

HIGHLIGHTS

April 1–September 30, 2016 Volume 76

A Message from the Inspector General

This *Highlights* edition presents a summary of selected activities, accomplishments, and concerns reported in the *Semiannual Report to Congress* for the six-month period ending September 30, 2016. During this reporting period, the OIG issued 13 audit and other reports that identified needed improvements in Department of Labor (DOL) programs and operations. The OIG’s investigative work also yielded impressive results, with a total of 165 indictments, 158 convictions, and more than \$62.8 million in monetary accomplishments.

I look forward to continuing 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 workers and retirees.



Scott S. Dahl, Inspector General

Selected Statistics

Investigative monetary accomplishments	\$62.8 million
Investigative cases opened	109
Investigative cases closed	385
Investigative cases referred for prosecution	119
Investigative cases referred for administrative/civil action	68
Indictments	165
Convictions	158
Statutory debarments	29
Audit and other reports issued	13
Outstanding questioned costs resolved during this period	\$1.2 million
Allowed	\$0.1 million
Disallowed	\$1.1 million

Worker and Retiree Benefit Programs

During this reporting period, we issued several audits and investigations involving worker and retiree benefit programs, including the Department's Unemployment Insurance (UI) program, the Federal Employees' Compensation Act (FECA) benefit program, and the Employee Benefits Security Administration. Highlights of our work in these areas include the following:

Unemployment Insurance Program

- In an audit to determine the effectiveness of states' efforts to control UI improper payments, we audited seven states and found they generally did not meet established targets for detecting and reducing improper payments.
- The ringleader of at least 9 fictitious companies was sentenced to 90 months in prison and ordered to pay restitution and forfeiture of more than \$1.4 million for his leading role in a fictitious employer scheme perpetrated against the Maryland and Pennsylvania UI programs.

FECA Program

- A Texas chiropractor was sentenced to 14 years in prison and ordered to pay approximately \$18 million in restitution for receiving kickbacks resulting from his referral of patients covered by FECA.
- A Maryland doctor was sentenced to prison and ordered to forfeit and pay restitution of more than \$3.1 million for defrauding numerous federal health benefit programs, including the FECA program administered by the DOL Office of Workers' Compensation Programs (OWCP), Medicaid, Medicare, Tricare, and the Federal Employees Health Benefits Program.

Employees' Benefit Plans

- The former owner and operator of EZ Flex, Inc., a company that administered flexible spending plans, was sentenced to two years in prison and ordered to pay more than \$230,000 in restitution for embezzling health care plan assets.

Labor Racketeering

The OIG conducts investigations into labor racketeering activities involving labor unions, employee benefit plans, and labor-management relations. During this reporting period, we completed labor racketeering investigations that yielded impressive results. Examples include the following:

- A Sacramento dentist was sentenced to 46 months in prison and ordered to pay a \$75,000 fine and more than \$700,000 in restitution for defrauding the Northern California General Teamsters Security Fund.
- The former president and business manager of International Union of Operating Engineers Local 17 was sentenced to 36 months in prison and ordered to pay more than \$198,000 in restitution for his role in leading a 10-year criminal enterprise, which had as its objective the extortion of property from various construction firms throughout western New York.
- The vice president and the superintendent of A Lamp Concrete Contractors, Inc., pled guilty to mail fraud and making false statements, respectively, for their roles in a scheme to defraud workers of more than \$2.5 million in wages and required pension fund contributions.

Worker Safety, Health, and Workplace Rights

During this reporting period, we issued audits and investigations involving the Department's Mine Safety and Health Administration (MSHA), Occupational Safety and Health Administration (OSHA), and Wage and Hour Division (WHD) programs. Highlights of our work in these areas include the following:

Mine Safety and Health Administration

- In our audit of how MSHA handled complaints of hazardous mine conditions, we found the guidance outlined in the MSHA Handbook was vague and did not require consistency across MSHA districts. Each of the districts we visited developed its own processes based on how it interpreted the Handbook; therefore, none of them handled hazardous condition complaints in the same way.
- Former Massey Energy chief executive officer Donald L. Blankenship was sentenced to 12 months in prison and 12 months of supervised release and was ordered to pay a \$250,000 fine for conspiring to willfully violate mine safety standards.

Occupational Safety and Health Administration

- In our audit of OSHA's Special Emphasis Programs, we found that OSHA could not demonstrate whether these programs were effective in improving safety and health conditions for workers in high-hazard industries and occupations.

Wage and Hour Division

- A South Carolina restaurant owner was sentenced to five months in prison and ordered to pay more than \$75,000 in restitution for submitting false statements in response to a DOL-WHD investigation into whether Senor Tequila was paying its employees proper minimum wage and overtime pay in compliance with the Fair Labor Standards Act.

Employment and Training Programs

Foreign Labor Certification

DOL's Employment and Training Administration (ETA) administers five foreign labor certification programs that allow U.S. employers to employ foreign workers to meet American worker shortages. Our investigative work in this area included the following:

- New York husband and wife plead guilty to conspiring to defraud DOL's H-1B visa program and agreed to pay joint forfeiture of \$1 million.

Senior Community Service Employment

The Senior Community Service Employment Program (SCSEP) provides community service employment, including training opportunities, for low-income, unemployed seniors. An example of our work in this area includes the following:

- We issued an interim report to alert ETA to certain issues we identified during our audit of SCSEP grantee Experience Works, which received \$104 million—24 percent—of that program's grant funds for program year 2014. ETA had issued a report on its financial compliance review of Experience Works in December 2015 that raised serious concerns about the grantee's financial stability and its ability to operate successful and compliant federally funded programs. We found that the scoring criteria ETA is using to compete SCSEP grants for a new four-year award period includes elements that could allow financially unstable organizations or organizations with significant operating deficiencies to score high and receive a grant award.

Departmental Management

The OIG conducts audits related to the Department's management of its procurement activities, information technology systems, and financial systems. Examples of our work during this reporting period include the following:

- As part of our FY 2015 Federal Information Security Management Act (FISMA) work, we reported that information security control weaknesses continued to exist or reoccur because the Department has not placed sufficient emphasis on or prioritized available resources necessary to address these deficiencies.
- Our annual review of DOL's compliance with the Improper Payments Elimination and Recovery Act of 2010 (IPERA) found that DOL reported an FY 2015 UI improper payment rate of 10.73 percent, which did not meet the IPERA requirement of less than 10 percent. In addition, the FECA improper payment estimates that DOL reported in its FY 2015 Agency Financial Report were likely understated because OWCP excluded certain payments from its estimates. In particular, OWCP did not consider the potential extent of improper payment issues discovered by fraud investigations in its estimates.

Legislative Recommendations

The OIG believes that the following legislative actions are necessary to increase the efficiency and integrity of departmental programs and functions:

- Allow the OIG direct access to National Directory of New Hires records to better detect overpayments to Unemployment Insurance claimants who have returned to work but continue to collect UI benefits.
- Amend pension protection laws by expanding the authority of the Employee Benefits Security Administration to require the correction of substandard benefit plan audits; repealing the Employee Retirement Income Security Act's (ERISA's) limited-scope audit exemption, which prevents public accountants who audit pension plans from rendering an opinion on the plans' financial statements; requiring direct reporting of ERISA violations to DOL; and strengthening the criminal penalties in Title 18 of the U.S. Code.
- Provide DOL with the authority to ensure the integrity of the foreign labor certification process, including the ability to verify the accuracy of information provided on labor condition applications.
- Improve the integrity of the Federal Employees' Compensation Act program by allowing DOL statutory access to Social Security wage records and the National Directory of New Hires, and instituting a three-day waiting period to come immediately after an employment-related injury for all federal workers.
- Clarify the Mine Safety and Health Administration's authority to issue mine closure orders.

OIG Hotline

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

Phone: 202.693.6999 or 800.347.3756

Fax: 202.693.7020

Website: www.oig.dol.gov