to obtain or advance in a job. An audit in 2018 followed



## Significant Concerns

up on the employment status of a sample of Job Corps students 5 years after they left the program. It found that Job Corps faced challenges in demonstrating the extent to which its training programs helped participants obtain meaningful jobs appropriate to their training.

In the YouthBuild program, grantees reported that 18,750 participants had successfully exited their programs from 2011 to 2016, but these reported “successful exits” included 1,155 participants (6 percent) who had not yet secured an industry credential, earned a high school diploma, or earned a general equivalency diploma. Those participants also had not obtained any employment nor enrolled in another educational program.

Finally, recent research suggests that opioid dependency has been a leading cause of workforce exits for workers ages 25 to 54. To date, the Employment and Training Administration has approved 20 states and the Cherokee Nation for up to \$102 million in National Health Emergency Grants to address the opioid crisis. The Department needs to monitor the performance of the discretionary grants it has awarded for delivering services to employers and workers affected by the opioid crisis.

### **Managing Medical Benefits in OWCP, Including Opioids**

The OIG remains concerned about OWCP’s ability to manage effectively the use and cost of pharmaceuticals in the Federal Employees’ Compensation Act (FECA) program. The Department needs to make certain it has controls in place to ensure that the treatments prescribed for FECA claimants are safe, effective, medically necessary, and the most cost-effective.

The prevalence of prescriptions for highly addictive opioids has the potential to lead to abuse. While opioids accounted for less than 20 percent of total pharmacy expenditures in FY 2019, 43 percent of FECA’s claimants receiving pharmaceuticals were receiving opioid prescriptions in a given month. OWCP had allowed physicians to prescribe initial opioid prescriptions for up to 60 days without establishing medical necessity. Consistent with the OIG’s recommendations, OWCP imposed restrictions effective September 23, 2019, limiting all initial opioid prescriptions to 7 days with three subsequent 7-day refills. Prior authorization is now required to obtain opioids beyond 28 days. According to OWCP-provided data, OWCP’s efforts to address the opioid problem have resulted in declines in opioid use and new prescriptions. OWCP needs to continue these efforts to help identify claimants at risk of opioid dependence and the associated costs of addiction treatment.

Given the high risk of fraud related to prescription payments, OWCP still needs to conduct comprehensive analysis and monitoring of FECA program costs to promptly detect and address emerging issues before they manifest into material concerns. Past audits have shown that OWCP’s lack of comprehensive analysis of medical benefit payments in the FECA program allowed increases in billings for compounded drugs to go undetected.

Recent actions taken by OWCP have resulted in significant decreases in compounded drug costs — from more than \$250 million in FY 2016 to less than \$1 million in FY 2019 — underscoring the enormous monetary impact of failing to implement controls earlier.



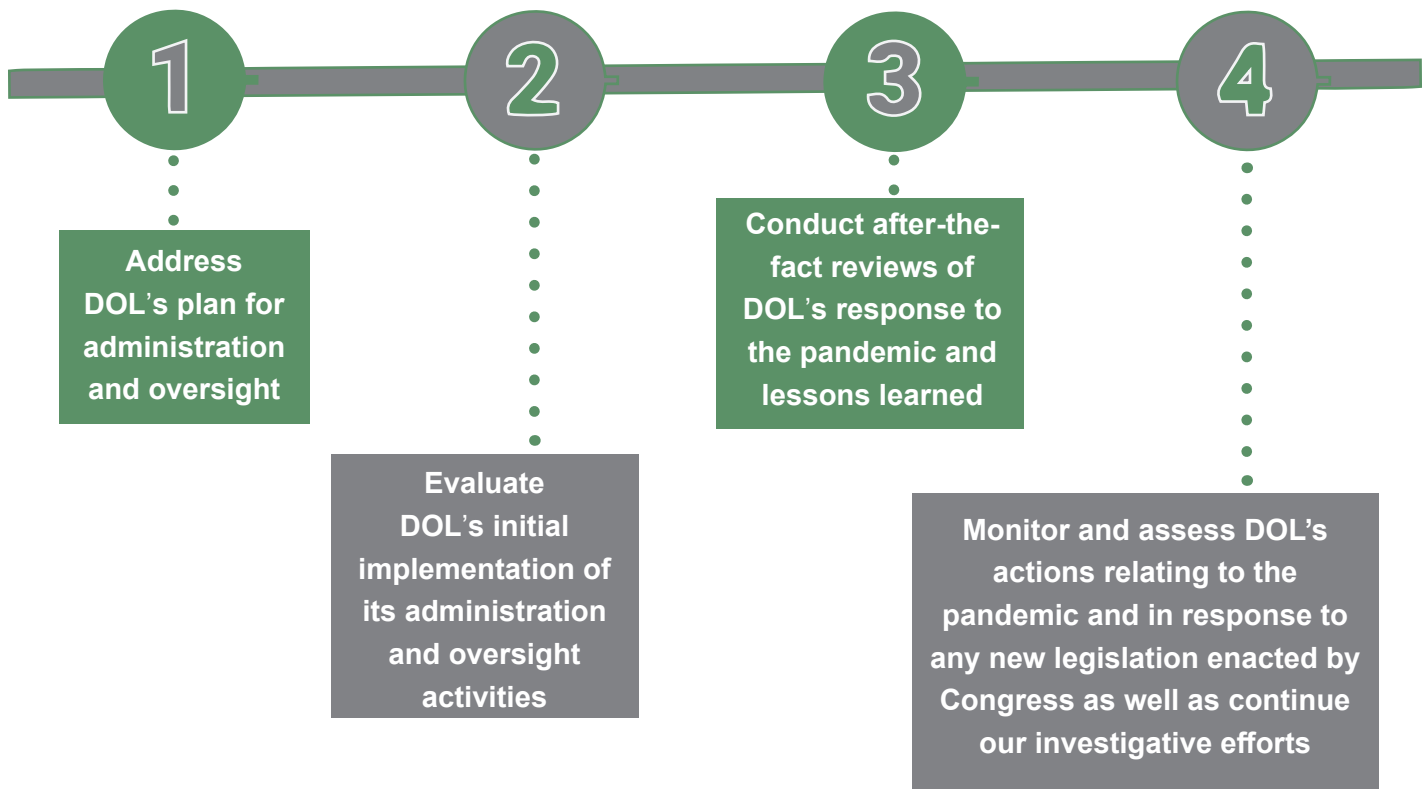


# **Pandemic Response Oversight Plan**

## Pandemic Response Oversight Plan

The U.S. Department of Labor (DOL), Office of Inspector General (OIG), received an appropriation of \$26 million to carry out oversight activities of DOL's response to the coronavirus (COVID-19) pandemic under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Specifically, the OIG received \$25 million to oversee the unprecedented expansion of the Unemployment Insurance (UI) programs provisioned by the Act and \$1 million for oversight of DOL activities supported with funds appropriated to prepare for and respond to the coronavirus pandemic.

The OIG's oversight will focus on the Department's response to the pandemic, particularly under the CARES Act. The OIG's oversight work will be conducted in four phases covering the allocation periods for CARES Act funds and post-allocation. This plan is subject to change as the OIG continues to conduct risk assessments to identify specific areas for review. Funding for oversight related to activities other than UI programs is provided by the \$1 million CARES Act funding, as appropriate, or by reprioritization of existing OIG resources. See the appendix for select criteria for DOL's response to the coronavirus pandemic.



## Phase 1

(Expected completion by June 30, 2020)

The OIG will address DOL's plans for administration and oversight in Phase 1. The first phase will include the issuance of "advisory reports" to aid in the Department's administration and oversight planning. These advisory reports will be based on past programmatic issues identified by the OIG to help the Department avoid historical pitfalls while implementing its pandemic response. The OIG will also issue fraud alerts to both the Department and to the state workforce agencies to highlight areas susceptible to fraud and abuse.

### Potential Audit Oversight Focus:

#### Employment and Training Administration (ETA) – Office of Unemployment Insurance:

- CARES Act regulations and implementation guidance to State Workforce Agencies
- Plans and resources for providing oversight of key programs
- Timeliness of funds released to states
- Benefits paid to gig and self-employed workers
- Reporting and accountability
- Information Technology plans and resources for continuous operations, providing oversight, and preventing fraud

#### Occupational Safety and Health Administration (OSHA):

- Interim employer guidance issued on preparing workplaces for a COVID-19 outbreak
- Guidance provided to regional and area offices regarding compliance safety and health officers' safety and protection to continue the mission during a health crisis

#### Wage and Hour Administration (WHD):

- Department Families First Coronavirus Response Act (FFCRA) regulations and WHD implementation guidance
- Action plans, including goals and objectives for each program and the risk of fraud and other risks that threaten WHD's ability to achieve those objectives.
- Reporting and accountability
- Plans and resources for providing oversight of key programs

#### Employee Benefits Security Administration (EBSA):

- Expansion of DOL authority to postpone plan filing deadlines
- Expansion of DOL authority to adjustment single-employer plan funding rules

#### Office of Workers' Compensation Programs (OWCP):

- Impact on the program as a result of COVID-19 claims from federal workers

# Pandemic Response Oversight Plan

## Multi-agency Grant Management:

- Guidance to agencies awarding grants intended to provide administrative relief (federal financial assistance) to entities directly impacted by COVID-19 due to loss of operations

## Other DOL Activities:

- Impact of COVID-19 response on other DOL activities, including Occupational Safety and Health Administration Whistleblower Programs; Mine Safety and Health Administration; and Office of Federal Contract Compliance Programs

## **Potential Investigative Oversight Focus:**

- Determine relevant points of contact and program experts within DOL (nationally and regionally) for the various programs that may be impacted by fraud related to COVID-19. Program experts will initially be sought from ETA (unemployment and job training funds), WHD (labor standards, family friendly leave, family medical leave), OSHA (occupational safety), EBSA (hardship 401k distributions), and OWCP (claimant/medical provider fraud) to gain an investigative knowledge base for specific programmatic disbursements/issues related to COVID-19. Having program knowledge will be essential for developing a foundation when initiating criminal investigations and applying pertinent criminal statutes
- In coordination with DOL program experts, OIG will identify potential fraud within the pertinent programs as a result of the government's response to COVID-19 with an emphasis on UI fraud. As fraud vulnerabilities are identified, investigative resources will be shifted as appropriate
- Identify criminal coordinators for local, state and federal law enforcement COVID-19 task forces throughout the country. Assign OIG resources to COVID-19 task forces, as appropriate. Align OIG investigative focuses at the national and local levels with prosecutorial priorities as they relate to COVID-19 related fraud schemes that fall within the investigative jurisdiction of the OIG, including UI fraud
- Conduct relevant data mining and analysis through readily available law enforcement databases to assess the nature of complaints submitted to local, state and federal agencies. Based on these assessments, the OIG will determine potential vulnerabilities in various labor programs and shift investigative resources to those areas, as appropriate
- Increase public awareness of fraud by encouraging the filing of complaints regarding potential COVID-19 wrongdoing through the OIG Hotline and National Center for Disaster Fraud. Use COVID-19 informational materials to publish the OIG Hotline's contact information as part of its outreach activities to protect the public from criminal actors who attempt to exploit labor programs
- Develop agreed-upon procedures between the OIG, ETA's Office of Unemployment Insurance for the referral of complaints and evidence of fraud relating to UI benefits under the CARES Act

# Pandemic Response Oversight Plan

- Procure and configure data analytics tools to supplement the OIG’s current data tools sets as data is collected and processed from States’ UI programs and other data sources
- Coordinate with the Department to identify and obtain access to currently available data to aid the OIG in its oversight work. Specifically, the OIG is requesting direct access to ICON (UI Interstate Connection Network) so that investigators have timely access to State Workforce Agency (SWA) wage and unemployment claim information to efficiently identify and investigate unemployment fraud, particularly when it spans multiple states

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## Phase 2

**(Expected completion by September 30, 2020)**

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Phase 2 will focus on DOL’s initial implementation of its administration and oversight activities.

### **Potential Audit Oversight Focus:**

#### ETA – Office of Unemployment Insurance:

- Technical assistance and training to all states and implementation of its oversight plans, including plans to reduce the risk of fraud
- State implementation and reporting for the most significant programs

#### Occupational Safety and Health Administration (OSHA):

- Evaluate OSHA’s efforts to protect people on the front lines of this pandemic, particularly doctors, nurses, other health care workers, and emergency responders with increased exposure risk

#### Wage and Hour Administration (WHD):

- Plans for providing technical assistance to regional and district offices when implementing the:
  - Emergency Family and Medical Leave Expansion Act
  - Emergency Paid Sick Leave Act
- Challenges during COVID-19 action plan implementation and corrective action taken to resolve the issues
- Reporting and accountability
- Preliminary outcomes of the affected programs to identify potential internal control weaknesses

#### Employee Benefits Security Administration (EBSA):

- Implementation of DOL authority to postpone plan filing deadlines
- Implementation of DOL authority to adjust single-employer plan funding rules

# Pandemic Response Oversight Plan

## Office of Workers' Compensation Programs (OWCP):

- Oversight of compensation and medical claims related to COVID-19

## Multi-agency Grants Management:

- Oversight of agencies awarding grants intended to provide administrative relief (federal financial assistance) to entities directly impacted by COVID-19 due to loss of operations

## Other DOL Activities:

- Nature and scope of work will depend on the results of the assessment in Phase 1

## **Potential Investigative Oversight Focus:**

- Develop predictive data analytic models based on case fact patterns to aid in the identification of potential misuse of funds. Proactively identify alleged misuse of funds based on those fact patterns. Deploy data analytic dashboards to assist in the efficient assessment of payments, claims, grant data and payee data. Modeling will use traditional data science techniques, and continual machine learning based on past analytic models, as well as any new information discovered during OIG investigations
- Utilize case management systems and data analytics to monitor case trends and fraud schemes to ensure investigative resources are deployed appropriately to address COVID-19-related investigations with particular emphasis on UI fraud resource allocation
- Specifically, when addressing unemployment fraud, OIG will coordinate directly with SWA investigative units to determine fraud trends that may emerge including:
  - Mass/batched uploads of employee wage records
  - Employee wages submitted near or after claimant's UI claim is filed
  - Employer forms that originate from claimant address
  - Employers/claimants interceding in unusual ways
  - UI benefits deposited into common bank accounts
  - Commonalities for employees (phone, IP, email, address)



# Pandemic Response Oversight Plan

- Identify particular areas of significant COVID-19 fraud based on previous case data, incoming complaints, data mining, and ongoing criminal investigations. Historically, following disaster relief and stimulus funding deployed by DOL, OIG has seen an increase in organized criminal fraud schemes relating to the following programs:

## ETA – Unemployment Insurance

- Fictitious employer schemes (fabricated employers and employees)
- Identity theft schemes (stolen identities used for unemployment)
- Personally Identifiable Information leasing schemes (loaning of identities for wage-earning and unemployment)
- Employee integrity schemes (SWA employees manipulating claims)
- Unemployment supplement schemes (utilizing unemployment to pay regular wages)

## ETA – Job Training Programs

- Embezzlement of job training funds
- Ghost participant schemes

## EBSA – Pension Plans

- Hardship loan schemes (false statements to pension plans)
- Imposter schemes (Impersonation of plan beneficiary for withdrawals)

## WHD – Worker Standards

- Kickback schemes (employees forced to return assessed back wages)
- Attempted bribery of WHD officials

## OWCP – Workers' Compensation

- Claimant fraud (performing physical activities inconsistent with injury/working and not reporting)
- Medical provider fraud (billing for services not rendered)

## OSHA – Occupational Safety Standards

- Fabricated OSHA certifications
- Attempted bribery of OSHA officials

- Work with local, state and federal prosecutors to resolve ongoing criminal investigations involving COVID-19 wrongdoing and pursue all available criminal, civil, and administrative remedies, to include suspension and debarment, when appropriate

## Phase 3

(Expected completion by September 30, 2021)

Phase 3 will focus on after-the-fact reviews of the Department's administration and oversight, lessons learned, and how the Department's response to the pandemic affected normal operations.

### Potential Audit Oversight Focus:

#### ETA - Unemployment Insurance:

- Nationwide performance data and reporting
- State administration, controls, and performance related to UI programs (fraud and other improper payments)
- State methods and efforts to recover overpayments

#### Occupational Safety and Health Administration (OSHA):

- Impact of COVID-19 pandemic on operations, including the number and types of inspections
- Alternative mechanisms for programmed inspections, such as phone/fax inspections to safeguard workers
- OSHA plans in anticipation of future pandemics

#### Wage and Hour Administration (WHD):

- Nationwide performance data and reporting for COVID-19 activities

#### Employee Benefits Security Administration (EBSA):

- Impact of DOL implementing its authority to postpone plan filing deadlines
- Impact of DOL implementing its authority to adjust single-employer plan funding rules

#### Office of Workers' Compensation Programs (OWCP):

- Impact of COVID-19 related claims on OWCP

#### Multi-agency Grants Management:

- Impact of grants awarded to provide administrative relief (federal financial assistance) to entities directly impacted by COVID-19 due to loss of operations

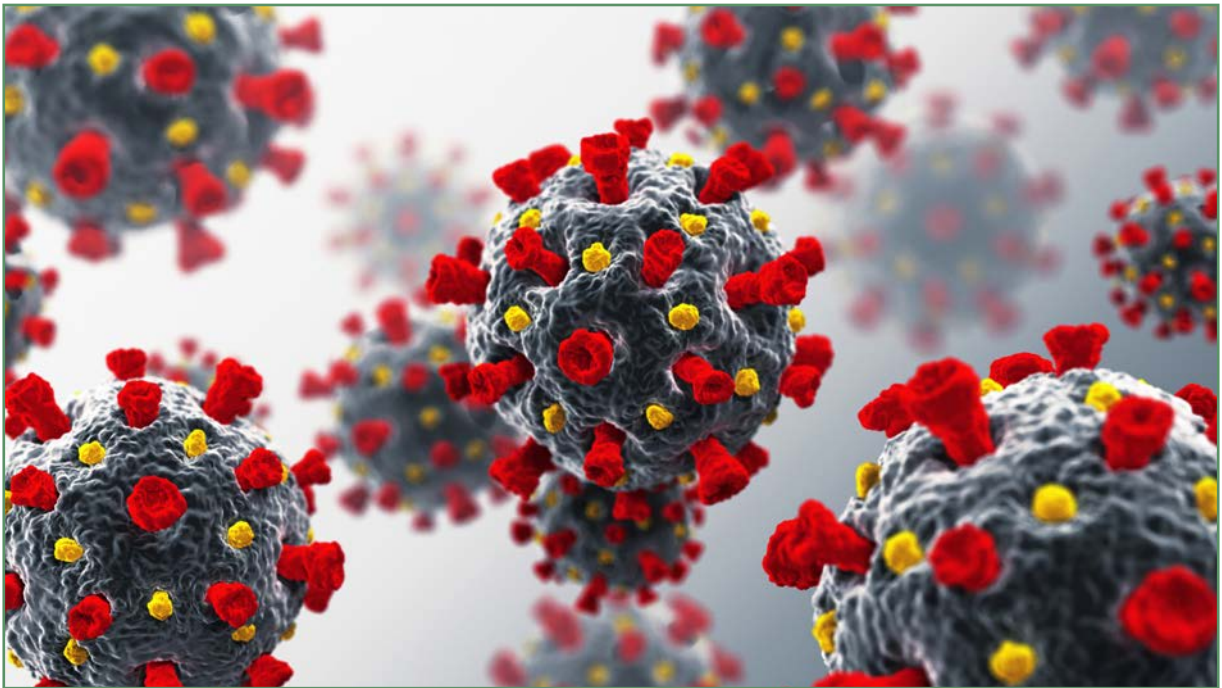
#### Other DOL Activities:

- Nature and scope of work will depend on results of assessment in Phases 1 and 2

## Pandemic Response Oversight Plan

### Potential Investigative Oversight Focus:

- Coordinate with the OIG’s Office of Audit on any systemic weaknesses or fraud vulnerabilities identified during COVID-19 investigations to reduce the long-term impact of fraud on DOL programs
- Highlight successful COVID-19 investigations by issuing DOL/DOJ press releases in coordination with investigative partners. Utilize press releases by publishing them on the OIG website to deter COVID-19 related fraud and increase public awareness on reporting COVID-19 wrongdoing to the OIG hotline
- Advise DOL regulatory agencies/program experts of investigative findings and possible weaknesses in the various programs to prevent future fraud
- As trends in unemployment fraud scheme are identified, OIG will ensure SWAs consider issuing fraud alerts to other SWAs to deter additional fraud



## Phase 4

(Ongoing)

The OIG will continue to monitor and assess DOL's actions relating to COVID-19 in response to any new legislation enacted by Congress, as well as continue our investigative efforts. This phase will also include an overall summary of lessons learned from all major programs impacted.

### **Audit Response to New Legislation:**

- Assess DOL agency planning, including enactment of necessary regulatory changes, issuance of guidance, establishment of reporting requirements, and plans for oversight
- Assess DOL agency initial implementation and oversight
- After-the-fact assessment of program results, including impact on agency operations

### **Ongoing Investigative Work:**

- OIG will evaluate ongoing, long-term, complex criminal investigations with an emphasis on unemployment fraud schemes. Resources will be allocated to high-impact multi-state fraud schemes. OIG will prioritize the most significant investigations and dedicate appropriate resources and expertise to those investigations. Specifically, OIG will determine if new fraud schemes emerged as a result of COVID-19 funding. To deter future fraud, we will notify DOL program agencies about those new schemes
  - Upon the conclusion of high-impact investigations, OIG will:
  - Relay significant concerns, programmatic weaknesses, and lessons learned via investigative notices to the Department
  - Make legislative recommendations related to vulnerabilities discovered during investigations as a result of the COVID-19 funding
  - Evaluate the initial investigative response, case results and final outcomes
  - Identify significant challenges encountered and determine future initiatives based on investigative findings
  - Consider establishing new policies and procedures or revising existing policies to more efficiently meet the agency investigative mission

### **Overall Summary of Lessons Learned:**

- Roll-up reports of all OIG work conducted to present overall results of program achievement in responding to COVID-19, impact on agencies' operations, and lessons learned

# Pandemic Response Plan Appendix

## Select Criteria for DOL's Response to the Coronavirus Pandemic

### Employment and Training Administration – Office of Unemployment Insurance

#### *Coronavirus Aid, Relief, and Economic Security Act*

Secs. 2102, 2103 – Coverage of workers not traditionally eligible for unemployment and 50% reimbursement for nonprofits, government agencies, and Indian tribes

Sec. 2104 – Pandemic Unemployment Assistance, \$600 additional weekly benefit amount

Sec. 2105 – Waiver of waiting week

Sec. 2106 – Temporary staffing for states

Sec. 2107 – Pandemic Emergency Unemployment Compensation, additional 13 weeks

Secs. 2109-11 – Short-term compensation programs

### Occupational Safety and Health Administration

29 CFR 1910.1030 – Bloodborne Pathogens standard

29 CFR 1910.132 – Personal Protective Equipment standard

29 CFR 1910.134 – Respiratory Protection standard

### Wage and Hour Division

#### *Families First Coronavirus Response Act (FFCRA)*

Division C – Emergency family and medical leave expansion

Division E, Secs. 3601, 3602, 3604, 3605 – Changes to paid leave

### Employee Benefits Security Administration

#### *Coronavirus Aid, Relief, and Economic Security Act*

Sec. 3607 – Postponement of certain ERISA filing deadlines

Sec. 3608 – Changes to single-employer plan funding rules

### Grants Management

OMB Memo M-20-17, *Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) due to Loss of Operations*







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

# Federal Contract Compliance Programs

*The Office of Federal Contract Compliance Programs (OFCCP) ensures workers are recruited, hired, promoted, trained, terminated, and compensated in a fair and equitable manner by federal contractors.*

## OFCCP Did Not Show It Adequately Enforced Equal Employment Opportunity Requirements on Federal Construction Contracts

Equal Employment Opportunity (EEO) laws prohibit federal contractors from discriminating against applicants and workers based on race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran. The Government Accountability Office concluded in 2016 that when selecting contractors for compliance evaluations, OFCCP may not have selected contractors that posed the greatest risks of violating EEO requirements in the supply and service industries.<sup>4</sup> Given similar concerns, we conducted an audit to determine whether OFCCP adequately enforced EEO requirements on federal contracts in the construction industry.

The results of our audit work, based on OFCCP's processes and data from October 1, 2013, and March 31, 2019, showed that OFCCP did not adequately enforce the EEO requirements on federal construction contracts. The contracts totaled \$145 billion and employed 9,474 contractors from FY 2014 to 2018.

We found OFCCP did not use a risk-based approach to select construction contractors for EEO compliance evaluations. According to OFCCP, its outdated computer systems prevented taking this type of approach for

<sup>4</sup> [www.gao.gov/products/GAO-16-750](http://www.gao.gov/products/GAO-16-750).

selecting contractors with the greatest risk of noncompliance. However, we did identify data in OFCCP's computer systems and processes that could have been used to measure contractor risk. While the agency's stated enforcement focus is to find and resolve systemic discrimination, we determined OFCCP's selection process identified such discrimination in 1 percent of the contractors evaluated. With a risk-based approach, OFCCP might have identified more.

Federal regulations also require OFCCP to update its affirmative action goals using relevant workforce data. However, we found minority and female participation goals were based on 1970 U.S. Census Bureau data. These goals did not reflect the 31.5 and 3.5 percentage point increases of minorities and women, respectively, in the construction workforce from 1970 to 2018. OFCCP officials stated OFCCP chose not to update these goals to avoid a potentially costly and lengthy rulemaking process. However, using goals based on 50-year-old census data might have hindered OFCCP's enforcement of EEO laws.

OFCCP needs to improve the contractor selection process, update participation goals for minorities and women, and implement processes to keep all goals current. OFCCP has agreed with our recommendations and has begun taking action. For more information, go to [www.oig.dol.gov/public/reports/oa/viewpdf.php?r=04-20-001-14-001&y=2020](http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=04-20-001-14-001&y=2020), Report No. 04-20-001-14-001 (March 27, 2020).

# Occupational Safety and Health Administration

*The mission of the Occupational Safety and Health Administration (OSHA) is to ensure that employers provide every working man and woman in America safe and healthy working conditions. OSHA pursues this mission by setting and enforcing workplace safety and health standards; investigating whistleblower complaints; providing training, outreach, and education; and encouraging continuous improvement in workplace safety and health.*

### **Review of OSHA’s Referral to and Reclamation of Debt from the U.S. Department of the Treasury**

We responded to an October 1, 2019, request from the then acting Secretary of Labor to review anonymous allegations against (1) OSHA, Office of Financial Management, Division of Debt Collection and Division of Financial Control, and (2) the U.S. Department of the Treasury, Bureau of the Fiscal Service, Debt Management Service.

Because these allegations implicated individuals within both Labor and Treasury, referrals were sent to their respective OIGs for coordination, investigation, and reporting. The two OSHA-related allegations involved matters specific to OSHA’s referral to and reclamation of debt from Treasury. Treasury-OIG reported on the matters specific to its processing of OSHA’s debt and collection of fees.

The allegations were important because untimely transfer of debt to Treasury limited the time Treasury had to collect debts and decreased the likelihood of collection, thereby reducing the effectiveness of OSHA’s primary means for motivating employers to prevent or correct safety violations voluntarily.

We substantiated both OSHA-related allegations. Specifically, we found OSHA had not been timely in referring delinquent debt for collection to Treasury’s Fiscal Service. In addition, although OSHA recalled debts from Treasury’s Fiscal Service that were less than 3 years delinquent as alleged against its policy, the majority of cases we tested were recalled when the debt was more than 2 years delinquent, as required by the Office of Management and Budget Circular No. A-129.

Contrary to the allegations, we did not conclude OSHA intended to manipulate data reported to Treasury on the status of its receivables. However, we did find OSHA did not accurately report to Treasury the status of its receivables. Specifically, its reporting did not accurately reflect the total number of cases reported to Treasury for new receivables, collections, and debt amounts written off. Further, in most of the cases reviewed, OSHA did not notify the area office to provide a status update and specify follow-up actions.

OSHA needs to improve the monitoring, timely referral, and collection of outstanding debt.

For more information, go to [www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-006-10-001&y=2020](http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-006-10-001&y=2020), Report No. 22-20-006-10-001 (March 16, 2020).

### Florida Man Sentenced for Making False Statements to OSHA during Employee Death Investigation

On October 18, 2019, Samuel White, Project Manager, Florida Southern Roofing & Sheet Metal, Inc. (Florida Southern), was sentenced to 12 months of probation and 40 hours of community service after entering a plea of guilty to making false, fictitious, and fraudulent statements and representations to an OSHA investigator.

In 2014, White was supervising a Florida Southern residential roofing project in Sarasota, Florida.

On site, White decided to terminate operations for the week due to inclement weather. After loading the equipment and tools into the cargo area of a pickup truck, three employees rode in the cargo area, which contained no safety restraints. After traveling a short distance, one employee fell from the cargo area, striking his head on the pavement, which caused traumatic brain injuries that led to his death.

The Florida Highway Patrol (FHP) conducted an investigation and interviewed White, who provided a sworn statement as to what occurred. In his statement to FHP, White said employees routinely rode in the backs of the pickup trucks. An OSHA investigator later interviewed White, who made contradictory statements, including that he never saw anyone riding in the backs of the pickup trucks. Other witnesses interviewed by the OSHA investigator provided statements consistent with White's original statements to FHP. Florida Southern was cited with a violation for failing to provide a workplace free from recognized hazards that cause or are likely to cause death or serious physical harm to its employees.

*United States v. Samuel White* (M.D. Florida)

### Managers Sentenced for Conspiring to Obstruct Justice in an OSHA Workplace Death Investigation

On October 15, 2019, and October 22, 2019, respectively, Brian Carder and Paul Love, former managers at Extrudex Aluminum, Inc. (Extrudex), were sentenced for conspiring to obstruct justice during an OSHA death investigation at Extrudex. Carder was sentenced to 5 months of intermittent confinement and ordered to pay a \$20,000 fine. Love was sentenced to 3 months of home confinement and ordered to pay a \$1,000 fine.

The sentencing was in connection with a conspiracy to obstruct justice related to an OSHA investigation of a workplace death that occurred when a defective rack transporting hot aluminum fell onto two employees, pinning them inside an industrial oven. One employee died, and the other received severe burns. Carder and Love conspired to obstruct the OSHA investigation by withholding information from an OSHA investigator in an effort to mitigate potential fines. In addition, Carder and Love persuaded two Extrudex employees to draft statements recanting previous e-mails regarding safety issues at Extrudex. Carder and Love suggested their jobs would be in jeopardy if they did not recant their statements. As a result of Carder and Love's efforts, Extrudex's willful violations were reduced from three to one and its fines were reduced from \$175,000 to \$112,000.

*United States v. Brian K. Carder, United States v. Paul Love* (N.D. Ohio)

### Massachusetts Court Sentences Contractor Convicted of Manslaughter and Witness Intimidation in Deadly 2016 Trench Collapse

On December 5, 2019, the Suffolk County Superior Court in Boston, Massachusetts, sentenced Atlantic Drain Service, Inc., owner Kevin Otto to 24 months in prison on two counts of manslaughter and witness intimidation. Otto also must serve 36 months of probation following his sentence.

Otto was convicted in October 2019 of manslaughter for the deaths of two workers who were in a trench in Boston's South End when a fire hydrant collapsed and flooded the 14-foot-deep hole with water. Both drowned despite frantic rescue efforts.

The witness intimidation charge resulted from Otto's attempts to mislead and obstruct OSHA during the investigation of the collapse.

During the investigation, the company provided falsified documents and attempted to mislead the investigation. The investigation found that Otto had forged his employees' signatures on records stating that they had completed trench safety courses.

This was a joint investigation with OSHA, the Suffolk County District Attorney's Office, and the Boston Police Department's Homicide Unit. *Commonwealth of Massachusetts v. Kevin Otto and Atlantic Drain Services Company Inc.* (Suffolk County Superior Court)



# Wage and Hour Programs

*The Wage and Hour Division (WHD) enforces federal minimum wage, overtime pay, record keeping, and child labor requirements of the Fair Labor Standards Act. WHD also enforces the Migrant and Seasonal Agricultural Worker Protection Act, the Employee Polygraph Protection Act, the Family and Medical Leave Act, wage garnishment provisions of the Consumer Credit Protection Act, and a number of employment standards and worker protections as provided in several immigration-related statutes. Additionally, WHD administers and enforces the prevailing wage requirements of the Davis-Bacon and Related Acts and the Service Contract Act and other statutes applicable to federal contracts for construction and for the provision of goods and services. WHD also administers and enforces the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act under the recently enacted Families First Coronavirus Response Act.*

### Utah Businessman Sentenced for Obstructing Wage Investigation

On January 8, 2020, Justin Hamilton, the owner of several Café Sabor restaurants in Utah, was sentenced to 3 years of probation and ordered to pay more than \$100,000 in restitution for his role in obstructing a WHD investigation.

During the course of a WHD Fair Labor Standards Act compliance investigation, Hamilton obstructed the investigation by making it appear that he had made appropriate back wage payments to workers when, in fact, he had not. In September 2017, Hamilton sent several emails to WHD showing copies of checks he had issued to workers who were owed back pay. However, when the office attempted to verify with the workers that they had received the money, it was revealed that some employees had not been paid and the employee endorsements on the backs of the checks were forged by Hamilton.

*United States v. Hamilton* (D. Utah)

### Puerto Rico Senator Found Guilty of False Statements and Wire Fraud in Connection to a WHD Investigation

On March 21, 2020, Abel Nazario-Quiñones, a Puerto Rico senator and former mayor of Yauco, Puerto Rico, was convicted of making false statements and wire fraud in connection with a WHD investigation.

In May 2013, during a routine audit of the Municipality of Yauco's records, the Puerto Rico Comptroller's Office discovered that municipal employees were required to work 2 voluntary hours per day. This issue was referred to WHD, which determined that this voluntary work requirement was a violation of the Fair Labor Standards Act.

In February 2015, Nazario-Quiñones, as the mayor of Yauco, agreed to pay back wages of more than \$588,000 to 177 municipal employees. During a subsequent audit of the municipality's records in 2016, the Puerto Rico Comptroller's Office learned that, although employees had been receiving lump sum payments, the municipality



## Worker Safety, Health, and Workplace Rights

had their regular pay withheld for certain periods of time at the direction of Nazario-Quíñones while he provided various explanations to the employees as to why they were receiving the lump sum checks.

During the trial, the government was able to prove that Nazario-Quíñones falsely certified to WHD that he had paid back wages to the employees and was able to prove that he had retaliated against the employees for accepting the payment by directing the payroll department to withhold future earnings of these employees for varying lengths of time, despite their continued work for the municipality. The government also was able to prove that Nazario-Quíñones committed wire fraud as some of the forms used to certify the payments to WHD were sent via email.

This was a joint investigation with the FBI and the Puerto Rico Comptroller's Office. *United States v. Abel Nazario-Quíñones* (D. Puerto Rico)

Hours and Earnings		Year-to
Hours	This Period	
	384.00	
	276.90	
	384.00	





# **Employment and Training Programs**

# Employment and Training Administration Programs

*The Department's Employment and Training Administration (ETA) provides employment assistance, labor market information, and job training through the administration of programs authorized by the Workforce Innovation and Opportunity Act (WIOA) for adults, youth, dislocated workers, and other targeted populations. WIOA grant funds are allocated to state and local areas based on a formula distribution and to governmental and private entities through competitive grant awards.*

## ETA Could Not Determine the Impact Its Face Forward Program Had on Participants Ages 17 and Under

By offering services that included expungement of juvenile records, education and training, and employment placement, ETA intended the Face Forward grants to help previously incarcerated youth overcome workforce entry barriers and prevent recidivism. Based on a history of grantees' not meeting performance goals, we conducted a performance audit and determined that ETA's goals and metrics did not reliably capture Face Forward's performance and that grantees did not achieve their goals.

Specifically, ETA awarded 64 Face Forward grants, totaling \$102 million, but could not determine the impact the grants had on participants age 17 and under. We found the reported performance outcomes for participants age 17 and under were unreliable, as the underlying performance data were incomplete. Specifically, performance data were available for only 5,278 of the 9,028 program participants age 17 and under. Reported recidivism rates for participants were also unreliable because of incomplete performance data. Grantees accessed multiple sources of recidivism data but were able to track only 3,989 of the 14,128 participants for potential recidivism.

Reported rates for other key performance indicators were unreliable due to inaccurate calculations. Reported performance for industry recognized credentials, employment placement, employment retention, high school diploma attainment, school retention, and recidivism were overstated by 37–52 percent. Despite the incomplete data and overstatements, reported performance indicated grantees did not achieve key goals in any of these areas and for expungements.

The Face Forward program ended September 30, 2018, but ETA has continued to award grants that address the full range of challenges faced by Face Forward participants attempting to transition back to the community. Our audit covered program activity between October 1, 2013, and September 30, 2018, and included substantial testing of performance data for eight grantees.

We recommended ETA develop measures that are sufficient to summarize key aspects of performance to accurately demonstrate the program's impact and redefine the criteria for recidivism to track any return to prison for a new offense while enrolled in the program, not limited only to a small group of participants. We

## Employment and Training Programs

also recommended ETA develop guidance for validating required performance data submitted by grantees of workforce development programs and implement automated edit checks to improve the completeness and accuracy of performance data reported by grantees. Finally, we recommended ETA perform additional due diligence during the grant design process to identify programmatic outcomes that may not be achievable.

ETA agreed with our recommendations and stated it has already taken corrective actions to address the issues identified. Furthermore, ETA stated the report provides insight into the challenges of establishing performance measures for demonstration grants such as Face Forward. ETA acknowledged that by using complex performance measures and outdated performance management systems, it was difficult to quantify the impact of the Face Forward program on participants age 17 and younger.

For more information, go to [www.oig.dol.gov/public/reports/oa/2020/02-20-001-03-390.pdf](http://www.oig.dol.gov/public/reports/oa/2020/02-20-001-03-390.pdf), Report No. 02-20-001-03-390 (March 31, 2020).

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## Foreign Labor Certification Programs

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*ETA administers a number of foreign labor certification (FLC) programs that allow U.S. employers to employ foreign workers to meet domestic worker shortages, including the H-1B and H-2B programs. The H-1B program requires employers who intend to employ foreign workers in specialty occupations on a temporary basis to file labor condition applications with ETA stating that the employer will pay the applicable wage rates and meet other conditions of employment required by statute. The H-2B program requires U.S. employers to apply for a temporary labor certification as the first step in bringing foreign workers into the United States on a temporary basis to perform nonagricultural services. The temporary labor certification reflects a determination that there are not qualified U.S. workers available to perform the labor or services and that the employment of foreign workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. The OIG also investigates labor trafficking cases that involve fraud against FLC programs.*

### **New Jersey Woman Sentenced to 70 Months in Prison for Enslaving Sri Lankan Woman for More than 9 Years**

On March 10, 2020, Alia Al Hunaity was sentenced to 70 months in prison and 3 years of supervised release and was ordered to pay more than \$1.2 million in restitution for her conviction on charges of forced labor, alien harboring for financial gain, and marriage fraud.

Al Hunaity brought the victim, a Sri Lankan national, to the United States on a temporary visa in 2009 to perform domestic work. Al Hunaity caused the victim to overstay her visa and illegally remain in the United States for more than 9 years. Al Hunaity forced the victim to cook and clean Al Hunaity's homes in Woodland Park and Secaucus, New Jersey, and to care for her three children, all without pay. Al Hunaity required the victim to sleep on beds in public spaces in Al Hunaity's homes,

## Employment and Training Programs

including in the kitchens. Al Hunaity limited the interactions the victim had outside of her homes. In addition, the victim was forced to marry Al Hunaity to obtain legal residence so Al Hunaity could continue forcing her to work without fear of the victim's being deported.

This was a joint investigation with the Department of Homeland Security—Homeland Security Investigations (HSI). *United States v. Alia Al Hunaity* (D. New Jersey)

### **Northern California Business Owner Sentenced for Role in Worker Visa Fraud Scheme**

On January 14, 2020, Kishore Pallapothu was sentenced to 33 months in prison and ordered to forfeit \$2.5 million for his role in committing visa fraud, conspiring to commit visa fraud, and witness tampering.

Pallapothu owned and operated multiple companies that served as H-1B labor visa contractors for technology firms. An investigation uncovered that Pallapothu fraudulently obtained H-1B visas by falsely stating to the government that the visa beneficiaries would work for Atiric Software, when, in fact, it was a shell company and no such job opportunities existed. Pallapothu became aware of the government's investigation and contacted visa recipients to direct them to give false and misleading information to agents with the intention to hinder, delay, and prevent the federal investigation.

This was a joint investigation with the Document Benefit Fraud Task Force in San Francisco, California, HSI, and Department of State—Diplomatic Security Services (DSS). *United States v. Vecham et al.* (N.D. California)

### **Texas Mother and Son Sentenced in H-2B Visa Scam**

On December 12, 2019, Norma Linda Vega was sentenced to 19 months in prison and 36 months of probation for her involvement in a conspiracy to commit visa fraud. Vega was also ordered to complete 50 hours of community service within her first year of probation. On January 22, 2020, her son, Favian Anthony Vega, was sentenced to 3 months' home confinement and 1 year of probation for making false statements and failing to report illegal activity to authorities.

From 2011 to 2018, Vega and other co-conspirators petitioned the United States for H-2B visas they did not need. Vega and others created and submitted fraudulent documents that included fake service agreements, contracts, and other business records to DOL and U.S. Citizenship and Immigration Services in an effort to ensure H-2B visa application approval. Vega facilitated the ability of companies unrelated to those described in the visa applications to fraudulently obtain foreign workers to fulfill labor contracts. More than 1,000 foreign workers entered the United States under H-2B visas issued as a result of false statements made by Vega and other co-conspirators who committed visa fraud. In April 2015, Favian Anthony Vega concealed his knowledge of the actual commission of the visa fraud scheme by making false statements to a federal agent and failing to notify appropriate authorities.

This was a joint investigation with HSI and DSS. *United States v. Norma Linda Vega and Favian Anthony Vega* (S.D. Texas)



## Employment and Training Programs

### Virginia IT Company Official Sentenced for Her Role in Scheme to Defraud H-1B Program

On November 1, 2019, Richa Narang was sentenced to 6 months in prison for her role in a scheme to defraud the H-1B visa program.

Narang worked as a supervisor for EcomNets, an information technology (IT) company based in Northern Virginia. EcomNets was operated by Raj Kosuri, an Indian national and U.S. legal permanent resident. Narang participated in a scheme with Kosuri and others that used EcomNets as well as a variety of shell companies to apply for nearly a 1,000 fraudulent H-1B temporary foreign worker visas. More than a dozen of these shell companies, which claimed to provide IT services, used the address of a vacant building in Danville, Virginia. Companies that actually employed the visa recipients paid Kosuri millions of dollars once the workers were illegally in the United States. Kosuri previously pleaded guilty and was sentenced to 28 months in prison and ordered to forfeit \$15 million for his role in the scheme.

This was a joint investigation with HSI and DSS. *United States v. Kosuri et al.* (E.D. Virginia)

### Dayton Technology Staffing Company Fined for Role in Visa Fraud Scheme

On December 5, 2019, Webyoga, Inc., an IT staffing corporation, was ordered to pay a fine of more than \$560,000 for its role in visa fraud offenses with Wright State University (WSU).

Between 2010 and 2013, WSU entered into several sponsored research contracts with Webyoga, Inc. Under these contracts, WSU agreed to employ software engineers, obtain H-1B visas for the employees, and pay their salaries and benefits. WSU employed 24 foreign employees, who were selected and approved by Webyoga, through H-1B visas. As an institute of higher learning, WSU is exempt from limits on the number of H-1B visas it can obtain, unlike other types of organizations. The university used its “cap exempt” status to apply for the visas. WSU submitted signed employment offer letters from the university indicating that the visa employees would be working for the university and under the supervision of university employees. WSU did not disclose in the visa applications that the employees would actually be working for Webyoga. Rather than develop the software programs named in the contracts, the visa employees worked as consultants on behalf of Webyoga in various cities throughout the country.

Over the course of the scheme, WSU invoiced Webyoga more than \$1.8 million for the employees’ salaries and benefits, fees associated with the employees’ visas, and administrative costs for the university.

This was a joint investigation with the Defense Criminal Investigative Service and HSI. *United States v. Webyoga, Inc.* (S.D. Ohio)





# **Worker and Retiree Benefit Programs**

# Office of Workers' Compensation Programs

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

*The FECA program provides workers' compensation coverage to millions of federal, postal, and 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.*

## Two Chicago Women Sentenced for Falsely Billing OWCP for \$1.7 million for 24-7 Service for 7 Years

On November 20, 2019, Chante Carrothers, owner of Caring Hearts Home Healthcare, was sentenced to 7 months of home confinement and ordered to pay joint and several restitution of more than \$1.4 million with her co-conspirator, Ella Garner, for her role in a scheme to defraud DOL's OWCP. In addition, on October 2, 2019, Garner, a Caring Hearts employee and home health aide, was sentenced to 3 years of probation and ordered to pay joint and several restitution for her role in this provider fraud scheme.

As part of their guilty pleas, Carrothers and Garner each admitted that from June 2010 through April 2018, they conspired to defraud OWCP by falsely billing through Caring Hearts for 24-7 care Garner purportedly rendered to a single FECA claimant, when, in fact, Garner did not provide 24-7 care. OWCP paid Caring Hearts approximately \$1.7 million for these services. In furtherance of the scheme, Carrothers paid Garner approximately \$4,500 per month for her role in the conspiracy.

This was a joint investigation with the FBI and U.S. Postal Service (USPS)–OIG. *United States v. Carrothers et al.* (N.D. Illinois)

## Multistate Business Owner Found Guilty of Conspiracy to Pay Health Care Kickbacks in Connection to FECA Program

In December 2019, following a 10-day trial, a Fort Lauderdale–based jury convicted Elizabeth Peters Young of one count of conspiracy to pay health care kickbacks and four counts of payments of kickbacks in connection to a federal health care program. Young, the sole owner and president of Young Surgical, LLC, operated a business out of Ormond Beach, Florida, and Ball Ground, Georgia, which she created for the sale of spinal implant medical devices to orthopedic surgeons. Young orchestrated a scheme with the previously convicted husband-and-wife duo Desiree and Vernon Mitchell in which kickbacks were solicited and received from various pharmacies in return for the referral of FECA program beneficiaries' prescriptions.

## Worker and Retiree Benefit Programs

The investigation revealed that Desiree Mitchell, who worked at Atlanta Spine Institute, was responsible for the referral of prescriptions from Atlanta Spine Institute to several participating pharmacies in question. Vernon Mitchell, at the direction of Young, created Garner Medical, Inc., a shell corporation represented as a marketing company, in order to receive more than \$400,000 in kickback proceeds from Young Surgical, LLC. These proceeds were a direct result of prescription drug referrals sent by Desiree Mitchell.

This was a joint investigation with USPS-OIG. *United States v. Elizabeth Peters Young* (S.D. Florida)

### **San Antonio Man Sentenced for Defrauding OWCP of More Than \$6 Million**

On December 2, 2019, Rafael Rodriguez of San Antonio, Texas, was sentenced to 84 months in prison and ordered to pay more than \$6 million in restitution to OWCP.

Rodriguez was the owner of 210 Workers Clinic, a physical therapy clinic in San Antonio that primarily treated injured federal workers. Rodriguez fraudulently used the identity of a licensed physical therapist to enroll the clinic with OWCP. Rodriguez then employed unlicensed individuals to provide physical therapy services to injured federal employees and fraudulently billed OWCP. After a 10-day trial, Rodriguez was convicted on six counts of health care fraud, five counts of wire fraud, and one count of aggravated identity theft.

This was a joint investigation with USPS-OIG, the U.S. Department of Veterans Affairs–OIG, and the FBI. *United States v. Rafael Rodriguez* (W.D. Texas)

### **Texas Jury Convicts “Compound King” in \$21 Million Health Care Fraud Scheme**

In March 2020, following a 6-day jury trial, Houston pharmacist George Phillip Tompkins was convicted of conspiracy to pay and receive kickbacks, conspiracy to commit health care fraud, and conspiracy to commit money laundering as well as 11 counts of health care fraud and 3 counts of wire fraud.

Tompkins, a pharmacist known as the “Compound King,” owned Piney Point Pharmacy, a compounding pharmacy in Houston, Texas, that dispensed compounded prescription medications to injured federal workers. Between 2009 and 2016, Tompkins and others billed DOL’s OWCP more than \$21 million for medically unnecessary compound gels and creams. These illegitimate prescriptions were predicated on illegal kickback payments. Evidence introduced at trial showed that Tompkins and his co-conspirators sought to disguise illicit kickback payments as legitimate marketing expenses and continued to ship compound gels and creams to patients even after the patients repeatedly complained they did not want them. As part of the scheme, Tompkins and co-conspirator Anoop Chaturverdi created a separate entity, Wellington Advisors, to receive payments from OWCP.

## Worker and Retiree Benefit Programs

Tompkins conspired with his wife Marene Tompkins, Chaturverdi, and pharmacy employee Ligia Gutierrez to carry out the fraud. In January 2020, Marene Tompkins pleaded guilty to one count of conspiracy to pay kickbacks and is awaiting sentencing. In February 2020, Gutierrez pleaded guilty to one count of conspiracy to pay kickbacks and is awaiting sentencing. Chaturverdi is considered a fugitive, and a warrant remains outstanding for his arrest in connection with the charges.

This was a joint investigation with USPS-OIG, Department of Homeland Security–OIG, IRS–Criminal Investigation Division, and Veterans Affairs–OIG. *United States v. George Tompkins* (S.D. Texas)







# Labor Racketeering

# Labor Racketeering

*Under the Inspector General Act of 1978, the OIG is responsible for investigating labor racketeering and the influence of organized criminal enterprises involving unions, employee benefit plans, and labor-management relations.*

*Labor racketeering refers to the infiltration, exploitation, or control of a union, employee benefit plan, employer entity, or workforce, carried out through illegal, violent, or fraudulent means. OIG labor racketeering investigations focus largely on individuals and organized criminal enterprises engaged in embezzlement, extortion, violence against union members or employers, and other related criminal activities.*

*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. OIG investigations have demonstrated that abuses involving service providers are particularly egregious not only because of their potential for large dollar losses but also because the schemes often affect several plans simultaneously.*

## **California Woman Sentenced to More Than 3 Years in Prison for Running \$11.5 Million Sleep Study Scam, Bilking Union and Private Health Care Plans**

On March 5, 2020, Anna Vishnevsky, the former owner of Atlas Diagnostic Services, Inc., was sentenced to 37 months in federal prison for causing more than \$11.5 million to be submitted for reimbursement to health care benefit programs for unnecessary—and sometimes nonexistent—sleep studies, primarily for employees of United Parcel Service, Inc., and Costco Wholesale Corp. Vishnevsky was ordered to pay more than \$2.5 million in restitution.

From March 2014 until June 2016, Vishnevsky participated in a scheme to defraud health care benefit plans. Vishnevsky and others working at her direction recruited patients and offered them

money to participate in medically unnecessary sleep study testing at Atlas. She offered them additional money to bring in other sleep study participants, including their co-workers and relatives.

Vishnevsky submitted insurance claims for sleep study testing performed on the recruited patients, listing physicians who had never treated the patients. She billed not only for the one night of sleep study testing that the patients had purportedly undergone, but also for an additional, consecutive night of sleep study testing that was never performed.

In total, Vishnevsky submitted more than \$11.5 million in fraudulent insurance claims to health care benefit plans. She received more than \$2.5 million on those claims. This was a joint investigation with the Employee Benefits Security Administration (EBSA), the FBI, and the Office of Personnel Management–OIG. *United States v. Vishnevsky et al.* (C.D. California)

### **New York Pharmaceutical Sales Rep Sentenced to 3 Years in Prison and Ordered to Pay More Than \$10 Million in Restitution**

On October 29, 2019, Scott Trapp, a pharmacy sales representative, was sentenced to 36 months in prison and ordered to pay more than \$10 million in restitution to multiple health care benefit programs. Trapp was sentenced pursuant to his December 2018 guilty plea to conspiracy to commit health care fraud.

Between 2014 and 2016, Trapp marketed compounded medications such as pain patches, pain creams, and scar creams, which were tailored to contain ingredients carrying high reimbursement rates from health insurers, rather than less expensive ingredients, which also provided effective medical treatment. As part of the conspiracy, Trapp and his associates (1) identified patients whose health insurance plans covered the expensive medications; (2) convinced those patients to agree to receive the pharmaceuticals; and (3) in most cases, assisted the patients in obtaining the prescriptions, often without the patients' visiting or consulting with prescribing doctors first. Trapp recruited others to market the medications, supervised those he recruited, and received commissions based on the amounts reimbursed for the prescriptions.

As a result of Trapp's actions and the actions of those working under his direction, multiple health care benefit programs, including collectively bargained prescription drug plans, paid more than \$10 million for fraudulently filled compounded medication prescriptions.

This was a joint investigation with the FBI, Defense Criminal Investigative Service, U.S.

Food and Drug Administration's Office of Criminal Investigations, and the New York State Department of Financial Services. *United States v. Scott Trapp* (W.D. New York)

### **Former Senior International UAW Official in the General Motors Division Sentenced to 28 Months in Prison for Accepting More Than \$1.5 Million in Bribes and Kickbacks**

On February 19, 2020, Michael Grimes, a former senior official in the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America's (UAW's) General Motors (GM) Division, was sentenced to 28 months in prison for conspiring with other UAW officials to engage in honest services fraud by taking more than \$1.5 million in bribes and kickbacks from UAW vendors and contractors and for conspiring to launder the proceeds of the scheme. Grimes also was ordered to pay more than \$1.5 million in forfeiture.

Grimes engaged in a conspiracy with other UAW officials, wherein they demanded a vendor give them a \$300,000 kickback on a \$6 million contract to purchase 50,000 jackets emblazoned with "Team UAW-GM." In another scheme to defraud, they demanded kickbacks on a \$3.9 million contract for the UAW/GM Center for Human Resources to buy 58,000 watches for all UAW members employed by GM. Grimes conspired to launder the proceeds of the kickback scheme by using a series of complicated schemes, including funneling the money through a sham consulting company run by a relative, to conceal and disguise the bribes and kickbacks. This pay-to-play scheme, which began in 2006 and lasted more than 12 years, reaped Grimes more than \$1.5 million, which he spent on property, houses, cosmetic

## Labor Racketeering

surgery for a relative, and a host of other items that never benefited the UAW membership.

This was a joint investigation with the FBI, IRS, and Office of Labor-Management Standards. *United States v. Michael Grimes* (E.D. Michigan)

### **Lucchese Soldier Sentenced for Racketeering Conspiracy and Illegal Gambling**

On October 17, 2019, Eugene Castelle was sentenced to 77 months of incarceration to be followed by 3 years of supervised release. Additionally, Castelle was ordered to pay a \$100,000 fine and more than \$188,000 in forfeiture. The sentencing followed a May 2019 trial during which Castelle was found guilty of racketeering conspiracy and illegal gambling.

Castelle, a soldier in the Lucchese Organized Crime Family of La Cosa Nostra, received thousands of dollars from his participation in a large-scale, illegal gambling operation. As a member of La Cosa Nostra, Castelle protected the gambling operation from other members of organized crime. He also used threats of violence to collect gambling debts and extorted annual tribute payments from bookmakers.

In addition, he benefited from a “no show” job at a construction site from which he collected months of carpenter’s wages without performing any work.

This was a joint investigation with the U.S. Department of Homeland Security’s Homeland Security Investigations and U.S. Department of State’s Diplomatic Security Service. *United States v. Eugene Castelle* (S.D. New York)

### **Diagnostic Testing Facility Owner Sentenced for Defrauding Health Care Benefit Plans**

On December 2, 2019, Nick Nikbakht was sentenced to 27 months in prison for defrauding union health plans. Nikbakht was ordered to pay more than \$2.5 million in restitution at the time of sentencing. Nikbakht and co-conspirators Oganeg Doganyan and Shawn Chait incorporated diagnostic companies to submit claims for reimbursement to the union health plans for non-medically necessary studies and tests. Nikbakht and Chait offered health plan members cash payments to receive non-medically necessary diagnostic medical services.

Doganyan arranged for the fraudulent proceeds to be deposited into the accounts of companies over which Doganyan exercised control. Doganyan then transferred payments from these companies to Nikbakht, Chait, and his own personal account. The payments were made to appear as legitimate business transactions conducted by those companies.

This was a joint investigation with the FBI, EBSA and IRS–Criminal Investigation Division (CI). *United States v. Nick Nikbakht et al.* (C.D. California)

### **Former Harrisburg Businessman Sentenced to 37 Months in Prison for Defrauding College Faculty Union**

On February 26, 2020, Michael Timothy Buchanan, the former owner/operator of a Harrisburg, Pennsylvania–based dental and vision claims processing business, was sentenced to 37 months in prison and ordered to pay more

## Labor Racketeering

than \$1.4 million in restitution for a scheme that defrauded a trust fund established by the Association of Pennsylvania State College and University Faculties.

Buchanan was the owner/operator of Actuaries, Consultants, and Administrators, Inc. (ACA), which had a contractual relationship with the Pennsylvania Faculty Health and Welfare Fund (the Fund) to process dental and vision claims submitted by members of the Association of Pennsylvania State College and University Faculties Union. Buchanan executed a scheme to defraud the Fund by submitting invoices that artificially inflated the number of claims ACA allegedly processed. Between 2007 and 2017, Buchanan's scheme caused the Fund to overpay ACA more than \$1.4 million, of which more than \$500,000 was ultimately deposited into Buchanan's personal financial accounts.

This was a joint investigation with the FBI. *United States v. Michael Timothy Buchanan* (M.D. Pennsylvania)

### **Defendants Sentenced in 17-Year Conspiracy to Defraud Customers and Commit Bribery**

Between October and November 2019, four defendants were sentenced for their roles in a 17-year conspiracy to defraud public and private companies and the U.S. government. David Barteck was sentenced to 8 months of home confinement, followed by 5 years of supervised release, and fined \$5,000. Michael Valenti was sentenced to 30 months in prison, followed by 3 years of supervised release, and fined \$5,000. Craig Cinelli was sentenced to 33 months in prison followed by 3 years of supervised release. Frank Aiello was sentenced to 6 months in prison,

followed by 6 months of home confinement, and 3 years of supervised release, and ordered to forfeit more than \$340,000. Barteck, Valenti, and Cinelli previously pleaded guilty to conspiracy to commit wire fraud in the range of \$9,500,000 to \$25,000,000. Aiello previously pleaded guilty to accepting more than \$340,000 in bribes from the Cinelli brothers.

The charges are the result of the defendants' operation of Cinelli Iron & Metal Co. and their collective schemes to defraud programs and organizations funded by the federal government and state governments as well as several private and publicly traded corporations. The fraudulent schemes perpetrated by members of the conspiracy included the purchasing of scrap metal and other commodities from their victims, using a variety of techniques to misrepresent the true weight and type of the scrap metal. The types of fraud included altering documents to reflect a lower weight, removing scrap metal from a haul before it was weighed, and misrepresenting the types of scrap metal contained in a haul. The defendants used bribery in certain instances to perpetrate the schemes. The Cinelli brothers bribed Aiello to have him steer multimillion-dollar demolition contracts to Cinelli Iron & Metal. The schemes resulted in millions of dollars in ill-gotten gains to the company and its officers in a conspiracy lasting approximately 17 years.

This was a joint investigation with the FBI and U.S. Department of Transportation–OIG. *United States v. Joseph Cinelli Sr.* (D. New Jersey)

### Owner of Long Beach Medi-Spa Sentenced for Defrauding Union Health Benefit Plan

On October 30, 2019, Erica Carey, owner of Long Beach Medi-Spa, was sentenced to 3 years' probation and ordered to pay more than \$366,000 in restitution for her role in a scheme to defraud the International Longshore and Warehouse Union–Pacific Maritime Association (ILWU-PMA).

Long Beach Medi-Spa's customers were predominantly beneficiaries of a health insurance plan ILWU-PMA offered to union members. Carey allowed physicians to see customers at Long Beach Medi-Spa and prescribe creams Global Compounding Pharmacy manufactured. Global Compounding Pharmacy filled the prescriptions and billed ILWU-PMA for the creams. B. Kabov and D. Kabov, the owners of Global Compounding Pharmacy, paid Carey kickbacks derived from payments received from ILWU-PMA for the prescribed creams. Between January and June 2015, Carey received more than \$366,000 in kickback checks from the Kabovs.

This was a joint investigation with the Drug Enforcement Agency–Diversion Control Division, IRS-CI, and EBSA. *United States v. Erica Carey* (C.D. California)

### Former New York Labor Union President Sentenced to 24 Months in Prison for Demanding and Accepting Bribes

On February 12, 2020, Glenn Blicht, the former president of a labor union, was sentenced to 24 months in prison and ordered to forfeit approximately \$150,000 in criminal proceeds for violating the Taft-Hartley Act by demanding and accepting approximately \$150,000 in bribe payments from an employer (the Employer). In addition, Blicht was served a debarment letter, which prohibits him from, among other things, being employed by a labor union or employee benefit plan for 13 years.

From 2009 through 2019, Blicht served as an officer of the union, including serving as its president for many years. In that role, Blicht had a duty to act in the best interests of the union and its members, which included avoiding personal financial conflicts of interest with the union. Nevertheless, Blicht demanded and received cash payments from the Employer, which employed a number of members of the union. For instance, on July 26, 2019, Blicht received a \$10,000 cash bribe from an official of the Employer at a restaurant in New York. Blicht was arrested outside the restaurant, in possession of the \$10,000 bribe.

In exchange for these bribes, Blicht repeatedly declined to represent the union members' interests, for example, declining to pursue arbitration claims on their behalf. Blicht used the monies he received to purchase luxury items, such as designer watches, custom clothing, tickets to sporting events, meals at expensive restaurants, and cigars. This was a joint investigation with the FBI, IRS-CI, and EBSA. *United States v. Glenn Blicht* (S.D. New York)



### **Former Union Business Manager and Retirement Plan Trustee Sentenced to Prison for Embezzlement and Wire Fraud**

On March 5, 2020, Melvin Fishburn was sentenced to 15 months in prison and ordered to pay more than \$80,000 in restitution for an embezzlement and wire fraud scheme that defrauded the International Brotherhood of Electrical Workers; AFL-CIO; Local Union 743 (IBEW Local 743); and National Electrical Contractors Association Penn-Del-Jersey Chapter, Reading Division Retirement Plan (Retirement Plan).

Fishburn was a business manager for IBEW Local 743 and a trustee of the Retirement Plan. From July 2010 to June 2014, Fishburn stole more than \$80,000 from the Retirement Plan and its participants by creating a shell company that he used to submit disbursement requests to the Retirement Plan for services that were never provided to, and expenses that were never incurred by, the Retirement Plan. Then, in his capacity as a trustee of the Retirement Plan, Fishburn authorized illegal payments of plan assets to the shell entity and caused the payments to be mailed to a post office box under his control.

This was a joint investigation with EBSA. *United States v. Melvin Fishburn* (E.D. Pennsylvania)

### **Southern California Man Sentenced for Defrauding Longshore Health Plan**

On December 9, 2019, Julian Williams, a personal trainer who worked for Philips San Pedro Chiropractic (PSP Chiropractic) in San Pedro, California, was sentenced to 6 months in prison and ordered to pay the International Longshore and Warehouse Union-Pacific Maritime Association (ILWU-PMA) benefit plan more than \$500,000 in restitution.

From July 2016 through October 2018, Williams and his co-conspirators, Mahyar Yadidi and Ivan Semerdjiev, operated a scheme to defraud the ILWU-PMA plan. The men defrauded the plan by offering kickbacks to patients for visiting PSP Chiropractic, a medical clinic owned by Yadidi, which also employed Semerdjiev and Williams. The defendants perpetuated their fraud scheme by billing the benefit plan for services not rendered, services that were not medically necessary, and/or services provided by unlicensed employees not qualified to perform them. In total, Yadidi, Semerdjiev, and Williams submitted almost \$5 million in claims to the ILWU-PMA plan.

This was a joint investigation with EBSA. *United States v. Williams* (C.D. California)





# Departmental Management

# Departmental Management

*The OIG performs oversight work involving the Department's operations, financial management, and information technology (IT) services.*

## Risk Assessment of DOL's Grant Closeout Process

We completed a risk assessment of DOL's grant closeout process as required by the Grants Oversight and New Efficiency (GONE) Act of 2016. Our objective was to determine whether DOL's grant closeout process warranted an audit or review.

On January 28, 2016, Congress passed the GONE Act to help federal agencies identify and close out expired grants. The GONE Act required agencies to report open federal grant and cooperative agreement awards with performance periods that expired before October 1, 2015, and any challenges in closing out those awards. The GONE Act also required the Inspector General of any agency with more than \$500,000 in annual grant funding to conduct a risk assessment to determine whether the agency's grant closeout process warranted an audit or review.

Our analysis identified risks in DOL's process to ensure timely closeout of grants and compliance with reporting requirements of the GONE Act. While risks remain, we found DOL made improvements in reducing the number of open grants and cooperative agreements that expired before October 1, 2015. As such, we do not plan to conduct a focused audit or review of DOL's grant closeout process at this time.

Nonetheless, we will continue to monitor DOL's progress in timely closing out grants and cooperative agreements through our financial statement audit efforts and may initiate a focused review or audit of DOL's grant closeout process in the future. Due to the limited scope of the risk assessment, we did not assess the efficiency of DOL's grant closeout process and recognize that a detailed audit of the grant closeout process may identify additional issues.

For more information, go to [www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-007-13-001&y=2020](http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-007-13-001&y=2020), Report No. 22-20-007-13-001 (March 31, 2020).

## Stronger Controls Needed Over Web Application Security

DOL manages publicly accessible web applications providing gateways to DOL's information and services. Those applications require adequate security to guard against compromise and unavailability. Concerned by the potential effects of compromised DOL web applications, we expanded on our participation in a federal government-wide review to determine whether DOL designed and implemented control activities that provided oversight of its publicly accessible web applications.

We determined that DOL did not implement sufficient control activities to monitor and secure its publicly accessible web applications because

## Departmental Management

DOL did not maintain a website inventory, remediate security vulnerabilities in a timely way, and implement security best practices.

Federal security standards require documenting and maintaining an accurate inventory of information system components, including web applications, to enforce security. DOL did not identify web applications as distinct system components to inventory for security purposes. Without an accurate inventory of web applications, DOL cannot ensure full oversight or quickly remediate weaknesses.

Further, one DOL agency did not timely remediate highly critical security weaknesses. In 2015, the agency canceled and reissued its corrective action plans, effectively restarting the timeframes for completion. DOL has policies and procedures for remediating known weaknesses; however, this agency did not adhere to them, and DOL did not effectively monitor and validate the corrective actions. This lack of monitoring and validation unnecessarily prolonged exposure to known security weaknesses.

DOL did not ensure that its agencies use common government best practices for securing web applications, such as secure programming techniques and web server configurations. Applying best practices reduces the risk of security weaknesses in the system design.

For more information, go to [www.oig.dol.gov/public/reports/oa/viewpdf.php?r=23-20-001-07-725&y=2020](http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=23-20-001-07-725&y=2020), Report No. 23-20-001-07-725 (November 14, 2019).

### **DATA Act: DOL's Reported Data Generally Met Quality Standards, but Accuracy Issues Remain**

According to the requirements of the Digital Accountability and Transparency Act of 2014 (DATA Act), it is critical that DOL report accurate and reliable spending data so taxpayers and policymakers understand how DOL is spending its funds. We conducted an audit, as required by the DATA Act, to assess (1) the accuracy, completeness, timeliness, and quality of data submitted by DOL for publication on USAspending.gov and (2) DOL's implementation and use of the government-wide data standards established by the Office of Management and Budget (OMB) and the U.S Department of the Treasury.

Overall, we found 94 percent accuracy of DOL's reported data, which according to the government-wide methodology, indicated the data were generally of high quality. We also found the data were generally complete and timely, and DOL followed the government-wide data standards established by OMB and Treasury.

However, we found the following data elements had significant errors or issues:

- Two data elements, Potential Total Value of Award and Ultimate Parent Legal Entity Name, had error rates higher than 20 percent.
- DOL did not report accurate Period of Performance Start Dates for 22 percent of 136 contracting actions tested.
- DOL continued to report inaccurate Program Activity and Object Class Codes in File B.

While DOL officials said they assessed risks specific to DATA Act reporting through DOL's

## Departmental Management

Enterprise Risk Management process, they did not provide any documentation of specific risks identified or related mitigation efforts. Had the officials provided this information, we may have identified additional opportunities to enhance internal controls to mitigate DATA Act reporting risks.

Our audit covered FY 2019 first-quarter spending data that DOL submitted for publication on USA Spending.gov and the procedures, certifications, documentation, and controls it used in this process. The Office of the Chief Financial Officer needs to address the underlying causes of errors within its reported data as well as identify risks specific to DATA Act reporting. For more information, go to [www.oig.dol.gov/public/reports/oa/viewpdf.php?r=03-20-001-13-001&y=2020](http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=03-20-001-13-001&y=2020), Report No. 03-20-001-13-001 (November 21, 2019).

### **DOL's FY 2019 Federal Information Security Modernization Act Report: Implementation of Security Tools Hindered by Insufficient Planning**

DOL spends approximately \$730 million annually on IT assets that play an integral role in providing various services and operations critical to fulfilling its mission. As such, DOL needs to protect these assets by maintaining a strong IT security program that can mitigate the risk of unavailable services, security breaches, and unreliable information.

We contracted with an independent public accounting firm to conduct an independent evaluation of whether DOL implemented an effective information security program in FY 2019, according to the Federal Information Security Modernization Act (FISMA). Under FISMA,

inspectors general are required to perform annual independent evaluations of their agencies' IT security programs and practices. We determined DOL's information security program was not effective for FY 2019 based on the testing results entered into the U.S. Department of Homeland Security's reporting system, CyberScope.

We reported findings for all FISMA cybersecurity functions, and six of eight FISMA metric domains, which included the following issues:

- Annual assessment of third-party cloud services not performed
- Tools for monitoring software and hardware on the network not implemented
- Security weaknesses of varying risk levels not mitigated
- Patches not implemented
- Security duties not properly separated
- Configuration reviews not performed
- Audit logs not reviewed
- Incidents not reported in a timely manner to the United States Computer Emergency Readiness Team (US-CERT)
- Contingency failover tests not performed

Our findings were based on tests conducted on select entity-wide security controls and system-specific security controls across 20 DOL information systems. The testing identified that DOL's Office of the Chief Information Officer had not fully implemented the necessary tools in areas including risk management, configuration management, and identity and access controls. In addition, the Office of the Chief Information Officer was unable to provide timelines and plans for any of the information security tools not fully implemented. For more information, go to [www.oig.dol.gov/public/reports/oa/viewpdf.php?r=23-20-002-07-725&y=2020](http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=23-20-002-07-725&y=2020), Report No. 23-20-002-07-725 (December 23, 2019).



## Departmental Management

### **Financial Statements Audits**

#### **FY 2019 DOL Financial Statements**

The OIG contracted with an independent public accounting firm to audit DOL's annual financial statements, which comprise the consolidated financial statements and the sustainability financial statements. DOL received an unmodified opinion on its FY 2019 financial statements, meaning DOL presented financial statements fairly in all material respects and in conformity with U.S. generally accepted accounting principles.

For more information, go to [www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-004-13-001&y=2020](http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-004-13-001&y=2020), Report No. 22-20-004-13-001 (November 18, 2019).

#### **Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements, for the Year Ended September 30, 2019**

In a separate Management Advisory Comments report, the OIG provided additional information to DOL management about issues identified during the financial statement audit that did not rise to the level of significant deficiencies. The additional information represented opportunities for DOL to improve internal controls or achieve other operating efficiencies. By satisfactorily addressing the comments in the Management Advisory Comments report, departmental management will help ensure these issues do not rise to the level of significant deficiencies in the future.

For more information, go to [www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-005-13-001&y=2020](http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-005-13-001&y=2020), Report No. 22-20-005-13-001 (December 19, 2019).

#### **District of Columbia Workmen's Compensation Act Special Fund**

The OIG audited the financial statements of the District of Columbia Workmen's Compensation Act Special Fund as of September 30, 2018.

The OIG issued an unmodified opinion, meaning the financial statements were presented fairly in all material respects and in conformity with U.S. generally accepted accounting principles. The OIG also performed certain tests of controls and a test for compliance with laws and regulations related to the fund, which did not identify any deficiencies.

For more information, go to [www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-002-04-432&y=2020](http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-002-04-432&y=2020), Report No. 22-20-002-04-432 (November 14, 2019).

#### **Federal Employees' Compensation Act Special Benefit Fund**

The OIG contracted with an independent public accounting firm to audit the Federal Employees' Compensation Act Special Benefit Fund's Schedule of Actuarial Liability, Net Intra-governmental Accounts Receivable, and Benefit Expense Fund as of and for the year ended September 30, 2019. The firm issued an unmodified opinion, meaning the schedule was presented fairly in all material respects and in conformity with U.S. generally accepted accounting principles. The firm also performed certain tests of controls and compliance with laws and regulations related to the fund, which disclosed a deficiency that we have reported every year since 2017 pertaining to internal controls over claims examiners' review of Federal Employees' Compensation Act claims. The firm also performed

## Departmental Management

agreed-upon procedures and identified differences in the actuarial liability, net intragovernmental accounts receivable, and benefit expense.

For more information, go to [www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-003-04-431&y=2020](http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-003-04-431&y=2020), Report No. 22-20-003-04-431 (November 1, 2019).

### Longshore and Harbor Workers' Compensation Act Special Fund

The OIG audited the financial statements of the Longshore and Harbor Workers' Compensation Act Special Fund as of September 30, 2018. The OIG issued an unmodified opinion, meaning the financial statements were presented fairly in all material respects and in conformity with U.S. generally accepted accounting principles. The OIG also performed certain tests of controls and a test for compliance with laws and regulations related to the fund, which did not identify any deficiencies.

For more information, go to [www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-001-04-432&y=2020](http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-20-001-04-432&y=2020), Report No. 22-20-001-04-432 (November 14, 2019).

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## Single Audits

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*A single audit provides an organizationwide examination of an entity expending federal assistance received for its operations. The audit is typically conducted annually by an independent certified public accountant, and its objective is to provide assurance to the U.S. government regarding the management and use of funds by such recipients as states, schools, universities, and nonprofits.*

### Single Audits Identified Material Weaknesses or Significant Deficiencies for 21 DOL Grantees

The OIG reviewed 44 single audit reports this semiannual period, covering DOL expenditures of about \$4 billion. For 21 organizations that received DOL grant funds, the auditors identified material weaknesses or significant deficiencies—indicating improvements are needed in those organizations' management of DOL funds and/or compliance with grant requirements. We reported 89 findings and 89 related recommendations identified in these 21 single audit reports to the appropriate DOL funding agencies and requested the agencies ensure the grantees take the necessary corrective actions.

Uniform Guidance provides for cognizant federal agencies to oversee the implementation of single audit requirements. The OIG is currently cognizant for 15 entities and is required to perform periodic quality control reviews of their single audits. During this reporting period, we did not conduct any quality control reviews.

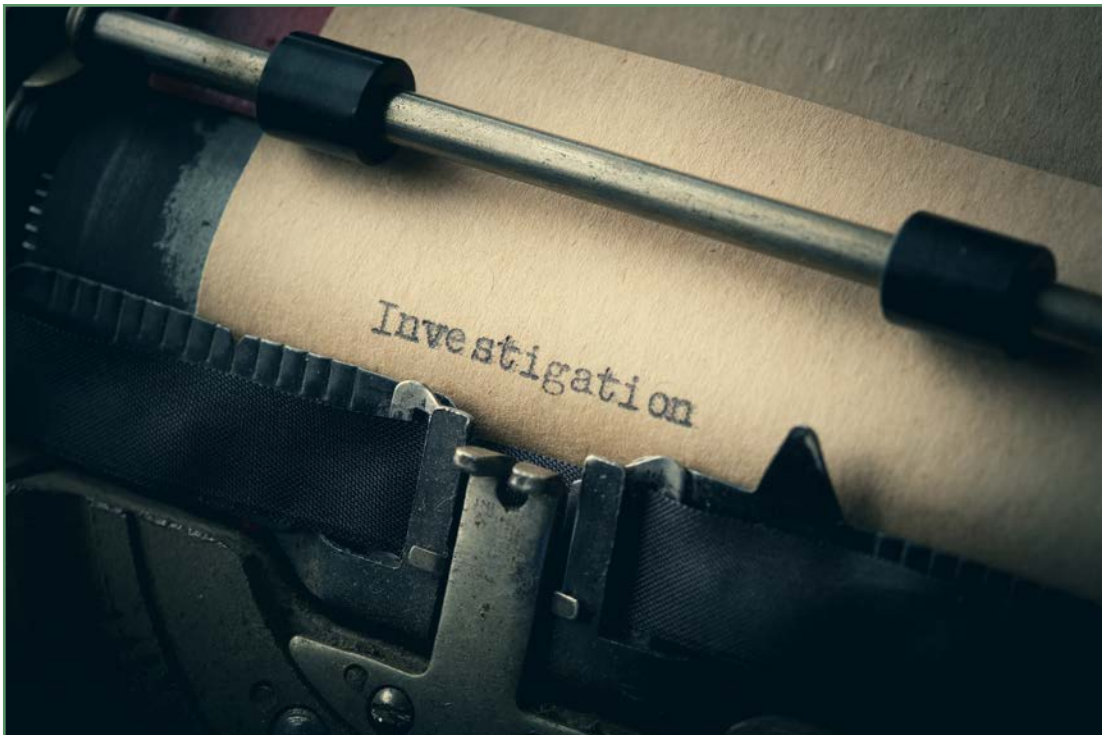
# Employee Integrity Investigations

*The OIG is responsible for investigating possible misconduct or criminal activities involving senior DOL employees or individuals providing services to the Department.*

## Unsubstantiated Allegations

### Senior Official Accused of Prohibited Personnel Practices and Discrimination

The OIG received an allegation that a senior DOL official was involved in a prohibited personnel practice involving preselection during the hiring process and discrimination toward the official's staff. In addition, the senior official was alleged to be involved in fraud, waste, and abuse regarding a large Department contract. Our investigation did not substantiate the allegations.







# OIG Whistleblower Activities

# OIG Whistleblower Activities

### Whistleblower Protection Coordinator

Pursuant to Section 2 of the Whistleblower Protection Coordination Act of 2018 (S.1869, June 25, 2018), every inspector general's office is required to designate a Whistleblower Protection Coordinator (WPC). Within DOL-OIG, an Assistant Counsel to the Inspector General has been designated to serve in this role. Pursuant to Section 2, the WPC (1) educates agency employees about prohibitions against retaliation for protected disclosures; (2) educates agency employees who have made or are contemplating making a protected disclosure about their rights and the remedies against retaliation for protected disclosures, including the means by which employees may seek review of any allegation of reprisal, as well as the roles of the OIG, the Office of Special Counsel (OSC), the Merit Systems Protection Board, and any other relevant entities; and (3) provides general information about the timeliness of such cases, the availability of any alternative dispute mechanisms, and avenues for potential relief. The DOL-OIG has:

- provided input into training that was presented to, and required to be completed by, all DOL employees, titled "Prohibited Personnel Practices, Whistleblower Protection";
- updated the DOL-OIG public-facing website titled "Whistleblower Protection Coordinator," which is available to all DOL and OIG employees, to provide information about whistleblower protections and options for DOL employees and employees of DOL contractors and grantees;
- established a dedicated e-mail address (OIGWhistleblower@oig.dol.gov) to receive and respond to whistleblower-related inquiries from DOL employees;
- assisted DOL in obtaining recertification of its 2302(c) program (October 2019);
- submitted the OIG's package to OSC requesting recertification of its 2302(c) program; and
- monitored whistleblower retaliation complaints received by the OIG as well as whistleblower retaliation investigations conducted by the OIG.



### Whistleblower Retaliation Investigations

The OIG can initiate its own investigations into allegations of improper or illegal retaliation brought by DOL employees or, on a discretionary basis, refer such allegations to OSC for review and investigation. During this reporting period, the OIG has received a complaint from one DOL employee who alleges that the complainant was retaliated against for engaging in protected activity under the whistleblower protection statute. The OIG is currently evaluating this complaint to determine how it will proceed.

Further, pursuant to 41 U.S.C. § 4712, the OIG is required, with some exceptions, to investigate whistleblower retaliation allegations made by employees of DOL contractors or grantees. During this reporting period, the OIG:

- closed one investigation into alleged whistleblower retaliation made by an employee of a government contractor and provided the OIG report to the Secretary of Labor or his designee;
- closed one investigation of alleged whistleblower retaliation made by an employee of a DOL grantee after preliminary investigation revealed that the individual's complaint did not fall under 41 U.S.C. § 4712; and
- ended this reporting period with five pending investigations.

In addition, the Department issued a decision on two complaints during this reporting period.







# Legislative Recommendations

# Legislative Recommendations

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

### **Allow DOL and the OIG Access to Wage Records**

The OIG lacks direct access to wage records to reduce improper payments and combat fraud in employee benefit programs, including unemployment insurance (UI) and Disaster Unemployment Assistance (DUA). For example, DOL needs access to the National Directory of New Hires (NDNH), which is a nationally consolidated database that contains UI claimant data and wage information from state and federal agencies. Recent legislation enacted in response to the coronavirus pandemic has substantially increased government funding to provide expanded program benefits across the federal government, to include billions of dollars in UI benefits.

To enhance oversight of and reduce overpayments in employee benefit programs, including UI, DUA, and the Federal Employees' Compensation Act (FECA) program, the Department and the OIG need authority to easily and expeditiously access state UI and Social Security Administration (SSA) wage records. Access to SSA and UI data would allow the Department to measure the long-term impact of employment and training services on job retention and earnings. This type of outcome information for program participants is otherwise difficult to obtain.

Because the NDNH contains UI claimant data, granting the OIG statutory access to NDNH data would provide the OIG with a valuable source of information for both audits and investigations. The NDNH, however, cannot be used for any purpose not specifically authorized by federal law. In 2004, the law was amended to allow the State Workforce Agencies to cross-match UI claims against the NDNH to better detect overpayments to UI claimants who have returned to work but continue to collect UI benefits. However, the applicable law does not permit the OIG to obtain NDNH data, and the OIG cannot use its subpoena authority to obtain NDNH records. Granting the OIG access to the NDNH would permit OIG auditors to use these records to verify Workforce Innovation and Opportunity Act program participants and their reported outcomes. In addition, OIG investigators could use these records to investigate employer fraud in the UI program, claimant fraud in the FECA program, and prevailing-wage violations by federal contractors.

## Legislative Recommendations

### Enact the UI Integrity Legislative Proposals

In October 2016, the Department submitted a legislative package to Congress proposing legislative changes that would help address UI program integrity and the high improper payment rates experienced in the UI program. These proposals were also included in each of the President's budget requests since FY 2018. The OIG encourages Congress to consider and adopt these proposals to aid the Department's efforts to combat improper payments in the UI program. The proposals include the following:

- Require states to use the State Information Data Exchange System.
- Require states to cross-match against the NDNH.
- Allow the Secretary of Labor to require states to implement UI corrective actions related to performance and integrity.
- Require states to cross-match with SSA's prisoner database and other repositories of prisoner information.
- Allow states to retain 5 percent of UI overpayment recoveries for program integrity use.
- Require states to use UI penalty and interest collections solely for UI administration.

In addition to the above, the President's FY 2020 budget request included a new proposal to require states to access data sources available through the UI Integrity Center's Integrity Data Hub (IDH). IDH contains a Suspicious Actor Repository for states to exchange data elements from known fraudulent UI claims and will soon contain additional near-real-time data sources to detect improper payments and fraud, including an identity verification tool to prevent fraudulent

UI benefit claims. This proposal will require states to cross-match against the data sources available through IDH. UI systemwide use of IDH will result in increased prevention, detection, and recovery of improper and fraudulent payments.

These legislative proposals are consistent with previous OIG findings and recommendations to address UI improper payments.

### 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, the Department is statutorily required to certify an H-1B application unless it determines that the application is "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 analyses and investigations showing that the program is susceptible to significant fraud and abuse, particularly by employers and attorneys.

## Legislative Recommendations

### 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 legislative actions:

- **Repeal ERISA’s limited-scope audit exemption.** This exemption excludes pension plan assets invested in financial institutions, such as banks and savings and loans, from audits of employee benefit plans. Notwithstanding recent changes to auditing standards strengthening limited-scope audits, these audits prevent 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 either to plan participants or to the Department.
- **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 as well as 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 valuation of plan assets and computation of benefits.
- **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 change 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 U.S. Code Title 18.** Three sections of U.S. Code 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 5 years’ imprisonment, while Section 1954 calls for up to 3 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 Section 669 (theft from health care benefit programs), to serve as a greater deterrent and to further protect employee pension plans.



## Legislative Recommendations

### 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:

- **Provide 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 NDNH data. Granting the Department routine access to these databases would aid in detecting fraud committed by individuals receiving FECA wage loss compensation but failing to report income they have earned.
- **Establish a 3-day waiting period at the beginning of the claim process.** FECA legislation provides for a 3-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 for postal employees immediately after an employment-related injury. If the intent of the law is to ensure a true waiting period before an employee applies for benefits, then that period should likewise come immediately after an employment-related injury for all federal workers, not just postal employees.
- **Allow the temporary suspension of questionable medical providers pending the outcome of an investigation.** While FECA regulations allow the Office of Workers' Compensation Programs (OWCP) to exclude a provider through administrative means,

OWCP must provide notice to the provider and afford the provider an opportunity for a hearing before DOL's Office of Administrative Law Judges. This process and the various procedures involved can be lengthy. Although the Department's suspension and debarment process is being successfully applied to FECA medical providers, legislative changes are needed to enable DOL to immediately suspend all payments to providers who have been indicted for fraudulent billing practices. This proposal is included in the President's budget proposal for FY 2019.

- **Set prescription drug price limitations.** Through the Federal Ceiling Price statute (38 U.S.C. § 8126), Congress mandated controls on prices that manufacturers can charge for drugs in four specific medical programs operated by the U.S. Department of Veterans Affairs, the U.S. Department of Defense, the U.S. Public Health Service, and the U.S. Coast Guard. Granting DOL similar authority to implement such ceiling prices would help ensure that the prices it pays for drugs are fair and reasonable.

### **Clarify the Mine Safety and Health Administration’s Authority to Issue 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), an authorized representative of the Secretary, when present, may issue such orders as he or she deems appropriate to ensure the safety of any person in the coal or other mine. The Federal Mine Safety and Health Review Commission has affirmed that the Act places certain limitations on the Mine Safety and Health Administration’s (MSHA’s) authority. As a result, legislative action is needed to clarify MSHA’s authority.

MSHA has long-standing and critically important authority to issue mine closure orders and take other actions as necessary to protect miners’ health and safety. Therefore, the OIG recommends a review of the existing “rescue and recovery work” language found in Section 103(j) and the “when present” language found in Section 103(k). Reviewing the language in those sections is necessary to ensure that the Secretary’s authority is broad, 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)	Recommendations on Existing and Proposed Legislation and Regulations relating to the programs and operations of DOL	70
Section 5(a)(1)	Description of Significant Problems, Abuses, and Deficiencies relating to the administration of programs and operations	ALL
Section 5(a)(2)	Description of Recommendations for Corrective Action with Respect to Significant Problems, Abuses, and Deficiencies	ALL
Section 5(a)(3)	Significant Recommendations from Previous Semiannual Reports on Which Corrective Action Has Not Been Completed	85
Section 5(a)(4)	Matters Referred to Prosecutive Authorities and the Prosecutions and Convictions Which Have Resulted	101
Section 5(a)(5) and Section 6(c)(2)	Summary of Each Report Made to the Head of DOL under Section 6(c)(2) (Information or assistance requested and unreasonably refused in the judgment of the Inspector General).	None to report
Section 5(a)(6)	List of Audit Reports, Inspection Reports, and Evaluation Reports Subdivided According to Subject Matter	81
Section 5(a)(7)	Summary of Particularly Significant Reports	ALL
Section 5(a)(8)	Statistical Tables Showing the Total Number of Audit Reports, Inspection Reports, and Evaluation Reports and the Total Dollar Value of Questioned Costs, Including Unsupported Costs, for Reports— (A);(D) for which no management decision had been made by the beginning or the end of the reporting period; (B) which were issued during the reporting period; (C) for which a management decisions was made during the reporting period, including the dollar value of disallowed and not disallowed costs	80
Section 5(a)(9)	Statistical Tables on Management Decisions on Recommendations That Funds Be Put to Better Use (A);(D) for which no management decision had been made by the beginning or the end of the reporting period; (B) which were issued during the reporting period; (C) for which a management decisions was made during the reporting period, including the dollar value of disallowed and not disallowed costs	79

## Reporting Requirements Under the Following Acts, continued

### Inspector General Act of 1978, continued

Section 5(a)(10)	Summary of Each Audit Report, Inspection Report, and Evaluation Report Issued Before the Commencement of the Reporting Period— (A) for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report; (B) for which no establishment comment was returned within 60 days of providing the report to the establishment; and (C) for which there are any outstanding unimplemented recommendations, including the aggregate potential cost savings of those recommendations	92 – 100
Section 5(a)(11)	Description and Explanation for Any Significant Revised Management Decision	None to report
Section 5(a)(12)	Information on Any Significant Management Decisions with Which the Inspector General Disagrees	None to report
Section 5(a)(13)	Information from the Federal Financial Improvement Act Section 804(b)—instances and reasons when an agency has not met intermediate target dates in remediation plan	None to report
Section 5(a)(14)	Peer Review Reporting (A) Results of any peer review conducted by another OIG; or (B) A statement identifying the date of the last peer review conducted	103
Section 5(a)(15)	Outstanding Peer Review Recommendations	None to report
Section 5(a)(16)	Peer Reviews Conducted by DOL-OIG and Recommendations Outstanding or Not Fully Implemented	None to report
Section 5(a)(17)	Statistical Tables on Investigative Findings Showing Total Number of— (A) reports issued (B) persons referred to DOJ for prosecution (C) persons referred to State and local prosecuting authorities (D) indictments and criminal informations that resulted from any prior referral to prosecuting authorities	101
Section 5(a)(18)	Metrics Used for Developing the Data for the Statistical Tables Under Section 5(a)(17)	101
Section 5(a)(19)	Summary of Investigations of Senior Government Employees Where Allegations of Misconduct Were Substantiated—including the facts, circumstances, status, disposition of the matter, and name of the official if made public by the Office	None to report
Section 5(a)(20)	Description of Whistleblower Retaliation Cases Including Information About the Official Found to Have Engaged in Retaliation and What, if any, Consequences that Establishment Imposed to Hold that Official Accountable	67

## Reporting Requirements Under the Following Acts, continued

### Inspector General Act of 1978, continued

Section 5(a)(21)	Summary of Instances of Attempted Departmental Interference with the Independence of the Office, including—with budget constraints and incidents where the establishment has: resisted or objected to oversight activities; or restricted or significantly delayed access to information	None to report
Section 5(a)(22)	(A) Descriptions of Inspections, Evaluations, Audits, and Investigations That Are Closed and Were Not Disclosed to the Public; and (B) Descriptions of Investigations Conducted By the Office Involving a Senior Government Employee that is Closed and Was Not Disclosed to the Public	63

### Dodd–Frank Wall Street Reform & Consumer Protection Act of 2010

Section 989(C)	Peer Review Reporting	103
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## Appendices

# 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.	2	24.2
Issued during the reporting period	<u>0</u>	<u>0.0</u>
<b>Subtotal</b>	<b>2</b>	<b>24.2</b>
For which management decision was made during the reporting period:		
• Dollar value of recommendations that were agreed to by management	1	13.0
• 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	1	11.2

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.	3	20.8
For which management or appeal decisions were made during the reporting period	<u>2</u>	<u>0</u>
<b>Subtotal</b>	<b>5</b>	<b>20.8</b>
For which management decision was made during the reporting period:		
• Dollar value of recommendations that were actually completed		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	2	20.4

\* 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 due to the implementation of recommended improvements related to the operations of the establishment, a contractor, or a grantee; and any other savings specifically identified, including reverting funds to the U.S. Treasury to be used for other purposes.

## Appendices

# Questioned Costs

<b>Resolution Activity: Questioned Costs*</b>		
	<b>Number of Reports</b>	<b>Questioned Costs (\$ millions)</b>
For which no management decision had been made as of the commencement of the reporting period (as adjusted)	13	9.9
Issued during the reporting period	<u>5</u>	<u>0.8</u>
<b>Subtotal</b>	<b>18</b>	<b>10.7</b>
For which a management decision was made during the reporting period:		
• Dollar value of disallowed costs		4.4
• Dollar value of costs not disallowed		1.4
For which no management decision had been made as of the end of the reporting period	10	4.9
For which no management decision had been made within 6 months of issuance	5	4.1

<b>Closure Activity: Disallowed Costs</b>		
	<b>Number of Reports</b>	<b>Disallowed Costs (\$ millions)</b>
For which final action had not been taken as of the commencement of the reporting period (as adjusted)	58	13.8
For which management or appeal decisions were made during the reporting period	<u>6</u>	<u>4.4</u>
<b>Subtotal</b>	<b>64</b>	<b>18.2</b>
For which final action was taken during the reporting period:		
• Dollar value of disallowed costs that were recovered		2.3
• Dollar value of disallowed costs that were written off		0.0
• Dollar value of disallowed costs that entered appeal status		
For which no final action had been taken by the end of the reporting period	<b>59</b>	<b>15.9</b>

\* Includes questioned costs from single audits. As defined by the Inspector General 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 that the OIG questioned during an audit as unsupported or unallowable and that 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.

## Appendices

# Final Audit Reports Issued

Report Name	Number of Recommendations	Questioned Costs (\$)	Funds Put to Better Use (\$)	Other Monetary Impact (\$)
<b>Employment and Training Programs</b>				
<b>Workforce Innovation and Opportunity Act</b>				
ETA Could Not Determine the Impact Its Face Forward Program Had on Participants Ages 17 and Under; Report No. 02-20-001-03-390; 03/31/20	5	0	0	0
<b>Total (1 Report)</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Worker Safety</b>				
<b>Occupational Safety and Health</b>				
Review of the Occupational Safety and Health Administration's Referral to and Reclamation of Debt from the U.S. Department of the Treasury; Report No. 22-20-006-10-001; 03/16/20	4	0	0	0
<b>Total (1 Report)</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Departmental Management</b>				
<b>Office of Chief Information Officer</b>				
Stronger Controls Needed over Web Application Security; Report No. 23-20-001-07-725; 11/14/19	3	0	0	0
FY 2019 FISMA DOL Information Security Report: Implementation of Security Tools Hindered by Insufficient Planning; Report No. 23-20-002-07-725; 12/23/19	20	0	0	0
<b>Office of the Chief Financial Officer</b>				
DATA Act: DOL's Reported Data Generally Met Quality Standards but Accuracy Issues Remain; Report No. 03-20-001-13-001; 11/21/19	3	0	0	0
Special Report on the Federal Employees' Compensation Act Special Benefit Fund; Report No. 22-20-003-04-431; 11/01/19	0	0	0	0
Longshore and Harbor Workers' Compensation Act Special Fund Financial Statements and Inspector General's Report, September 30, 2019 and 2017; Report No. 22-20-001-04-432; 11/14/19	0	0	0	0
District of Columbia Workmen's Compensation Act Special Fund Financial Statements and Inspector General's Report, September 30, 2018 and 2017; Report No. 22-20-002-04-432; 11/14/19	0	0	0	0

## Appendices

# Final Audit Reports Issued, continued

FY 2019 Independent Auditors' Report on DOL's Financial Statements; Report No. 22-20-004-13-001; 11/18/19	0	0	0	0
Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements for the Year Ended September 30, 2019; Report No. 22-20-005-13-001; 12/19/19	20	0	0	0
Risk Assessment of DOL's Grant Closeout Process; Report No. 22-20-007-13-001; 03/31/20	0	0	0	0
<b>Office of Federal Contract Compliance Programs</b>				
OFCCP Did Not Show It Adequately Enforced EEO Requirements on Federal Construction Contracts; Report No. 04-20-001-14-001; 03/27/20	2	0	0	0
<b>Total (10 Reports)</b>	<b>48</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Final Audit Report Total (12 Reports)</b>	<b>57</b>	<b>0</b>	<b>0</b>	<b>0</b>

## Appendices

# Single Audit Reports Processed

Program/Report Name	Number of Recommendations	Questioned Costs (\$)
National Asian Pacific Center on Aging; Report No. 24-20-504-03-360; 10/29/19	3	132,950
Operation A.B.L.E. of Greater Boston, Inc.; Report No. 24-20-507-03-360; 11/21/19	1	0
Experience Works, Inc. and Affiliate; Report No. 24-20-509-03-360; 12/05/19	2	0
Inter-Tribal Council of Louisiana, Inc.; Report No. 24-20-514-03-360; 12/10/19	9	0
National Asian Pacific Center on Aging; Report No. 24-20-517-03-360; 11/08/19	0	75,565
Puerto Rico Department of Economic Development and Commerce; Report No. 24-20-501-03-390; 10/08/19	3	418,244
The Urban League of Greater Atlanta, Inc.; Report No. 24-20-502-03-390; 10/29/19	0	79,853
Manufacturing Renaissance; Report No. 24-20-506-03-390; 11/21/19	2	0
El Corredor Techno Economico De Puerto Y El Carico, Inc., for the Year Ended June 30, 2017; Report No. 24-20-508-03-390; 12/05/19	3	0
Guadalupe Alternative Programs; Report No. 24-20-512-03-390; 12/10/19	5	0
Youth Conservation Corps and Affiliates; Report No. 24-20-513-03-390; 12/10/19	4	0
Youth Policy Institute, Inc.; Report No. 24-20-516-03-390; 12/10/19	1	0
Strive International, Inc.; Report No. 24-20-519-03-390; 01/28/20	2	0
Puerto Rico Department of Economic Development and Commerce; Report No. 24-20-521-03-390; 03/04/20	3	0
South Carolina Department of Employment and Workforce; Report No. 24-20-503-03-315; 10/29/19	10	0
State of Michigan; Report No. 24-20-505-03-315; 11/21/19	4	0
State of Illinois; Report No. 24-20-510-03-315; 12/05/19	13	129,251

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# Single Audit Reports Processed, continued

Government of the United States Virgin Islands; Report No. 24-20-515-03-315; 12/10/19	3	0
State of Utah; Report No. 24-20-520-03-315; 03/04/20	1	0
Fair Labor Association, Inc. ; Report No. 24-20-511-01-070; 12/10/19	5	0
Dallas Inter-Tribal Center DBA Urban Inter-Tribal Center of Texas; Report No. 24-20-518-03-355; 01/28/20	5	0
<b>Single Audit Report Total (21 Reports)</b>	<b>79</b>	<b>\$835,863</b>



## Appendices

# Unresolved Audit Reports Over 6 Months Old

Agency	Report Name	Number of Recommendations	Questioned Costs (\$)
<b>Agency Management Decision or Grant/Contracting Officer's Final Determination Did Not Resolve; OIG Negotiating with Agency</b>			
ETA	Controls over the Release of the UI Weekly Claim Report Need Improvement; Report No. 17-14-001-03-315; 01/02/14	1	0
ETA	ETA Violated the Bona Fide Needs Rule and the Anti-deficiency Act; Report No. 26-17-002-03-370; 09/21/17	4	0
ETA	Investigative Advisory Report—Recommendations for Enhancing Forms Used for H-2B Non-agricultural Temporary Workers; Report No. 50-19-001-03-321; 01/30/19	6	0
ETA	Job Corps Should Do More to Prevent Cheating in High School Programs; Report No. 26-19-001-03-370; 09/25/19	4	0
MSHA	MSHA Needs to Provide Better Oversight of Emergency Response Plans; Report No. 05-17-002-06-001; 03/31/17	2	0
MSHA	MSHA Did Not Evaluate Whether Civil Monetary Penalties Effectively Deterred Unsafe Mine Operations; Report No. 23-19-002-06-001; 08/16/19	1	0
OASAM	FISMA Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16	1	0
OSEC	Alert Memorandum: DOL Needs to Strengthen Its Oversight of NCFMS to Control Costs; Report No. 22-15-007-01-001; 06/02/15	1	0
OSEC	The Department Remains Vulnerable to Premature Release of Embargoed Economic Data; Report No. 17-16-001-01-001; 03/25/16	1	0
OSHA	OSHA Procedures for Issuing Guidance Were Not Adequate and Mostly Not Followed; Report No. 02-19-001-10-105; 03/28/19	1	0
<b>Agency Management Decision or Grant/Contracting Officer's Final Determination Not Issued by Close of Period</b>			
ETA	Single Audit: Experience Works; Report No. 24-16-552-03-390; 06/13/16	3	1,619,324
ETA	Single Audit: Experience Works, Inc. and Affiliates; Report No. 24-17-572-03-390; 08/03/17	4	1,991,900
ETA	Single Audit: National Plastering Industry's Joint Apprenticeship Trust Fund; Report No. 24-18-524-03-370; 06/07/18	1	0

## Appendices

# Unresolved Audit Reports Over 6 Months Old, continued

Agency	Report Name	Number of Recommendations	Questioned Costs (\$)
ETA	Single Audit: State of Hawaii Department of Accounting and General Services; Report No. 24-19-521-03-315; 06/10/19	8	0
ETA	Single Audit: State of Wyoming; Report No. 24-19-524-03-315; 06/25/19	1	15,587
ETA	Single Audit: State of Texas c/o Comptroller of Public Accountants; Report No. 24-19-525-03-315; 06/25/19	1	0
ETA	Single Audit: State of Louisiana; Report No. 24-19-526-03-315; 06/25/19	2	0
ETA	Single Audit: State of Tennessee; Report No. 24-19-527-03-315; 07/11/19	3	0
ETA	Single Audit: Commonwealth of Kentucky; Report No. 24-19-528-03-315; 07/11/19	3	0
ETA	Single Audit: State of Iowa; Report No. 24-19-530-03-315; 07/11/19	7	0
ETA	Single Audit: State of Oklahoma; Report No. 24-19-541-03-315; 07/23/19	1	0
ETA	Single Audit: Commonwealth of Puerto Rico Department of Labor and Human Resources; Report No. 24-19-543-03-315; 07/23/19	8	0
ETA	Single Audit: State of Alabama; Report No. 24-19-544-03-315; 07/23/19	1	0
ETA	Single Audit: Alu Like, Inc.; Report No. 24-19-529-03-355; 07/11/19	1	0
ETA	Single Audit: Southern California Indian Center, Inc.; Report No. 24-19-546-03-355; 07/30/19	1	0
ETA	Single Audit: Quality Control Review of the Single Audits of Experience Works Inc. and Affiliate for the Years Ended June 30, 2015 through June 30, 2017; Report No. 24-19-003-03-360; 09/30/19	1	0
ETA	Single Audit: Flying High, Inc.; Report No. 24-19-518-03-360; 05/21/19	6	0
ETA	Single Audit: Oregon Human Development Corporation; Report No. 24-19-522-03-365; 06/11/19	1	0

## Appendices

# Unresolved Audit Reports Over 6 Months Old, continued

Agency	Report Name	Number of Recommendations	Questioned Costs (\$)
ETA	Single Audit: State of New Mexico Workforce Solution Department; Report No. 24-19-513-03-390; 03/15/19	3	0
ETA	Single Audit: Oro Development Corporation; Report No. 24-19-516-03-390; 05/02/19	1	0
ETA	Single Audit: State of Nevada; Report No. 24-19-523-03-390; 06/11/19	3	0
ETA	Single Audit: Ivy Technical Community College of Indiana; Report No. 24-19-532-03-390; 07/16/19	3	0
ETA	Single Audit: State of Ohio; Report No. 24-19-533-03-390; 07/16/19	2	0
ETA	Single Audit: Jobs for Future, Inc.; Report No. 24-19-535-03-390; 07/18/19	2	0
ETA	Single Audit: State of Connecticut; Report No. 24-19-547-03-390; 07/30/19	5	184,870
OSHA	Single Audit: New Mexico Environment Department; Report No. 24-19-515-10-001; 05/08/19	1	0
OSHA	Single Audit: The Sustainable Workplace Alliance, Inc.; Report No. 24-19-503-10-001;12/17/18	4	0
<b>Total Nonmonetary Recommendations and Questioned Costs</b>		<b>98</b>	<b>\$3,811,681</b>

Agency	Report Name	Number of Recommendations	Funds Recommended for Better Use (\$)
<b>Agency Management Decision or Grant/Contracting Officer's Final Determination Did Not Resolve; OIG Negotiating with Agency</b>			
ETA	ETA Violated the Bona Fide Rule and the Anti-deficiency Act; Report No. 26-17-002-03-370; 09/21/17	1	11,180,223
<b>Total Funds Recommended for Better Use</b>		<b>1</b>	<b>\$11,180,223</b>

Total Nonmonetary Recommendations and Questioned Costs	98	\$3,811,681
Total Funds Recommended for Better Use	1	\$11,180,223
<b>Total Audit Exceptions and Funds Recommended for Better Use</b>	<b>99</b>	<b>\$14,991,904</b>

# Corrective Actions Taken by the Department

*During this reporting period, we took final action to close recommendations within reports based on corrective action taken by the Department. The following is a summary of the most significant actions.*

## **ETA Had No Reasonable Assurance That \$183 Million in H-1B TST Grant Funds Helped Participants Get H-1B Jobs; Report No. 06-19-001-03-391; 09/27/19**

Technical Skills Training (TST) grants were funded from H-1B program user fees paid by employers who hired temporary foreign workers for jobs in highly skilled occupations. TST grants were intended to raise the technical skills of American workers and help businesses reduce their need for the H-1B program. Our audit found that the Employment and Training Administration (ETA) did not provide reasonable assurance TST grantees provided training that resulted in participants' obtaining and retaining jobs in H-1B occupations. Systemic weaknesses in the grant award processes, oversight, and performance measurement indicated ETA did not design the program to ensure non-H-1B training provided had a clear pathway to H-1B jobs as required by the grant solicitation.

In response to our audit, ETA improved the precision of its scoring factors within each section of the H-1B Funding Opportunity Announcement (FOA), which allows panelists to evaluate and award points more precisely, including points related to training along a career pathway leading to H-1B occupations or within H-1B industries. FOA also provides specific guidance to applicants for aligning their training activities with those occupations and industries for which employers are requesting H-1B visas. ETA also aligned H-1B performance measures using the Amended Workforce Innovation and Opportunity Act ETA-9172 DOL-only Participant Individual Record Layout. This record layout contains all of the individual data elements required to track outcomes for H-1B grants.

## **Audit of Experience Works' Senior Community Service Employment Program Grant; Report No. 26-16-001-03-360; 09/30/16**

Between June 2015 and August 2016, ETA identified growing concerns about Senior Community Service Employment Program grantee Experience Works' use of grant funds. This resulted in ETA disallowing over \$1.6 million in grant expenses and questioning Experience Works' ability to be a steward of federal funds. In August 2016, ETA solicited and selected applicants for its next 4-year grant award cycle. We issued our interim report in September 2016, in part, to ensure future grant solicitations' award criteria provide for appropriate assessment of financial stability, quality of management systems, and history of performance.

## Appendices

In response to our audit, ETA inserted a new section in ETA's FOAs titled "Risk Review Process" that addresses the areas of financial stability, quality of management systems, and history of performance and that asks for additional financial information from applicants. Since the report was issued, ETA said its Grant Officers have been using the information provided by applicants to conduct the risk review process prior to making selections.

### **Job Corps Could Not Demonstrate Beneficial Job Training Outcomes; Report No. 04-18-001-03-370; 3/30/18**

Job Corps spent \$1.7 billion annually between program years 2010 and 2016 to teach eligible young adults the skills they need to become employable and independent and place them in meaningful jobs. Our audit found that Job Corps could not demonstrate the extent to which its training programs helped participants enter meaningful jobs appropriate to their training. Job Corps' contractors did not adhere to program policy to collect participants' prior employment history upon entry into the program.

In response to our audit, ETA implemented a new career planning initiative, titled My Pathway to Achieving Career Excellence (MyPACE). MyPACE, which replaces the Personal Career Development Plan, identifies participants' prior employment history and work skills and incorporates that information into the development of a comprehensive, individualized career plan. ETA stated that MyPACE implementation is complete. The seven centers where MyPACE had not been implemented were closed or deactivated, were consolidated with other centers, were transferred to the state, did not offer career planning, or had suspended enrollments. ETA also issued a Policy and Requirements Handbook Change Notice to the Job Corps community that required each student's MyPACE Career Plan to include details of prior employment history including employer, location, job title, and ending wage. Job Corps' Policy and Requirements Handbook requires participants' prior work experience to be used to develop a MyPACE Career Plan. According to ETA, Job Corps Centers must verify the accuracy of this information.

### **OSHA Does Not Know if Special Emphasis Programs Have Long-term Industrywide Effect; Report No. 02-16-201-10-105; 09/28/16**

Special Emphasis Programs (SEP) are programs that focus the Occupational Safety and Health Administration's (OSHA), resources on particular hazards and occupations that pose greater risk of death or severe injury/illness. OSHA could not demonstrate whether its SEPs were effective in improving safety and health conditions for workers in these high-hazard industries and occupations. Its performance measurement strategy lacked outcome metrics related to reducing the rate of injuries, illnesses, and fatalities, lessening levels of exposure to health risks, and/or decreasing the frequency of catastrophic events. Moreover, OSHA did not have a documented risk assessment methodology for building a risk model that captured emerging trends and the latest data regarding high-hazard industries and occupations. OSHA did not develop guidelines to formally weigh all available information on hazards, identify the industries and occupations with the highest level of hazard risk, and then proactively develop and utilize SEPs for those industries and occupations.

## Appendices

In response to our audit, OSHA revised its procedures for the approval of SEPs as well as its Field Operations Manual to stress the importance of having both quantitative and qualitative measures. The revised procedures also require that each SEP be assessed at least twice, at the mid-point and end of the program. Both assessments use specific measures to determine program impact and whether OSHA should renew or revise a program. Furthermore, the revised guidance expands on the requirement to conduct and document a strategic hazard assessment before initiating an SEP. The hazard assessment must detail the methodology and how the program supports the Department's Strategic Plan and/or Operating Plan.

### **OSHA Could Do More to Ensure Employers Correct Hazards Identified during Inspections; Report No. 02-17-201-10-105; 03/31/17**

OSHA is responsible for the safety and health of 120 million workers employed at more than 9 million worksites nationwide. OSHA's enforcement plays an important part in its efforts to reduce workplace injuries, illnesses, and fatalities. OSHA's Compliance Safety and Health Officers conduct onsite visits to worksites, inspecting for hazards that could lead to worker injury or illness. When an inspector finds violations of OSHA standards or serious hazards, OSHA may issue citations and fines. In FY 2015, the year of our audit, OSHA issued 80,825 citations for violations that impacted approximately 950,000 workers. It is critical that OSHA ensure employers take action promptly to address the dangers it identifies. Our audit found that OSHA did not ensure employers took adequate and timely abatement actions for an estimated 12,808, or 16 percent, of safety or health violations the agency had cited.

In response to our audit, OSHA emphasized the importance of abatement requirements during several of its training courses and provided refresher training to field offices to ensure cases are closed only upon receipt of certified abatement verification documentation. OSHA also continues to look for opportunities to minimize citation processing time and streamline the citation issuance process. In addition, OSHA revised its Field Operations Manual to require that compliance officers conduct a history review and document that the review was conducted prior to inspection to assist in determining whether to issue a more serious repeat or willful citation.

### **Department of Labor Needs Improvements in Managing Its Records Management Program to Capture Electronic Messages for Preserving Federal Records; Report No. 17-19-001-07-001; 09/20/19**

Federal electronic records pose a challenge to record keeping in the federal government. To maintain the public's trust and to ensure transparency in the preservation of federal records, regarding electronic messaging, DOL needs to stay vigilant and close the gap between outdated policies and evolving technologies. Our audit found that DOL lacked procedures for identifying, managing, and preserving electronic messages as federal records.



## Appendices

In response to our audit, DOL updated the 2019 Records Management Training for all employees to include detailed guidance and explicit language from the Federal Records Act on managing electronic messages. The training also requires certification by all employees that they understand and will comply with the policy. In addition, both the New Employee Orientation and Entrance Briefing for Senior Officials and Political Appointees have been updated to provide guidance on managing electronic messages. In November 2019, Deputy Secretary Patrick Pizzella issued a memorandum further supporting the Department's electronic messaging guidance: "Records Management for Social Media, Instant Messages, Text Messages, and Websites."

## Unimplemented Recommendations

During this reporting period, we did not encounter any instances of audits or evaluations provided to the Department for comment that were not responded to within 60 days. Furthermore, agencies have provided management decisions in response to all audits and evaluations issued before the commencement of this reporting period.

From October 1, 2010, through September 30, 2019, the OIG made 1,412 audit recommendations to the Department, of which 144 have not been fully implemented. These 144 recommendations include 80 recommendations resulting from audits issued since the end of FY 2017, and in many cases, the Department has corrective action plans in place.

**RECOMMENDATIONS MADE  
PRIOR TO OCTOBER 1, 2019,  
NOT YET IMPLEMENTED**

Fiscal Year	Total Number of Recommendations Made	Unimplemented Recommendations	
		Total Number	Monetary Impact (\$)
2011	319	6	
2012	213	3	
2013	195	3	
2014	128	9	126,789,224
2015	163	14	7,859,690
2016	100	4	
2017	112	25	11,180,223
2018	98	26	19,222,202
2019	84	54	
<b>Total</b>	<b>1,412</b>	<b>144</b>	<b>\$165,051,339</b>

# High-Priority Unimplemented Recommendations

*The following table summarizes the unimplemented recommendations the OIG considers to be the highest priorities for the Department.*

Report Title; Report Number; Date Issued	Unimplemented Recommendation(s)
<b>Worker Safety</b>	
MSHA Can Improve How It Responds to and Tracks Hazardous Condition Complaints; Report No. 05-16-002-06-001; 09/30/16	Establish standard completion goals for postcomplaint inspections.
MSHA Needs to Provide Better Oversight of Emergency Response Plans; Report No. 05-17-002-06-001; 03/31/17	Clarify mine operators' responsibilities for local coordination under the Mine Improvement and New Emergency Response Act, including coordination and communication among the operator, mine rescue teams and local emergency response personnel and familiarizing local rescue personnel with surface functions that may be required in the course of mine rescue work.
<b>Employee Benefits</b>	
EBSA Did Not Have the Ability to Protect the Estimated 79 Million Plan Participants in Self-insured Health Plans from Improper Denials of Health Claims Report No. 05-17-001-12-121; 11/18/16	Reduce or eliminate exemption thresholds for small plans.
OWCP'S Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses; Report No. 03-12-001-04-431; 02/15/12	Develop effective procedures, including seeking legislative authority to conduct matches with SSA retirement records, to ensure that claimants who receive SSA retirement benefits are identified timely and their FECA benefits are adjusted accordingly.
OWCP Must Continue Strengthening Management of FECA Pharmaceuticals, Including Opioids; Report No. 03-19-002-04-431; 5/14/19	Ensure the Pharmacy Benefits Manager (PBM) implements a drug utilization review as specified in the contract. Ensure the PBM, when developing its formulary, considers all classes of drugs to determine if prior authorization or letters of medical necessity would be appropriate.
<b>Departmental Management</b>	
FISMA Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16	Realign the organizational structure as it relates to the chief information officer to address organizational independence issues.
Alert Memorandum: DOL Needs to Strengthen Its Oversight of NCFMS to Control Costs; Report No. 22-15-007-01-001; 06/02/15	To strengthen its oversight of the New Core Financial Management System (NCFMS) and control costs, the Department should negotiate a firm-fixed price agreement for a baseline of operation and maintenance services for NCFMS, including the Department developing its own cost estimate.

## Appendices

# High-Priority Unimplemented Recommendations, continued

Report Title; Report Number; Date Issued	Unimplemented Recommendation(s)
<p>Controls over the Release of the Unemployment Insurance Weekly Claims Report Need Improvement;</p> <p>Report No. 17-14-001-03-315; 01/02/14</p>	<p>Develop and implement a strategy to achieve an equitable release of the unemployment insurance Claims Report and eliminate any competitive advantage that new organizations inside the lock-up and their clients may have; or, absent a viable solution, consider discontinuing the use of the press lock-up. Work with OMB, and other federal agencies that provide prerelease access via press lock-ups, to implement a strategy designed to eliminate any competitive advantage that news organizations present in the lock-up and/or their clients may have; or, absent a viable solution, consider discontinuing the use of the press lock-up that provides news organizations prerelease access.</p>
<p>DOL Did Not Comply with Improper Payments Elimination and Recovery Act for FY 2017;</p> <p>Report No. 03-18-002-13-001; 05/15/18</p>	<p>Develop and implement formalized policies and procedures requiring maintenance of supporting documentation for the Improper Payments Elimination and Recovery Act (IPERA) reporting process and a detailed review of the IPERA information in the Agency Financial Report. Increase technical assistance and funding to states to improve the improper payment reduction strategies to ensure compliance with the improper payments estimate rate threshold.</p>
<p>FY 2019 FISMA DOL Information Security Report: Implementation of Security Tools Hindered by Insufficient Planning;</p> <p>Report No. 23-20-002-07-725; 12/23/19</p>	<p>Implement improvements in DOL's information security program for the following areas: risk management, configuration management, identity and access management, data protection and privacy, information security continuous monitoring, incident response, and contingency planning.</p>
<p>DATA Act: DOL's Reported Data Generally Met Quality Standards but Accuracy Issues Remain;</p> <p>Report No. 03-20-001-13-001; 11/21/19</p>	<p>Identify risks specific to the Digital Accountability and Transparency Act reporting and take appropriate action to ensure internal controls address the resulting areas of concern.</p>
<p>Stronger Controls Needed over Web Application Security;</p> <p>Report No. 23-20-001-07-725; 11/14/19</p>	<p>Implement processes to maintain an inventory for the purpose of ensuring the web applications are timely and properly secured. Review and update DOL policies to ensure corrective actions for web applications are timely implemented. Implement Department-wide policies and procedures specific to securing web applications, web servers, and web application coding.</p>
<p>Department of Labor Needs Improvements in Managing Its Records Management Program to Capture Electronic Messages for Preserving Federal Records;</p> <p>Report No. 17-19-001-07-001; 09/20/19</p>	<p>Revise policies and procedures to provide explicit guidance to identify, manage, and maintain electronic messages. Research a technical solution to allow personnel to capture and retain text messages on government-issued devices or obtain annual certification that any federal records from text messages have been retained. Develop policies and procedures to ensure that the Department's Capstone Approach is reviewed on a recurring basis.</p>

## Appendices

# Summary of Reports with Unimplemented Recommendations with Cost Savings/Funds Put to Better Use

Report Name	Number of Recommendations	Funds Put to Better Use (\$)
<b>Employment and Training Administration (ETA)</b>		
<p>Superstorm Sandy National Emergency Grants: ETA Awarded Funds Promptly, but Could Improve Grant Modification and Eligibility Verification Processes;</p> <p>Report No. 02-15-204-03-390; 03/26/15</p> <p>Reinstating the policy to require disaster national emergency grantees to have systems in place to review eligibility determinations once needed documentation becomes available could put \$7,811,286 to better use.</p>	1	7,811,286
<p>ETA Violated the Bona Fide Needs Rule and the Antideficiency Act;</p> <p>Report No. 26-17-002-03-370; 09/21/17</p> <p>We recommended the Deputy Assistant Secretary for Employment and Training require ETA to develop and implement clear policies and procedures to improve funds management, which should include regularly monitoring obligations to identify unexpended Job Corps' funds that can be deobligated during the periods of availability could put \$11,180,223 to better use.</p>	1	11,180,223
<p>DOL Could Improve Exit Requirements and Participant Outcomes for the YouthBuild Program;</p> <p>Report No. 04-18-002-03-001; 03/30/18</p> <p>We recommended the Assistant Secretary for Employment and Training clarify the definition of a "successful exit" and require its use by all grantees. At a minimum, this definition should require that the successful exiter earn a high school diploma or equivalency degree or an industry-recognized credential, have a job follow-up plan in place, and receive referrals to either an employer or a school.</p>	1	12,600,000
<b>Total</b>	<b>3</b>	<b>\$31,591,509</b>

# Summary of Reports with Unimplemented Recommendations with Other Monetary Impact

Report Name	Number of Recommendations	Amount of Other Monetary Impact Recommendations (\$)
<b>Employment and Training Administration (ETA)</b>		
<p>Job Corps Contractor and DOL Procurement Practices Need Improvement; Report No. 26-14-002-03-370; 09/24/14</p> <p>We recommend that the Assistant Secretary for Employment and Training require the Regional Job Corps Offices and respective ETA contracting officers to refer the four small business set-aside contracts we identified held by Alutiiq Education and Training and Alutiiq Professional Services to the Small Business Administration for review and guidance on corrective action, if warranted.</p>	1	126,500,000
<p>Job Corps Could Not Demonstrate Beneficial Job Training Outcomes; Report No. 04-18-001-03-370; 03/30/18</p> <p>We recommend ETA determine and assess liquidated damages to contractors that misreported data based on invalid placements.</p>	1	51,750
<b>Total</b>	<b>2</b>	<b>\$126,551,750</b>



## Appendices

# Reports with Unimplemented Recommendations for Management Improvement or Disallowed Costs Owed

The following table lists all OIG reports issued prior to this semiannual reporting period with recommendations that have not yet been fully implemented (as of March 31, 2020).

Report Name	Number of Unimplemented Recommendations	Disallowed Costs Owed (\$)
<b>Office of the Chief Financial Officer</b>		
Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements for the Year Ended September 30, 2015; Report No. 22-16-004-13-001; 03/25/16	1	0
Management Advisory Comments Identified in the Consolidated Financial Statements for the Year Ended September 30, 2017; Report No. 22-18-006-13-001; 03/29/18	1	0
The Department Needs to Take Action to Improve the Quality of Its DATA Act Submissions Report; Report No. 03-18-001-13-001; 01/19/18	2	0
DOL Did Not Comply with Improper Payments Elimination and Recovery Act for FY 2017; Report No. 03-18-002-13-001; 05/15/18	3	0
Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements for the Year Ended September 30, 2018; Report No. 22-19-006-13-001; 03/15/19	5	0
<b>Employee Benefits Security Administration</b>		
Limited-scope Audits Provide Inadequate Protections to Retirement Plan Participants; Report No. 05-14-005-12-121; 09/30/14	1	0
EBSA Did Not Have the Ability to Protect the Estimated 79 Million Plan Participants in Self-insured Health Plans from Improper Denials of Health Claims; Report No. 05-17-001-12-121; 11/18/16	1	0
<b>Employment and Training Administration</b>		
Job Corps Oversight of Center Performance Needs Improvement; Report No. 26-12-006-03-370; 09/28/12	1	0
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	1	0
Controls over the Release of the UI Weekly Claims Report Need Improvement; Report No. 17-14-001-03-315; 01/02/14	1	0

## Appendices

# Reports with Unimplemented Recommendations, continued

Report Name	Number of Unimplemented Recommendations	Disallowed Costs Owed (\$)
Job Corps Needs to Improve Controls over Student Travel Funds; Report No. 26-14-001-03-370; 04/29/14	1	289,224
Job Corps Contractor and DOL Procurement Practices Need Improvement; Report No. 26-14-002-03-370; 09/24/14	3	0
Job Corps Needs to Improve Enforcement and Oversight of Student Disciplinary Policies; Report No. 26-15-001-03-370; 02/27/15	1	48,404
Investigative Advisory Report—Weaknesses Contributing to Fraud in the Unemployment Insurance Program; Report No. 50-15-001-03-315; 07/24/15	10	0
Program Specific Performance Measures Are Needed to Better Evaluate the Effectiveness of the Reemployment Services and Eligibility Assessment Program; Report No. 04-17-002-03-315; 09/26/17	3	0
ETA Violated the Bona Fide Needs Rule and the Antideficiency Act; Report No. 26-17-002-03-370; 09/21/17	4	0
DOL Could Improve Exit Requirements and Participant Outcomes for the YouthBuild Program; Report No. 04-18-002-03-001; 03/30/18	1	1,390,498
Trade Adjustment Assistance Community College Career Training Grants: ETA Spent \$1.5 Billion and Met Its Stated Capacity Development Goals, but Is Challenged to Determine if the Investment Improved Employment Outcomes; Report No. 02-18-201-03-330; 07/26/18	3	1,000,000
Experience Works, Inc. Misused More Than \$4 Million in SCSEP Grant Funds; Report No. 26-18-002-03-360; 09/28/18	3	4,179,954
Investigative Advisory Report—Recommendations for Enhancing Forms Used for H-2B Non-agricultural Temporary Workers; Report No. 50-19-001-03-321; 01/30/19	6	0
Job Corps Should Do More to Prevent Cheating in High School Programs; Report No. 26-19-001-03-370; 09/25/19	5	0
ETA Had No Reasonable Assurance That \$183 Million in H-1B TST Grant Funds Helped Participants Get H-1B Jobs; Report No. 06-19-001-03-391; 09/27/19	1	0
<b>Office of Workers' Compensation Programs</b>		
OWCP'S Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses; Report No. 03-12-001-04-431; 02/15/12	1	0

## Appendices

# Reports with Unimplemented Recommendations, continued

Report Name	Number of Unimplemented Recommendations	Disallowed Costs Owed (\$)
Audit of Federal Employees' Compensation Act, Durable Medical Equipment Payments; Report No. 03-12-002-04-431; 03/26/12	1	0
Interim Report on Audit of Pharmaceutical Management in DOL Benefit Programs—OWCP Needs Better Controls over Compounded Prescription Drugs; Report No. 03-17-001-04-431; 05/23/17	8	0
Special Report Relating to the Federal Employees' Compensation Act Special Benefit Fund—September 30, 2018; Report No. 22-19-003-04-431; 11/02/18	3	0
OWCP Must Continue Strengthening Management of FECA Pharmaceuticals, Including Opioids; Report No. 03-19-002-04-431; 05/14/19	2	0
<b>Mine Safety and Health Administration</b>		
MSHA Can Improve Its Section 110 Special Investigations Process; Report No. 05-13-008-06-001; 09/30/13	2	0
MSHA Can Improve How It Responds To and Tracks Hazardous Condition Complaints; Report No. 05-16-002-06-001; 09/30/16	1	0
MSHA Needs to Provide Better Oversight of Emergency Response Plans; Report No. 05-17-002-06-001; 03/31/2017	6	0
MSHA Did Not Evaluate Whether Civil Monetary Penalties Effectively Deterred Unsafe Mine Operations; Report No. 23-19-002-06-001; 08/16/19	2	0
MSHA Needs to Better Manage Its Pre-assessment Conferencing Program; Report No. 05-19-001-06-001; 09/23/19	9	0
<b>Office of the Assistant Secretary for Administration and Management</b>		
The Department Could Do More to Strengthen Controls over Its Personal Identity Verification System; Report No. 04-11-001-07-001; 03/31/11	1	0
Ineffective Accounting for Sensitive Information Technology Hardware and Software Assets Places DOL at Significant Risk; Report No. 23-11-001-07-001; 03/31/11	5	0
FISMA Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16	1	0
FY 2017 FISMA DOL Information Security Report; Report No. 23-18-001-07-725; 12/29/17	4	0

## Appendices

# Reports with Unimplemented Recommendations, continued

Report Name	Number of Unimplemented Recommendations	Disallowed Costs Owed (\$)
DOL Did Not Effectively Manage Mobile Devices and Related Telecommunication Services; Report No. 17-18-003-50-598; 09/26/18	3	0
FY18 FISMA DOL Information Security Report; Report No. 23-19-001-07-725; 03/13/19	5	0
Alert Memorandum: Security Vulnerability Relating to DOL Information Security Property; Report No. 50-19-002-07-725; 06/17/19	2	0
Department of Labor Needs Improvements in Managing Its Records Management Program to Capture Electronic Messages for Preserving Federal Records; Report No. 17-19-001-07-001; 09/20/2019	4	0
<b>Office of the Secretary</b>		
Alert Memorandum: DOL Needs to Strengthen Its Oversight of NCFMS to Control Costs; Report No. 22-15-007-01-001; 06/02/15	1	0
The Department Remains Vulnerable to Premature Release of Embargoed Economic Data; Report No. 17-16-001-01-001; 03/25/16	1	0
<b>Occupational Safety and Health Administration</b>		
Voluntary Protection Program: Controls Are Not Sufficient to Ensure Only Worksites with Exemplary Safety and Health Systems Remain in the Program; Report No. 02-14-201-10-105; 12/16/13	2	0
OSHA Needs to Continue to Strengthen Its Whistleblower Protection Programs; Report No. 02-15-202-10-105; 09/30/15	1	0
OSHA's Voluntary Protection Programs Require Better Information to Identify Participants with Contract-worker Fatalities and Catastrophes; Report No. 02-17-202-10-105; 09/11/17	2	0
OSHA Needs to Improve the Guidance for Its Fatality and Severe Injury Reporting Program to Better Protect Workers; Report No. 02-18-203-10-105; 09/13/18	4	0
OSHA Procedures for Issuing Guidance Were Not Adequate and Mostly Not Followed; Report No. 02-19-001-10-105; 03/28/19	4	0
<b>Wage and Hour Division</b>		
Better Strategies Are Needed to Improve the Timeliness and Accuracy of Davis-Bacon Act Prevailing Wage Rates; Report No. 04-19-001-04-420; 03/29/19	6	0
<b>Total</b>	<b>139</b>	<b>\$6,908,080</b>

## Investigative Statistics

	Division Total	Total
<b>Investigative Reports Issued / Cases Closed</b> (includes investigative reports issued, case closing reports, and matters referred for possible civil and/or administrative action):		85
Program Fraud	65	
Labor Racketeering	20	
<b>Cases Opened:</b>		91
Program Fraud	62	
Labor Racketeering	29	
<b>Cases Referred for Prosecution</b> (each case is measured as a singular statistic and may include more than one person or business entity):		82
Program Fraud	60	
Labor Racketeering	22	
<b>Cases Referred for Administrative/Civil Action</b> (each case is measured as a singular statistic and may include more than one person or business entity):		53
Program Fraud	40	
Labor Racketeering	13	
<b>Persons Referred to the Department of Justice for Criminal Prosecution</b> (includes the number of individuals and business entities referred for prosecution):		103
Program Fraud	83	
Labor Racketeering	20	
<b>Persons Referred to State and Local Prosecuting Authorities for Criminal Prosecution</b> (includes the number of individuals and business entities referred for prosecution):		13
Program Fraud	4	
Labor Racketeering	9	
<b>Indictments and Criminal Informations That Resulted from Any Prior Referral to Prosecuting Authorities</b> (includes sealed and unsealed indictments):		134
Program Fraud	96	
Labor Racketeering	38	
<b>Indictments</b> (includes sealed and unsealed indictments):		134
Program Fraud	96	
Labor Racketeering	38	
<b>Convictions:</b>		102
Program Fraud	76	
Labor Racketeering	26	
<b>Statutory Debarments:</b>		8
Program Fraud	4	
Labor Racketeering	4	

## Appendices

# Investigative Statistics, continued

<b>Recoveries, Cost-efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions:</b>		<b>\$63,095,664</b>
Program Fraud	\$21,397,937	
Labor Racketeering	\$41,697,727	

<b>Recoveries</b> (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):		\$7,204,499
<b>Cost-efficiencies</b> (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):		\$5,145,679
<b>Restitutions/Forfeitures</b> (the dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations):		\$21,112,873
<b>Fines/Penalties</b> (the dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations):		\$45,000
<b>Civil Monetary Actions</b> (the dollar amount/value of forfeitures, settlements, damages, judgments, court costs, and other penalties resulting from OIG criminal investigations):		\$29,587,613
<b>Total:</b>		<b>\$63,095,664</b>

# Peer Review Reporting

*The following meets the requirement under Section 5(1)(14)(A)–(B) of the Inspector General Act (as amended) and 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.”*

### **Peer Review of DOL-OIG Inspection and Evaluation Function**

The Federal Deposit Insurance Corporation–OIG conducted a peer review of the system of quality control for DOL-OIG’s inspection and evaluation function for the period ending June 2019. The peer review report issued on December 3, 2019, resulted in an opinion that DOL-OIG suitably designed its system of quality control and provided reasonable assurance of DOL-OIG’s conforming to the seven professional standards reviewed in the conduct of inspections and evaluations. The peer review made no recommendations.

### **DOL-OIG Assisted in Peer Review of Federal Reserve Board–OIG Inspection and Evaluation Function**

DOL-OIG assisted the Federal Housing Finance Agency (FHFA)–OIG with a peer review of the system of quality control for the Federal Reserve Board (FRB)–OIG’s inspection and evaluation function for the period ending June 2019. The peer review report issued by FHFA-OIG on November 18, 2019, resulted in an opinion that FRB-OIG had suitably designed its system of quality control and provided reasonable assurance of FRB-OIG’s conforming to the seven professional standards reviewed in the conduct of inspections and evaluations. The peer review made no recommendations.

### **Peer Review of DOL-OIG Investigative Function**

The United States Postal Service–OIG conducted a peer review of the system of quality control for DOL-OIG’s investigative function for the period ending November 1, 2019. The peer review report, which was issued on December 2, 2019, 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 conduct of investigations. The peer review did not find any reportable findings.



## Appendices

# 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, October 1, 2019, through March 31, 2020, the OIG Hotline received a total of 699 contacts. Of these, 490 were referred for further review and/or action.*

<b>Complaints Received (by method reported):</b>		<b>Total</b>
Telephone		270
E-mail/Internet		333
Mail		85
Fax		11
Walk-in		0
<b>Total</b>		<b>699</b>
<b>Contacts Received (by source):</b>		<b>Total</b>
Complaints from Individuals or Nongovernmental Organizations		681
Complaints/Inquiries from Congress		2
Referrals from U.S. Government Accountability Office		1
Complaints from Other DOL Agencies		11
Complaints from Other (non-DOL) Government Agencies		4
<b>Total</b>		<b>699</b>
<b>Disposition of Complaints:</b>		<b>Total</b>
Referred to OIG Components for Further Review and/or Action		130
Referred to DOL Program Management for Further Review and/or Action		148
Referred to Non-DOL Agencies/Organizations		212
No Referral Required/Informational Contact		254
<b>Total</b>		<b>744*</b>

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

# Updated Fiscal Year 2020 Audit Workplan

### Bureau of Labor Statistics (BLS)

#### Mandatory Audit

**BLS Survey Response Rates.** This audit will focus on how BLS has incorporated new methodologies and technology into its data collection process to ensure expected response rates and reduced respondent burden. BLS is the principal federal agency responsible for measuring labor market activity, working conditions, and price changes in the nation's economy. The President, Congress, federal policymakers, public institutions, and private citizens use the economic information developed by BLS to guide and support decision making. According to a 2013 study by the National Research Council, "for many household surveys in the United States, response rates have been steadily declining for at least the past two decades." A decline in response rates could increase data collection costs and affect data quality, which may result in unreliable economic information developed by BLS.

### Bureau of International Labor Affairs (ILAB)

#### Mandatory Audit

**Memoranda of Agreement between USAID and ILAB —In Progress.** ILAB signed two agreements with the U.S. Agency for International Development (USAID) that transferred approximately \$7 million to ILAB for grant-funded projects. The projects are intended to ensure a fair global playing field for workers by enforcing trade commitments, strengthening labor standards, and combating child labor, forced labor, and human trafficking. This mandatory audit will focus on how taxpayer dollars were spent and if the reported program results were reliable.

### Employment and Training Administration (ETA)

#### Mandatory Audits

#### Job Corps

**Job Corps Contractor Claimed Costs.** ETA awards millions of dollars annually in national contracts to provide Job Corps students with trade-specific training. Prior OIG work revealed areas of concern, including achieving contract goals and contractor use of funds. This audit will focus on how contractors have expended training funds, and if students are employed in jobs related to their training.

**Job Corps Outreach and Admissions—In Progress.** Violence within the Job Corps program, ranging from assault to murder, has impacted Job Corps centers for years. Previous OIG audits have reported lax enforcement of discipline policies in Job Corps centers around the nation. In addition, hotline complaints and media articles have pointed out safety concerns at Job Corps centers. An unsafe center puts students at unnecessary risk of physical and/or psychological harm. These unnecessary risks could lead to an

increase in dropouts, a decrease in enrollments, lower student performance, and diminished placement outcomes. Effective screening of applicants decreases the risk of admitting potentially violent or disruptive students. This ongoing audit focuses on how Job Corps' admissions policies and practices have screened for applicants with potential disciplinary issues.

### ETA

#### Discretionary Audits

#### ETA Contract and Grant Programs

**ETA's Use of Evaluations.** Evaluations of agency programs can be valuable in demonstrating program success or progress, and can help agencies identify areas of improvement. A 2010 OIG audit found ETA did not consistently share with stakeholders the results of evaluations State Workforce Agencies conducted of Adult, Dislocated Worker, and Youth training programs required under the Workforce Investment Act. Since then, we have remained concerned ETA may not be making the best use of evaluations and research initiatives to improve its programs and activities. Our audit will examine the extent to which ETA has obtained and used evaluation and research results to improve the management and effectiveness of Workforce Innovation and Opportunity Act (WIOA) programs.

**ETA Dislocated Worker Grants—In Progress.** ETA received \$100 million to assist workers dislocated by hurricanes Harvey, Maria, and Irma, and the 2017 wildfires. Since our 2015 audit identified delays in ETA's approval of dislocated-worker grant modification requests, we have remained concerned about ETA's management of this important grant funding. This ongoing audit focuses on the extent to which ETA has properly administered dislocated worker grants for areas affected by hurricanes Harvey, Maria, and Irma, and the wildfires of 2017.

**ETA American Apprenticeship Initiative (AAI) Grants—In Progress.** In 2015, ETA awarded 46 grants, totaling more than \$175 million, under the AAI grant program. These grants were meant to create and expand apprenticeship opportunities in H-1B industries and occupations. In 2018, several OIG audits of similar ETA training programs reported ETA did not provide sufficient oversight of grantees, and participants did not benefit from training, despite claims that grantees met their goals. This ongoing audit focuses on how ETA has designed and monitored the AAI grant program.

**WIOA Credentials Audit—In Progress.** For program years 2016 and 2017, WIOA allotted billions per year in funding to states for Adult, Dislocated Worker, and Youth programs, to help participants achieve various employment-related outcomes, including credential attainment. Our ongoing audit will determine the extent to which credentials earned by participants have been aligned with local employer needs and have assisted participants in finding skilled employment.

**Reintegration of Ex-Offenders (RExO) Program—COMPLETE.** The RExO program consists of a portfolio of grant projects that provide pre-release and post-release services to incarcerated youth and

adult offenders. One of these grant projects, the Face Forward Program, is for youth ages 14 to 24 who were involved in the juvenile justice system, but who were never involved in the adult criminal justice system. During FYs 2013 to 2016, ETA awarded 64 Face Forward grants, totaling \$104 million. Our ongoing audit will determine if ETA established appropriate goals and metrics for Face Forward grantees, and the extent to which grantees achieved performance goals and spent funds properly.

### **Unemployment Insurance (UI) Program**

**Disaster Unemployment Assistance (DUA)—In Progress.** DUA provides financial assistance to individuals who lose their employment or self-employment due to a major disaster. Program guidelines require quick turnarounds on paying DUA claims. This quick payment requirement, particularly when combined with a breakdown of essential systems during a disaster, increases the risk of improper payments. DOL awarded DUA grants, totaling nearly \$57 million, to states impacted by hurricanes Harvey, Irma, and Maria during the 2017 hurricane season. This audit will determine if ETA's controls have been sufficient to detect and prevent DUA improper payments.

**Unemployment Insurance Work Search Requirements—Suspended.** Since 2016, the leading cause of UI improper payments been from payments to claimants who failed to meet the work search requirements of the UI program. The Department estimated that between April 1, 2017, and March 31, 2018, states overpaid more than \$1.4 billion in UI benefits to recipients who did not meet state work search requirements. This ongoing audit will assess the accuracy of reported noncompliance with work search requirements and recommend possible approaches for improving compliance and reducing improper payments.

### **Mine Safety and Health Administration (MSHA)**

#### Discretionary Audits

**MSHA—Miners' Exposure to Respirable Silica —In Progress.** Respirable silica (e.g., quartz), a highly toxic carcinogen, can cause silicosis, chronic obstructive pulmonary disease, and other conditions, and may be contributing to the resurgence of black lung disease. MSHA could be increasing miners' exposure to excess levels of respirable silica through inconsistent enforcement of regulations. This audit will assess MSHA's regulations, preventive measures, and enforcement actions with respect to silica content in respirable dust.

**MSHA Pattern of Violations (POV) Status.** MSHA can place mines in POV status when they have a history of "significant and substantial" violations. If MSHA places a mine in POV status, then MSHA can exercise enhanced enforcement activities, such as shutting the mine down. Since 2010, MSHA has issued more than 31,000 significant and substantial violations annually, covering approximately 13,000 mines, and issued 30 "potential" POV and seven POV notices. Yet, the last time MSHA placed a mine in POV status was in 2014. This audit will focus on the extent to which MSHA has exercised its POV authority and the impact of this authority on addressing significant and substantial violations.

## OIG FY 2020 Audit Workplan

**Mine Rescue Response Plan.** When disaster strikes, a well-prepared mine rescue effort can mean the difference between life and death for trapped miners. Insufficient personnel, equipment, and training would hamper MSHA's ability to respond quickly and effectively in mine rescue situations. Prior OIG work found MSHA had not provided adequate oversight of mine emergency response plans, a key component of planning for mine emergencies, which includes planning by both mine operators and MSHA. This audit will assess MSHA's preparedness in responding to emergencies requiring mine rescue operations.

**MSHA Violations—In Progress.** From 2013 through 2016, MSHA inspectors issued more than 453,000 citations and orders to mines for safety violations. During the same time frame, MSHA canceled, or "vacated," more than 7,600 of those citations and orders. Incorrectly vacating citations and orders increases the risk that miners remain exposed to hazards. In addition, if MSHA does not correctly assess and collect monetary penalties, their deterrent effect is minimized. This ongoing audit focuses on whether MSHA appropriately wrote, terminated, modified, collected, or vacated citations and orders.

### Occupational Safety and Health Administration (OSHA)

#### Discretionary Audits

**Severe Violators Enforcement Program (SVEP) Activities.** SVEP targets the most egregious workplace safety violators, of which there were 654 in 2019. OSHA's policy requires that it enhance inspections of and enforcement on these employers. In 2009, OIG issued an audit report on OSHA's Enhanced Enforcement Program, the predecessor to SVEP. We found for 97 percent of sampled employers, OSHA did not identify all egregious employers and did not perform sufficient inspections and related enforcement. This audit will follow up on OIG's 2009 report to assess whether OSHA has made changes to improve enforcement activities related to employers who demonstrated indifference to their workplace safety responsibilities.

**OSHA Complaint Inspections.** OSHA conducts approximately 9,000 complaint inspections annually and issues citations in 24 percent of those inspections. Inspectors are not required to interview complainants at any point during the inspection process, which could result in OSHA's having little interaction with complainants and witnesses during complaint inspections. This audit will focus on the extent to which OSHA has used complainant and witness testimony during a complaint inspection.

**OSHA Whistleblower Protection Program (WPP)—In Progress.** From FYs 2011 through 2018, approximately 900 whistleblowers filed retaliation complaints against their employers with OSHA's San Francisco Region. OSHA investigates such WPP complaints under 22 different statutes. These statutes protect workers' rights to report violations of various workplace safety, consumer product, environmental, financial reform, and securities statutes. If a retaliation complaint is adjudicated in favor of the whistleblower, they may be entitled to reinstatement, back pay, restored benefits, and other remedies to make them whole. Our ongoing review focuses on the extent to which OSHA's San Francisco Region has appropriately investigated WPP complaints.

## OIG FY 2020 Audit Workplan

**OSHA’s Administration of Rules—Suspended.** OSHA has a duty to create and enforce rules, also known as “standards” and “regulations,” to help protect 121 million Americans at 9 million worksites. Because of concerns about recently finalized rules that appeared to violate requirements of the Administrative Procedure Act and other applicable executive orders, particularly as related to transparency and the impact of implementation delays, we are conducting this audit to determine how well OSHA administers the rulemaking process.

### Office of Federal Contract Compliance Programs (OFCCP)

Discretionary Audit

**Effectiveness of OFCCP Enforcement of Federal Contract Requirements— COMPLETE.** OFCCP enforces, for the benefit of wage earners and job seekers, three Equal Employment Opportunity (EEO) laws directed at those who do business with the federal government. In FY 2017, the federal government obligated more than \$36 billion for public construction projects. Our ongoing audit focuses on OFCCP’s policies and procedures for enforcing EEO requirements over federally funded construction contracts.

### Office of the Assistant Secretary for Administration and Management (OASAM)

Mandatory Audit

**Federal Information Security Management Act (FISMA) Audit—Annual.** In performing its various missions, DOL collects and processes sensitive information through approximately 55 major information systems. FISMA recognizes the significant risks involved with information technology and its important role in fulfilling agency missions. As such, FISMA sets a framework for securing all federal government systems by developing security standards and methods for measuring the effectiveness of those security standards. This audit will focus on the status of the DOL Information Security Program in implementing an effective framework to secure DOL information systems.

### OASAM

Discretionary Audits

**Information Technology (IT) System Modernization Review Across the Department.** IT modernization across the Department is critical to preventing security breaches, excessive costs, missed deadlines, and low-quality IT products and services. DOL has struggled to modernize IT systems, largely allocating resources to maintaining older technologies, rather than to adopting modern technologies. This can result in greater security deficiencies in high-risk areas. Our audit will focus on the Chief Information Officer’s (CIO’s) management of IT modernization efforts across the Department, to include software integration, legacy systems, and shared services.

**DOL’s Use of Suspension and Debarment —In Progress.** The Department must operate an effective suspension and debarment program to ensure government contracts, grants, and cooperative agreements are only awarded to responsible parties. Suspensions and debarments are vital tools to protect taxpayers



## OIG FY 2020 Audit Workplan

from companies and individuals who engage in dishonest or illegal conduct, or who are otherwise unable to satisfactorily perform their responsibilities. Since 2009, the Department has reported 13 suspensions and 42 debarments. This audit will focus on how effectively the Department has used suspensions and debarments to protect the integrity of its procurement and assistance awards.

**Effectiveness of DOL’s Information Technology Governance —In Progress.** DOL spends approximately \$730 million annually on a portfolio of information technology assets that support the operation and management of its programs, but has a history of undertaking IT projects that missed deadlines, went over budget, or did not meet the needs of stakeholders. Additionally, DOL’s information security program has been found to contain deficiencies in critical high-risk areas and security. These issues can be partially attributed to the authority of DOL’s CIO, who had not been elevated to an adequate level to carry out required duties, as cited for many years in previous OIG audits. In 2018, Executive Order 13833 required federal CIOs to report directly to their agency heads. This audit will focus on DOL’s implementation of an IT governance framework, including the authority and independence of the CIO and DOL’s compliance with Executive Order 13833.

**Physical Security—In Progress.** Security of federal facilities affects the safety of federal employees and the public, as well as the daily operations of the federal government. Several incidents, such as the 2015 fatal shooting at the Varick Street federal building in New York City, have exposed threats to safety that federal facilities, employees, and the public continue to encounter. This ongoing audit is focused on the sufficiency and consistency of the security protections at DOL facilities across the country.

### Office of the Chief Financial Officer (OCFO)

#### Mandatory Audits

**DOL Consolidated Financial Statements Audit—Annual.** We will determine if DOL’s consolidated financial statements present fairly, in all material respects, the financial position of DOL as of September 30, 2020. We will consider DOL’s internal controls over financial reporting and test DOL’s compliance with applicable laws, regulations, contracts, and grant agreements that have a direct and material effect on the consolidated financial statements.

**Review of DOL’s Improper Payment Reporting in the Annual Financial Report—Annual.** In FY 2018, the UI program and the Federal Employees’ Compensation Act (FECA) reported outlays of \$28.7 billion and \$3.0 billion respectively, with estimated improper payment rates of 13.05 percent and 2.4 percent, respectively. Based on the Department’s risk assessments, the UI and FECA programs continue to be considered the most susceptible to improper payments of all DOL programs. This audit will determine if DOL complied with the Improper Payments Information Act, as amended, which requires DOL to (1) conduct a program-specific risk assessment for each required program or activity, (2) publish and meet annual reduction targets for each program assessed to be at risk for improper payments, and (3) report information on its efforts to recapture improper payments.



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**The Digital Accountability and Transparency Act of 2014 (DATA Act) Audit —COMPLETE.** The DATA Act requires federal agencies to report spending data per government-wide data standards developed by the Office of Management and Budget (OMB) and the Department of Treasury. Under this Act, it is critical that the Department report accurate and reliable spending data so taxpayers and policy makers understand how the Department is spending its funds. This mandatory audit will determine the completeness, timeliness, accuracy, and quality of the data submitted by the Department for publication on USASpending.gov, and the extent the Department has implemented and used the data standards established by OMB and Treasury.

## OCFO

### Discretionary Audit

**Working Capital Fund—In Progress.** The Department’s working capital fund is intended to provide increased efficiencies in how the Department funds and offers shared services, such as payroll, telecommunications, accounting, mail, and publications. The money for DOL’s working capital fund comes annually from the Department’s component agencies that utilize the shared services, and amounted to more than \$300 million in FY 2017. This ongoing audit will determine if Working Capital Fund activities were appropriate, and if costs were supported and properly allocated to DOL agencies.

## Office of Workers’ Compensation Programs (OWCP)

### Mandatory Audits

**Report Relating to the FECA Special Benefit Fund—Annual.** We will determine whether: 1) the Schedule of Actuarial Liability, Net Intra-Governmental Accounts Receivable, and Benefit Expense was fairly presented for the year ending September 30, 2020; and 2) internal controls over financial reporting related to the Schedule were in compliance with laws and regulations that could have a direct and material effect on the Schedule.

**Longshore and Harbor Workers’ Compensation Act (LHWCA) Special Fund— Annual.** We will determine if DOL’s LHWCA Special Fund financial statements presented fairly, in all material respects, the financial position of the LHWCA Special Funds as of September 30, 2019.

**District of Columbia Workmen’s Compensation Act (DCCA) Special Fund Financial Statement Audits—Annual.** We will determine if DOL’s DCCA Special Fund financial statements presented fairly, in all material respects, the financial position of the DCCA Special Funds as of September 30, 2019.

**FECA Statement on Standards for Attestation Engagements (SSAE) No. 18— Annual.** We will determine if DOL’s Integrated Federal Employees’ Compensation System transaction processing for application and general controls, as described in the report, were fairly presented, suitably designed, and effectively operating for the period October 1, 2019, through June 30, 2020.

# OIG FY 2020 Audit Workplan

## OWCP

### Discretionary Audits

#### **Energy Employees Occupational Illness Compensation Program – Delay in Claims Processing.**

Since it was enacted in October 2000, OWCP has paid more than \$15 billion in compensation and medical benefits to claimants under the Energy Employees Occupational Illness Compensation Program Act. Many claimants and some members of Congress have recently reported delays and inconsistencies in processing claims, and questioned OWCP's rationale for denying claims. This audit will determine if OWCP processed claims timely and issued consistent justifications when claims were denied.

**OWCP Durable Medical Equipment.** OWCP paid a total of \$45 million in benefits for durable medical equipment during FY 2017 and FY 2018. Insufficient controls and overpayments for durable medical equipment have been known problems within the FECA program, and have led us to question how the overall program is managed by OWCP. This audit will focus on OWCP's controls over improper payments for durable medical equipment.

**Energy Employees' Home Healthcare Costs —In Progress.** Since the inception of the Energy Employee Occupational Illness Compensation program, OWCP has reported \$3 billion in home healthcare costs, from a total \$5 billion in medical benefits paid to claimants. The Department has expressed concern regarding the potential for providers to exploit home healthcare benefits through unauthorized or unnecessary billings. This audit will assess: 1) the policies and controls in place to prevent questionable billings and address improper payments; and 2) the potential for fraud, waste, and abuse in home healthcare.

## Wage and Hour Division (WHD)

### Discretionary Audits

**WHD Enforcement—In Progress.** WHD enforces laws that provide more than 143 million workers with minimum wage, overtime pay, migrant and seasonal protections, prevailing wages on government-funded contracts, and other wage protections. To complement its enforcement efforts, WHD uses a variety of methods to help employers understand their labor responsibilities, such as opinion letters, compliance videos, outreach events, and compliance partnerships. This audit will focus on how WHD has met its enforcement requirements and leveraged its resources between compliance assistance and enforcement activities.

**Tip Rule—In Progress.** The Department published a Notice of Proposed Rulemaking (NPRM) to rescind portions of its tip regulations issued pursuant to the Fair Labor Standards Act. The NPRM proposed to remove regulatory provisions that prohibited employers that do not take a tip credit from using tips received by employees. The proposed change would have allowed such employers to require tipped employees to share tips with employees who do not customarily and regularly receive tips, such as dishwashers and cooks, or simply retain the tips. The Department issued the NPRM with a qualitative analysis instead of a quantitative analysis of the impact the NPRM may have on workers and businesses. Our ongoing review examines whether DOL followed a sound process when performing the economic analysis for the proposed tip rule change.

# OIG FY 2020 Audit Workplan

## Multi-Agency

### Mandatory Audits

**Charge Card Risk Assessment—Annual.** The Government Charge Card Abuse Prevention Act of 2012 was designed to prevent recurring waste, fraud, and abuse of government charge cards, and requires agencies to implement safeguards and internal controls to reduce these risks. This audit will determine if DOL has established controls over its purchase and travel card programs to prevent and detect illegal, improper, or erroneous purchases and payments.

**Single Audit Compliance, Quality Control Reviews of Single Audit Reports—Annual.** We will determine if selected independent auditors complied with the requirements of the Single Audit Act and if there is a need for any follow-up work.

**Single Audit Compliance, Desk Reviews of DOL Grantee Reports Referred by the Federal Audit Clearinghouse—Annual.** We will perform desk reviews of single audit reports submitted to the Federal Audit Clearinghouse to determine whether: 1) the independent auditor's report, Schedule of Findings and Questioned Costs, Schedule of Expenditures of Federal Awards, and corrective action plans were acceptable; 2) issues identified in the reports require follow-up audit work; 3) a quality control review should be conducted; and 4) other issues identified in the report should be brought to the attention of the appropriate DOL funding agency or agencies.

## Multi-Agency

### Discretionary Audits

**Vulnerabilities in Foreign Labor Program —In Progress.** DOL is responsible for reviewing certification and prevailing wage forms before submitting them to other agencies for visa issuance. DOL also enforces H-1B, H-2B, and PERM program requirements by conducting investigations when it receives complaints meeting certain criteria. In 2003, OIG issued a white paper identifying vulnerabilities in Foreign Labor Certification programs. Since the white paper was issued, subsequent OIG and GAO audits and investigations have confirmed vulnerabilities still exist. We will conduct this study to assess and update current vulnerabilities.

**DOL's Use of Debarment in Foreign Labor Certification Programs—In Progress.** DOL works to ensure the admission of foreign workers to work in the U.S. will not adversely affect the job opportunities, wages, and working conditions of U.S. workers. Labor certification duties are performed through the Employment and Training Administration's (ETA) Office of Foreign Labor Certification. Alongside ETA, DOL's Wage and Hour Division conducts investigations to identify and enforce actions, including debarment, against any applicant who violates program rules. A broader effort to confront entities committing visa program fraud and abuse, and part of that process would may include ETA/WHD/OIG investigation outcomes that potentially identify any H-1B, H-2A, H-2B, and PERM employers that should be debarred. Our ongoing review focuses on whether DOL's debarment process holds H-1B, H-2B, H-2A and PERM employers accountable for violating laws and policies to ensure U.S. workers, foreign workers, and employers who followed laws and regulations are protected.



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