
Top Management Challenges (issued November 15, 2011)

The Top Management Challenges identified by the Office of the Inspector General (OIG) for the Department of Labor (DOL) are discussed below.

2011 Top Management Challenges Facing the Department of Labor

For 2011, the OIG considers the following as the most serious management and performance challenges facing the Department:

- Protecting the Safety and Health of Workers
- Improving Performance Accountability of Workforce Investment Act Grants
- Ensuring the Effectiveness of the Job Corps Program
- Safeguarding Unemployment Insurance
- Improving the Management of Workers' Compensation Programs
- Maintaining the Integrity of Foreign Labor Certification Programs
- Ensuring the Security of Employee Benefit Plan Assets
- Securing Information Technology Systems and Protecting Related Information Assets
- Ensuring the Successful Development and Implementation of Major Information Management Systems
- Ensuring the Effectiveness of Veterans' Employment and Training Programs
- Improving Procurement Integrity

For each challenge, the OIG presents the challenge, the OIG's assessment of the Department's progress in addressing the challenge, and what remains to be done. These top management challenges are intended to identify and help resolve serious weaknesses in areas that involve substantial resources and provide critical services to the public.

CHALLENGE: Protecting the Safety and Health of Workers

OVERVIEW:

The two DOL agencies primarily responsible for protecting workers are the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA). The Department is responsible for ensuring safe and healthful working conditions for 130 million workers at more than seven million establishments, and more than 350,000 miners who work at more than 14,500 mines nationwide. DOL's effective enforcement of worker safety laws is critical towards this end. However, both OSHA and MSHA must constantly balance the mandate of their missions with competing interests of business, labor, and other special interests.

CHALLENGE FOR THE DEPARTMENT:

Occupational Safety and Health Administration – With more than seven million entities under its oversight and 4,547 fatal workplace injuries reported by the Bureau of Labor Statistics (BLS) in 2010, OSHA continues to be challenged on how to best target its resources, and measure the impact of its policies and programs and those of the 27 states authorized by OSHA to operate their own safety and health programs. OSHA carries out its enforcement responsibilities through a combination of self-initiated and complaint investigations, but can reach only a fraction of the entities it regulates. Consequently, OSHA must strive to target the most egregious and persistent violators while protecting the most vulnerable worker populations.

Determining the Effectiveness of Federally and State Operated Worker Safety and Health Programs—While OSHA is required to ensure that state-operated programs are at least as effective as the safety and health programs operated directly by Federal OSHA, a recent OIG audit found that OSHA lacks outcomes-based performance metrics

to measure and demonstrate the causal effect of its own Federal programs on the safety and health of workers. Without such metrics, OSHA cannot determine the effectiveness of either Federally-operated or state-run worker safety and health programs.

Evaluating the Impact of Penalty Reductions – OSHA reduces penalties imposed on employers cited for safety and health violations as an incentive for employers to voluntarily correct safety and health violations. During the two-year period ending in June of 2009, OSHA inspections resulted in 142,187 citations, of which 98 percent received reductions with penalties of \$523.5 million being reduced by \$351.2 million (67percent). However, OSHA has not yet completed any evaluations as to whether penalty reductions actually result in enhanced compliance with safety and health rules.

Mine Safety and Health Administration – With more than 7,000 injuries and 71 fatalities reported in 2010, MSHA continues to be challenged to effectively manage its enforcement efforts and programs to ensure that every miner returns home safely at the end of each day.

Completing Mandatory Regular Safety and Health Inspections –Historically, MSHA has struggled to complete all of its mandated Regular Safety and Health mine inspections, as required by the Mine Act. In 2007, an OIG audit reported that MSHA was not completing all required inspections at the nation’s coal mines. In a report issued in 2011, the OIG found that MSHA should be more transparent in reporting inspections. Although MSHA reported it completed all statutorily required Regular Safety and Health inspections of Metal/NonMetal mines in FY 2010, it had recorded only “attempted inspections” at more than 5 percent of the mines because those mines were temporarily idle on the day(s) on which MSHA visited the mines.

Applying Available Enforcement Authorities– Although the Mine Act provides MSHA with an array of enforcement tools, only recently has MSHA begun exercising some of its strongest authorities. A 2010 OIG audit questioned MSHA’s ability to accurately identify repeat and egregious violators through its Pattern of Violations (POV) analysis and reported that, in 32 years it had never exercised its POV authority to place a mine on this enhanced enforcement despite concerns that recent mine fatalities might be linked to mines with patterns of violations. Timely identification of, and strong action against, the most serious violators is critical to protecting our nation’s miners.

Addressing Contested Citations – As a result of stepped-up enforcement and the revised penalty provisions implemented in 2007, there has been an increase in citations and monetary fines issued by MSHA. However, mine operators have contested a growing percentage of citations before the Federal Mine Safety and Health Review Commission (FMSHRC), limiting MSHA’s enforcement impact and straining its resources.

Maintaining an experienced and properly trained enforcement staff– MSHA must continue to recruit, train, and adequately supervise its enforcement workforce to meet its statutory obligations. This challenge will be exacerbated by retirements, with 41 percent of MSHA’s enforcement personnel eligible to retire by 2014. Moreover, a 2010 OIG audit raised concerns about the supervision of inspector trainees and the continuing education of journeyman inspectors.

Timely Setting and Updating of Regulations and Standards– As scientific knowledge and mining practices change, MSHA must assure that its standards and regulations keep pace. MSHA’s regulatory agenda, as of July 2011, contained seven separate proposed rulemakings. For example, MSHA has proposed lowering coal miners’ exposure to coal dust, which is a change aimed at addressing recent increases in Black Lung disease among coal miners. MSHA will be challenged to issue final regulations in a timely manner while effectively and efficiently incorporating input from various stakeholders during the rulemaking process.

Fostering the Development and Implementation of New Technologies– Mining accidents in recent years have placed renewed attention on improving mine safety through the development and use of new technologies such as

wireless underground communication and miner tracking systems, a new generation of self-contained breathing apparatuses, and real-time monitoring devices such as a coal dust explosibility meter. While not directly responsible for developing such technology, MSHA's challenge is to encourage development of these new tools within the industry.

DEPARTMENT'S PROGRESS:

OSHA continues to review and enhance its Severe Violator Enforcement Program (SVEP), which is designed to concentrate resources on inspecting employers who repeatedly violate the OSH Act. OSHA revised its penalty policy which increased penalty amounts and decreased prior reductions in an effort to deter employer non-compliance with OSHA's standards.

Moreover, the Department introduced a new approach to measuring the performance of worker protection agencies. Central to this new approach is establishing regular processes for evaluating the success of enforcement strategies in helping to achieve desired outcomes. In this regard, the Department initiated a multi-year study of OSHA's Site-Specific Targeting program to assess the impact of the program interventions on future employer compliance.

MSHA continues to identify and hire mine inspector candidates within authorized personnel levels. MSHA has increased the use of videoconferencing and on-line courses to more quickly and conveniently deliver training. It has also made changes to more accurately and timely track training of new inspectors. MSHA has re-emphasized its policy requiring periodic retraining of all inspectors, including establishing a policy that prohibits personnel from conducting inspections if required retraining has not been completed and verified. During FY 2010 MSHA implemented new supervisory training programs for Metal/NonMetal and coal supervisors. MSHA reported that Metal/NonMetal supervisors have completed the training, and coal supervisors were expected to have completed it by the end of October 2011.

In November 2010, MSHA designed and implemented new criteria for identifying mines with a pattern of violations and established new criteria for potential POV mines to avoid receiving a POV notice. Since November 2010, MSHA has issued potential POV notices to 18 mines, including two mines that failed to maintain their improvements after initially meeting MSHA's criteria. As a result, for the first time in its history, MSHA placed mines under the enhanced enforcement of the POV authority. It also developed an on-line database that allows mine operators, miners, or the general public to monitor any mine's status in relation to the POV criteria. In January 2011, MSHA published proposed regulations aimed at further strengthening the existing POV process.

Using a supplemental appropriation received in July 2010, MSHA continues to work with the FMSHRC and DOL's Office of the Solicitor (SOL) to reduce a specific backlog of 10,425 cases that existed at July 31, 2010. Through July 28, 2011, this initial backlog had been reduced to 3,501 cases. However, MSHA reported that the overall FMSHRC caseload remained at 12,177 cases in September 2011 (down from a high of 15,082 cases in January 2011) as a result of additional appeals filed by mine operators after July 2010.

During FY 2011, MSHA published Proposed Rules related to lowering miners' exposure to respirable coal dust, strengthening requirements for examinations of underground coal mines. In June 2011, MSHA published a Final Rule increasing the rock dust requirements in underground coal mines.

MSHA has recently approved the first wireless communication system for use in underground mines and continues to support the National Institute for Occupational Safety and Health's efforts to develop a hand-held rock dust monitor by conducting tests of developmental models. MSHA stated it has proposed or finalized requirements for proximity detection systems for continuous mining machines in underground coal mines, refuge alternatives in underground mines, and improved flame-resistant conveyor belts. MSHA also stated it has conducted outreach with stakeholders, miners' representatives and the mining community to promote adoption of new technology, such as the next generation self-contained self-rescue device.

WHAT REMAINS TO BE DONE:

OSHA should continue its efforts to ensure SVEP is operating as intended. As part of the Department's new approach to measuring the success of enforcement strategies, OSHA needs to continue its efforts to evaluate the impact of penalty reductions on comprehensive improvements to workplace safety and health, and evaluate whether State Plan programs are as effective as Federal OSHA in protecting workers.

MSHA must take steps to: complete all required inspections; finalize proposed POV regulations implementing procedures to facilitate early resolution of enforcement issues; collaborate with the FMSHRC to reduce the time it takes to resolve contested cases before the FMSHRC; timely complete its rulemaking agenda; and encourage technological advances.

CHALLENGE: Improving Performance Accountability of Workforce Investment Act Grants

OVERVIEW:

In FY 2011, the Department's Employment and Training Administration (ETA) reported program costs totaling \$4.1 billion for the Workforce Investment Act (WIA) Adult, Dislocated Worker, and Youth programs. WIA adult employment and training services are provided through financial assistance grants to states and territories to design and operate programs for disadvantaged persons, including public assistance recipients. ETA also awards grants to states to provide reemployment services and retraining assistance to individuals dislocated from their employment. Youth programs are funded through grant awards that support program activities and services to prepare low-income youth for academic and employment success, including summer jobs.

CHALLENGE FOR THE DEPARTMENT:

Successfully meeting the employment and training needs of citizens requires selecting the best service providers, making expectations clear to grantees, ensuring that success can be measured, providing active oversight, and disseminating and replicating proven strategies and programs. DOL is challenged to ensure the grants it awards accomplish program objectives and that the performance data reported by the grantees are accurate and reliable.

Ensuring Grant Objectives Are Accomplished – The Department is challenged to ensure the grants it awards accomplish program objectives. Most critically, the Department needs to know whether training provided by grantees leads to training-related employment. A recent OIG audit of the WIA Adult and Dislocated Worker programs found that training related employment data reported by grantees was incomplete and unreliable. For a sample of 362 Adult and Dislocated Worker program exiters, OIG found that 37 percent either did not obtain employment or their employment was unrelated to the training they received. Additionally, for another 10 percent, the states could not provide sufficient evidence to determine whether the reported placement was training-related. OIG projected that the amount of funds paid for training these types of exiters totaled approximately \$124 million.

As reported by GAO in March 2011, the Department's research related to job training and employment generally addresses key employment and training issues. However, GAO found that some studies were limited in their usefulness and suggested that future research should include a focus on employment and training approaches that work and for whom. GAO also noted that WIA required the Department to conduct at least one multi-site control group evaluation of the services and programs under WIA by the end of FY 2005. ETA delayed executing such a study, soliciting proposals in November 2007 and awarding the \$23 million contract in June 2008. Several design revisions have been made to the study, and ETA expects to receive the final report in 2015 – 10 years later than the WIA-mandated timeframe.

Federal project officers are assigned to monitor grants, but carry a heavy workload. Monitoring is also limited by the amount of travel funds available. Further, WIA formula funds are awarded to states, who then distribute the

funds to local workforce investment areas within their states. As a result, ETA must rely on state monitoring efforts and reporting to assess grant performance. Reliable and timely performance data are needed to allow ETA to identify performance problems in time to correct them.

For example, a recent OIG audit of \$500 million in American Recovery and Reinvestment Act (Recovery Act) grants intended to prepare workers for green jobs found that the program's slow pace in placing workers into green jobs raises concerns that the original placement goals may not be reached before the grant periods expire. Of the \$490.1 million of grants awarded, \$162.8 million or 33 percent had been spent with about 73 percent of the grant period having elapsed as of June 30, 2011. More than two years after the Recovery Act was signed and 18 months after the grants were awarded, grantees have reported placing 8,035 participants (10 percent) into employment out of the planned goal of 79,511 participants. Of the 96,658 participants who were to be trained, 26,142 or 27 percent had completed training. Grantees have also expressed concerns that the expected green jobs have not materialized and that job placements have been fewer than expected for this point in the grant program. While ETA stated it expects performance to significantly increase following an initial lag during the standard start-up phase of the grants, the OIG remains concerned that the low placement rate makes it unlikely the program will meet its goal of placing nearly 80,000 workers in green jobs by 2013.

Meeting Increased Demand for Services – The performance of the Department's employment and training programs is impacted by the nation's economic conditions. The downturn of the economy has placed additional pressures on the workforce system as more workers are in need of its services. Meeting this increase in demand, while continuing to provide intensive services, such as career counseling and case management, are critical to helping workers find new jobs quickly.

Coordinating with Other Service Providers –The Government Accountability Office (GAO) recently issued a report addressing fragmentation, overlap, and potential duplication in Federal employment and training programs. ETA is challenged to address the collocation issues that GAO presented, specifically the collocating of the U.S. Department of Health and Human Services' (HHS) Temporary Assistance for Needy Families (TANF) and DOL's Employment Service and WIA programs. These challenges include how to serve additional clients given the limited capacity of One-Stop Centers and potential lease restrictions, how to navigate philosophical differences among programs and address the multiple needs of TANF clients in the one-stop center setting, how to ensure that services are geographically accessible, whether the potential benefits of collocating TANF in One-Stop Centers outweigh the potential costs of no longer collocating these services with other services for low-income families, and whether, and to what extent, TANF will contribute to one-stop center operating costs.

DEPARTMENT'S PROGRESS:

In September 2010, ETA executed a contract for the services of 14 staff for 12 months to assist with grant management activities for Recovery Act grants. These staff performed duties such as monitoring, audit resolution, and reporting under Section 1512 of the Recovery Act.

ETA and the Department have taken steps to improve the way research is conducted, and ETA has reported that it has taken several actions to address GAO's recommendations. The Department recently established the Chief Evaluation Office to oversee department-wide research and evaluation efforts, and ETA stated it is formally incorporating the routine involvement of the Chief Evaluation Officer into its research process. ETA also reported it has begun involving outside experts in developing its research plan and it has made improvements to its Web-based database for disseminating research and evaluation findings, including development of strategies to support broader and more innovative marketing efforts for disseminating research and evaluation reports.

ETA has made design changes to the WIA Gold Standard Evaluation of the Adult and Dislocated Worker programs. ETA expects to receive the first evaluation report (on implementation) during the winter of 2012-2013 and the final report in 2015. Through this evaluation, ETA intends to measure the net impact of specific interventions, such as

the incremental effects of the intensive and training services provided to adults and dislocated workers. The multi-year WIA Gold Standard is funded on an annual basis and is contingent on the availability of appropriated funding.

ETA completed and began field testing a draft data validation supplement to the Core Monitoring Guide used by its Federal project officers. The supplement includes a detailed appendix, or “Resource and Tool Guide,” for use by Federal project officers. The appendix provides a step-by-step reference guide that provides the basis of training specific to data validation overall. ETA also indicated that data validation has been included in staff performance standards as one of the field activities required of Federal project officers.

To meet the increased demand for services and improve coordination with other service providers, ETA indicated that states in one region were able to utilize Recovery Act TANF funds to expand services by providing subsidized employment activities. In two states, TANF has continued to contribute post-Recovery Act funds to support summer youth employment and/or work experience programs. In collaboration with HHS, ETA issued a joint letter to encourage partnerships between workforce and human services agencies and utilized waivers to expand summer employment opportunities.

ETA and the Department have identified the reauthorization of WIA as a legislative priority and have specified several goals that the Department believes should be a focus of the reauthorization process. Among these goals is improving accountability by updating the performance measures used by WIA programs.

WHAT REMAINS TO BE DONE:

ETA should closely monitor its WIA grants and address any disconnects between the training being provided and employment demands. Further, ETA needs to pursue legislative authority in the WIA reauthorization to develop performance measures for training outcomes, require SWAs to report training costs and funding sources at the participant level so stakeholders have adequate information to make return-on-investment decisions for WIA services, develop and provide guidance to SWAs and LWAs regarding the best methodology for collecting and reporting data for training-related employment, and exercise oversight over SWAs to ensure they develop and/or identify best practices to increase the percentage of exiters who find employment related to the training they receive.

ETA needs to continue its efforts to identify and prioritize workloads and funding levels to ensure Recovery Act funded green jobs grants are adequately monitored, grant funds are spent properly, and grants achieve their intended purpose. Over the next year, the OIG will focus its Recovery Act audit efforts on assessing how grantees and contractors performed and what was accomplished with Recovery Act funding.

ETA should complete the field testing of the data validation supplement, make any needed adjustments, and make the final supplement available to all ETA grantees. Once the final supplement is issued, ETA needs to determine user training needs and how best to meet those needs.

ETA should continue plans to: work with HHS to develop a joint strategy for addressing client needs in the One-Stop center setting; finalize strategies for out-stationing One-Stop staff in non-traditional facilities, such as libraries, community centers, faith-based organizations, veterans’ centers and community colleges; and ensure that virtual services are increasingly utilized for accessing services.

CHALLENGE: Ensuring the Effectiveness of the Job Corps Program

OVERVIEW:

ETA operates the Job Corps program, which provides residential education, training, and support services to approximately 60,000 students at 125 Job Corps centers. Job Corps centers are operated for DOL by private contractors, and by other Federal Agencies through interagency agreements. The program was appropriated about \$1.7 billion in FY 2011.

CHALLENGE FOR THE DEPARTMENT:

Ensuring Eligibility— The Job Corps program is intended to serve at risk, low-income youth ages 16-24. A recent OIG audit found that Job Corps' policy allowing potential students to self-certify their family income levels was not effective. We estimated that 472 (10 percent) of the 4,718 active students enrolled in the program during March 2011 were ineligible; and that \$13.8 million would be spent over time to train them. If Job Corp and outreach and recruitment contractors' controls are not strengthened and the ineligibility rate remains constant, then funds spent on ineligible students over a one-year period could total \$164.6 million.

Ensuring Health and Safety— Ensuring the quality of life at centers, including healthy living conditions and a sense of safety, is a continuing challenge for Job Corps. Past OIG audits have identified unsafe or unhealthy conditions and the lack of required safety inspections at some centers. OIG audits also found that some centers did not hold required behavior review board meetings to evaluate student misconduct and initiate disciplinary action and underreported significant incidents occurring at the centers.

Improving Performance Accountability — Ensuring that the program achieves its intended results remains a challenge for Job Corps. Job Corps measures effectiveness through a complex performance management system of 58 metrics designed to meet WIA mandates, Government Performance and Results Act requirements, and DOL priorities. Since 2006, Job Corps has spent almost \$1.5 million on consultants to improve its performance metrics and outcomes. However, a recent OIG audit found that Job Corps officials and other decision makers did not have reliable performance information to determine, for example, how effectively Job Corps placed students in jobs that matched the vocational training provided. Specifically, the OIG found that more than 3,000 reported placements either did not relate or poorly related to the vocational training provided. For example, some participants trained in office administration were placed in fast-food restaurants; others trained as nurses assistants were placed as sales persons, stock clerks or laborers in retail stores.

Improving the Integrity of Reported Performance Data—The integrity of performance data reported by center operators remains a challenge for Job Corps. Most centers are operated by contractors through performance-based contracts with incentive fees and bonuses that are tied directly to contractor performance. Under such contracts and without proper controls and strict oversight, there is a risk that contractors will overstate performance results. Past OIG audits have found that weak controls at centers have resulted in the overstatement of performance results.

Ensuring Financial Accountability—Job Corps has responsibility to ensure its center operators spend Federal funds wisely and appropriately. Job Corps center operators annually award contracts for millions of dollars of goods and services. Recent OIG audits have found that center operators were not always awarding contracts and claiming related costs in accordance with the Federal Acquisition Regulation. As a result, Job Corps cannot ensure it is getting the best value for the Federal dollars being spent.

DEPARTMENT'S PROGRESS:

Job Corps has eliminated self-certification of family income and now requires all potential students to provide income documentation, such as tax returns, paycheck stubs, or letters from employers. Also, Job Corps' automated

system no longer allows outreach and admissions service providers to enroll applicants who do not meet the low-income definition. Job Corps conducted training for its Outreach and Admissions staff, center directors, and student records personnel to provide up-to-date guidance on admissions procedures, including new requirements for determining income eligibility.

Job Corps stated it has published: several Information Notices and Program Instructions on safety issues; sent quarterly memoranda to the Regional Directors regarding major hazards identified during centers' quarterly inspections; and provided technical assistance in response to inquiries about center abatement action plans. Job Corps also reported that centers continued to provide training and support to students on issues such as conflict resolution, abuse, and student leadership. Job Corps is in the process of clarifying its behavior management policies.

In FY 2011, Job Corps released a revised Job Training Match crosswalk that aligned the program's career training pathways with O*Net-Standard Occupational Classification codes maintained by ETA's Office of Workforce Investment. Job Corps stated it has also implemented a quality check that will require placement counselors to verify their selection of potentially inappropriate codes as a Job Training Match.

Job Corps has also instituted a data integrity assessment system. According to Job Corps, these assessments provide a mechanism for Regional Office staff to identify and report on specific instances of improperly reported data as well as management practices that could potentially affect data integrity. To date, Job Corps stated that it has contracted for 128 data integrity assessments for student leave, career technical training, and GED/high school diploma attainment.

WHAT REMAINS TO BE DONE:

Job Corps needs to provide proactive, consistent, and rigorous oversight of contractors at all centers. Job Corps should closely monitor outreach and admissions service providers' compliance with its new policy requiring documentation of income eligibility by all incoming students. In the area of performance accountability, Job Corps needs to improve the transparency and reliability of its performance metrics, especially the job training match, so internal and external stakeholders can make informed decisions regarding the program's performance and costs. Job Corps has indicated it plans to improve its monitoring of service providers and it will be publishing additional performance data on the program's website. In addition, Job Corps needs to take actions to ensure centers provide a safe and conducive learning environment while supporting student success and program retention. Finally, ETA's Office of Contract Management, which manages all procurement and contract activities for Job Corps, must ensure that center operators and other service providers comply with procurement and contracting regulations and requirements.

CHALLENGE: Safeguarding Unemployment Insurance

OVERVIEW:

ETA partners with the states to administer unemployment insurance (UI) programs. State UI provides benefits to workers who are unemployed and meet the eligibility requirements established by their respective states. UI benefits are largely financed through employer taxes imposed by the states and deposited in the Unemployment Trust Fund (UTF) from which the states pay the benefits. The states administer these programs under an agreement with DOL in accordance with their state laws and regulations. ETA funds State Workforce Agencies (SWAs) who administer the UI program through grant agreements. These grant agreements are intended to ensure that SWAs efficiently administer the UI program and comply with Federal laws and regulations.

CHALLENGE FOR THE DEPARTMENT:

Over the past three years, payments to UI recipients have grown to unprecedented levels, paying nearly \$318 billion to unemployed workers. This rapid, large growth, especially in the Federally-funded portion, has increased the risk of improper payments. According to GAO, the rate of improper payments in the UI program was the third largest of any benefits program in FY 2010. DOL estimates that nearly \$32 billion of improper payments occurred over the past three years. DOL estimates that \$17.2 billion may be collectable, which includes more than \$10.3 billion in state-funded benefits and \$6.9 billion in Federally-funded programs.

Reducing Improper Payments – ETA is challenged to reduce the rate of improper payments in the UI program. Executive Order 13520 and the Improper Payments Elimination and Recovery Act of 2010 have placed even greater emphasis on taking steps to reduce these improper payments. However, the weak economy has continued to make controlling UI overpayments difficult, as the number of claims filed continues at elevated levels. According to ETA officials, states responded to the heavy workload by shifting resources from detecting improper payments to processing claims. For 2010, DOL reported improper payments totaling \$17.5 billion, an increase from the \$12.3 billion reported for 2009. The improper payment rate also increased from 10.3 percent in 2009 to 11.2 percent in 2010. Indeed, because reducing improper payments is so critical, the target rate of 9.9 percent in 2010 was reduced to 9.8 percent in 2011.

In addition, OIG investigations continue to uncover fraud committed by individual UI recipients who do not report or underreport earnings, as well as fictitious employer schemes. ETA estimates that about \$3.7 billion of overpayments resulted from willful misrepresentation by claimants – a fraud overpayment rate of 2.37 percent of total UI benefits paid in FY 2010.

A recent OIG audit found that ETA lacks effective controls over the detection of improper payments for both the UI state and Federal programs, leaving both programs, but especially the Federally funded programs, vulnerable. Therefore, ETA's reporting on how well improper payments were detected significantly overstated performance results. This occurred because ETA lacked controls over the three key elements of the improper payment process: estimating improper payments; validating actual improper payment amounts; and monitoring how well states did in detecting improper payments. In monitoring only state-funded programs, ETA reported that the UI program met its program requirements (50 percent) by detecting more than 52 percent of recoverable improper payments. However, for the Federally-funded programs, the actual rate of detection was only about 19 percent, or about \$1.3 billion detected versus about \$6.9 billion estimated recoverable improper payments, leaving \$5.6 billion undetected.

OIG investigations also continue to uncover fraud committed by individual UI recipients who do not report or underreport earnings, as well as fictitious employer schemes. In addition, recent investigations have confirmed criminal schemes involving employers who knowingly employ undocumented or improperly documented foreign workers for whom they intentionally fail to make the required unemployment insurance contributions.

DEPARTMENT'S PROGRESS:

In March 2010, the Department implemented the State Information Data Exchange System (SIDES), which enables communication and transmission of UI separation information requests from UI agencies to multi-state employers and third-party administrators (TPAs). To date, five states (Utah, Colorado, Georgia, Ohio, and New Jersey) have implemented SIDES. Fifteen other states have joined the consortium and are preparing to implement SIDES. The Department's supplemental funding opportunity for FY 2011 included incentives for the original states to implement SIDES faster, while providing funds for new states to implement SIDES. As a result, ETA believes that 21 states will be fully implemented by March 31, 2012, and 21 new states will be implemented by September 30, 2012, increasing the numbers of states using SIDES from 5 to 42.

In April 2011, the Department targeted 10 states with the highest improper payments due to a claimant's failure to register with the state's Employment Service or job bank in accordance with the state's UI law. Through the

implementation of technology and/or other solutions, these states have seen a 23 percent reduction in improper payments due to claimants' failure to register with the Employment Service.

DOL pursued the passage of the Claims Resolution Act of 2010 which was signed into law in December 2010. The Act includes provisions to expand the Treasury Offset Program (TOP) to recover more UI overpayments. The Department has worked with the U.S. Department of the Treasury's Financial Management Service to facilitate state implementation of TOP for the recovery of UI debts. As of June 29, 2011, over \$25 million had been recovered by NY, WI, and MI through the use of TOP. Through the Department's FY 2011 supplemental funding opportunity, an additional 25 states will receive funding to implement TOP.

The Department supported the convening of state cross-functional task forces that will focus on addressing the root causes of overpayments that have the highest impacts in the states, and developed a new web site that displays state-by-state performance and progress in addressing UI improper payments. The Department is also working to develop new performance measures for states which initially will target reducing improper payments when claimants continue to claim benefits after returning to work by 30 percent the first year, and a total of 50 percent after two years. The Department is pursuing the development of a claimant and employer messaging campaign to be implemented by the states to improve claimants' and employers' understanding of their responsibilities when collecting UI payments or responding to requests for information.

DOL also mandated that by December 31, 2011, all states must use the National Directory of New Hires (NDNH) for benefit payment control. California, which accounts for the largest amount of UI improper payments, is the only state still not using NDNH.

WHAT REMAINS TO BE DONE:

ETA can further improve its oversight of the states' detection and prevention of UI overpayments by fully implementing SIDES, and increasing the frequency of SWA on-site reviews. ETA must ensure California has implemented NDNH by December 31, 2011. ETA continues to pursue legislation to allow States to use up to 5 percent of recovered UI overpayments to detect and deter benefit overpayments. The legislation would also require employers to report former workers they rehire to the NDNH after a separation of at least 60 days; and continuing to promote States' use of a variety of other databases (e.g., Social Security, Department of Corrections) to prevent and detect improper UI benefit payments. ETA also needs to provide additional, detailed information on its efforts to reduce improper payments in its next Report on UI Improper Payments.

CHALLENGE: Improving the Management of Workers' Compensation Programs

OVERVIEW:

The Department's Office of Workers' Compensation Programs manages the Government's workers' compensation programs, including the Federal Employees' Compensation Act (FECA) Program and the Energy Employees Occupational Illness Compensation Act Program (Energy workers' program).

The FECA Program provides wage-loss compensation and pays medical expenses for covered Federal civilian and certain other employees who incur work-related occupational injuries or illnesses as well as survivors benefits for a covered employee's employment-related death. DOL reports that the cost of Federal workplace injuries, when measured by FECA compensation costs for wage-loss, is nearly \$3 billion and two million lost production days annually.

The Energy workers' program was created to provide monetary compensation and medical benefits to civilian employees who incurred an occupational illness, such as cancer, as a result of their exposure to radiation or other toxic substances while employed in the nuclear weapons and testing programs of the U.S. Department of Energy

and its predecessor agencies. In certain circumstances, these employees' survivors may be eligible for compensation. Since the program began in 2001, DOL reports it has paid more than \$7 billion in compensation and medical benefits to more than 85,000 claimants nationwide.

CHALLENGE FOR THE DEPARTMENT:

Preventing FECA Fraud and Improper Payments – The FECA program must be responsive and timely to eligible claimants while ensuring it makes proper payments. The challenges facing the FECA program include moving claimants off the periodic rolls when they can return to work or when their eligibility ceases, preventing ineligible recipients from receiving benefits, and preventing fraud by service providers and by individuals who receive FECA benefits while working. OIG's recent audit of FECA improper payments found that OWCP did not always take timely action to terminate benefits when notified of FECA claimants' deaths. Additionally, OWCP had not designed effective procedures to ensure that benefit payments were reduced for FECA claimants who were collecting SSA retirement benefits. OIG investigations continue to identify fraud committed by claimants and medical providers. In FY 2011, FECA claimant investigations alone resulted in \$10,690,040 in OIG investigative monetary accomplishments. While it is difficult to identify and address improper payments and fraud in the FECA program, OWCP must measure its efforts and progress in improving payment accuracy and reducing fraud.

Timely Processing of Claims Filed by Energy Workers – Processing of energy workers' claims continues to take too long, particularly given the advanced age and serious illnesses of those typically filing for benefits. The Energy workers compensation program, though administered by OWCP, requires the pre-adjudication input, assistance, and determinations of three other major Federal agencies and a Federal advisory board. Complex requirements in the authorizing legislation and the difficulty of locating employment and other records, as well as the inability of sick, often aging, claimants to fully understand their rights and responsibilities, contribute to the lengthy decision process. Furthermore, the National Institute for Occupational Safety and Health (NIOSH), which is an agency within the U.S. Department of Health and Human Services, must prepare a complicated and time consuming dose reconstruction of the amount of radiation to which an employee was exposed. As indicated on OWCP's website, for cases decided in 2010, it took about 200 days for a final decision to be reached for cases not sent to NIOSH and more than 2½ years for cases sent to NIOSH. While processing times have come down since 2006, they remain at or above 2004 processing times. OWCP is hampered in its efforts to reduce processing times, as it has no authority over the completion time of the NIOSH process.

DEPARTMENT'S PROGRESS:

The Department reported that OWCP will run the death match with the Social Security Administration weekly and will improve procedures to ensure timely termination of benefits upon the death of a claimant. Additional training on improper payments will be provided to claims examiners by the end of calendar year 2011.

The Department reported that the average number of days for OWCP to process an initial energy workers claim decreased from 164 days in FY 2008 to 97 days in FY 2010 for Part B benefits (covering workers diagnosed with illnesses caused by exposure to radiation, beryllium, or silica), and from 283 days in FY 2008 to 125 days in FY 2010 for Part E benefits (covering employees of DOE contractors or subcontractors, or their survivors, who develop an illness due to exposure to toxic substances). While these reported processing time reductions do not include the time claims spent at NIOSH, OWCP is establishing a baseline in FY 2011 to set performance targets for the average days between the date a claim is filed and a final decision is issued. The new performance metrics will distinguish between cases that involve NIOSH review and those that do not.

WHAT REMAINS TO BE DONE:

As we have previously reported, OWCP does not have the legal authority to match FECA compensation recipients against Social Security wage records. OWCP must obtain written permission each time from each individual claimant in order to check SSA records to determine if a claimant has returned to work. Having direct authority to perform the match would enable OWCP to reduce improper payments by identifying individuals who are collecting

FECA benefits while working and collecting wages or Federal retirement benefits. In addition to obtaining access to SSA wage records, OWCP needs to continue to seek legislative reforms to the FECA program to enhance incentives for recovered employees to return to work, address retirement equity issues, discourage unsubstantiated or otherwise unnecessary claims, and make other benefit and administrative improvements. Through the enactment of these proposals, OWCP estimates savings to the government over 10 years to be \$550 million. OWCP also needs to improve its methodology for determining the amount of FECA improper payments, and establish a strategy and performance measures for preventing and detecting such payments.

While OWCP has reduced processing times in the Energy workers' program for initial case processing and for completing final decisions once a claim reaches final adjudication, overall claims processing times remain long. OWCP needs to continue to work with the other Federal agencies involved in the adjudication process to issue final decisions in a matter of months, rather than years.

CHALLENGE: Maintaining the Integrity of Foreign Labor Certification Programs

OVERVIEW:

The Department's Foreign Labor Certification (FLC) programs are administered by the ETA. These programs are intended to provide U.S. employers access to foreign labor to meet worker shortages as long as U.S. workers are not adversely affected. *The H-1B visa specialty workers' program requires employers that intend to employ foreign specialty occupation workers on a temporary basis to file labor condition applications with ETA stating that appropriate wage rates will be paid and that workplace guidelines will be followed. The H-2B program establishes a means for U.S. nonagricultural employers to bring foreign workers into the United States to meet temporary worker shortages. The Permanent FLC program allows an employer to hire a foreign worker to work permanently in the United States.* Employers are required to pay foreign workers a required wage, which in most cases, is the prevailing wage in that occupation so wages of similarly employed U.S. workers will not be adversely affected. Employers are also required to comply with all laws governing such employment.

CHALLENGE FOR THE DEPARTMENT:

ETA is challenged to ensure the integrity of the FLC programs it administers. OIG investigations continue to uncover schemes carried out by immigration attorneys, labor brokers, and transnational organized crime groups. OIG investigations have repeatedly revealed that fraudulent applications filed with DOL on behalf of fictitious companies, as well as schemes wherein fraudulent applications were filed using the names of legitimate companies without the companies' knowledge. Additionally, OIG investigations have uncovered complex schemes involving fraudulent DOL FLC documents filed in conjunction with or in support of similarly falsified identification documents required by other Federal and state organizations.

ETA faces challenges in maintaining the integrity of its H-1B and H-2B FLC programs. The H-1B challenges include statutory limits on its authority, making system improvements in its H-1B Labor Condition Application processing system to better identify incomplete and/or obviously inaccurate applications, and uncertainty regarding the process for including individuals or entities debarred under the Department's FLC programs on the government-wide excluded parties lists. The present H-2B worker protections are based on a model where employers merely assert, but do not demonstrate, that they have performed an adequate test of the U.S. labor market before hiring foreign workers in lieu of U.S. workers. An OIG report issued in October 2011 found that DOL regulations had hampered ETA's ability to provide adequate protections for U.S. workers in the H-2B applications filed by four Oregon forestry employers. Although 187 U.S. workers were contacted by the employers regarding possible employment, none were hired. Instead, 323 foreign workers were brought into the country for these jobs. The OIG also found that certain SWAs did not fulfill their responsibilities for the H-2B applications we reviewed. Furthermore, the OIG found that ETA could improve its initial application reviews, post-adjudication processes, and

monitoring activities to better protect the interests of U.S. workers under the regulations by which the program currently operates.

The OIG also found that the SWAs it reviewed were not transmitting posted job orders to other states or referring U.S. workers to employers, as they are required to do. Also, a September 2010 GAO report highlighted examples of H-2B employers and recruiters submitting fraudulent documentation to DOL. Specifically, GAO identified employers and recruiters who misclassified employee duties on labor certification applications to pay lower than prevailing wages, or preferentially hired H-2B employees over American workers in violation of Federal law.

DEPARTMENT'S PROGRESS:

ETA's Fraud Detection and Prevention Unit continues to work closely with the OIG to identify and reduce fraud in the FLC process by reviewing applications for inconsistencies, errors, and omissions. ETA has revised the rule for determining prevailing wage rates and proposed new rules governing the H-2B process. The major features of the new proposed rules include: creating a national electronic job registry for all H-2B job orders; increasing the amount of time for which U.S. workers must be recruited; requiring employers to engage in post-filing recruitment of U.S. workers; creating an H-2B registration process in which employers must demonstrate temporary need before applying for a labor certification; reinstating the critical role of the SWAs in assisting employers by using their expertise on local labor market conditions and recruitment patterns, and strengthening debarment authorities by providing Wage and Hour Division (WHD) with independent debarment authorities, and providing revocation authority to ETA.

To address the H-1B challenges, ETA has entered into a contract with a third-party vendor for employer verification services. Through this service, ETA indicates that it will have access to a more comprehensive employer identification database and verification system. This service will be applied to all FLC. In addition, ETA is working with the Department's Chief Acquisition Officer on ways to include foreign labor certification suspensions and debarments on the government-wide excluded parties list.

Finally, ETA is piloting a new risk management model in its Permanent Labor Certification Program (PERM). According to ETA, this new risk management model allows ETA to assign risk ratings to individuals applying to its PERM program and spend the appropriate amount of time reviewing the higher risk applications and reducing overall reviewing timeframes. ETA officials also stated that the new model will eventually be applied to the rest of the FLC programs.

WHAT REMAINS TO BE DONE:

The Department needs to evaluate the results of its certification processes, as well as reexamine existing processes, to assess their effectiveness. Furthermore, the Department needs to enhance its monitoring of the H-2B application process to ensure that SWAs and employers are fully complying with program requirements and intentions and make adjustments to enhance integrity of its employer verification services by fully implementing its electronic employer verification controls to the H-1B program and the remaining FLC programs. The Department should ensure that suspensions and debarments are considered and decisions documented for anyone convicted of FLC violations. It also needs to ensure the FLC debarments are reported to appropriate DOL personnel for inclusion in the government-wide exclusion system.

CHALLENGE: Ensuring the Security of Employee Benefit Plan Assets

OVERVIEW:

The mission of the Department's Employee Benefits Security Administration (EBSA) is to protect the security of retirement, health, and other private-sector employer-sponsored benefits for America's workers, retirees, and their families. Benefits under EBSA's jurisdiction consist of approximately \$6.5 trillion in assets covering approximately

150 million participants and beneficiaries. EBSA is charged with overseeing the administration and enforcement of the fiduciary, reporting, and disclosure provisions of Title I of the Employee Retirement Income Security Act (ERISA).

EBSA oversees benefit security for an estimated 718,000 private retirement plans, 2.6 million health plans, and similar numbers of other welfare benefit plans, such as those providing life or disability insurance.

CHALLENGE FOR THE DEPARTMENT:

Multiple Challenges Stem from Implementing the Patient Protection and Affordable Care Act (PPACA)—The broad changes mandated by the PPACA require EBSA to issue new health plan regulations. A recent OIG audit found EBSA to be challenged to address the more than 1,900 public comments it has received on its rule making, and to incorporate these new regulations effectively into its enforcement program. These new and extensive health care requirements will pose major challenges for the Department through at least 2014, when all provisions of the PPACA are to be implemented.

Uncertainty About the Impact of EBSA Enforcement Programs—OIG audits have found that EBSA could not determine whether its civil enforcement projects, such as the Multiple Employer Welfare Arrangements project and the Rapid ERISA Action Team (REACT) project, were increasing compliance with ERISA, or whether the projects were decreasing the risk of workers losing benefits. While EBSA uses a variety of quantitative indicators to evaluate its individual civil enforcement projects, such as monetary results, staff days expended per case, and the number of civil cases converted to criminal cases (i.e., outputs), none of these indicators measure external events or conditions (i.e., outcomes). As a result, EBSA cannot ensure that it is effectively directing resources among its regional offices or to the enforcement areas where resources will do the most good.

Limited Authority to Oversee Plan Audits—Despite the importance of audits of employee benefit plans, EBSA does not have the authority to suspend, debar, or levy civil penalties against employee benefit plan auditors who perform substandard audits. In addition, ERISA allows plan administrators to exclude investments held by certain regulated institutions, such as banks and insurance companies, from the scope of a plan audit, resulting in the auditor's disclaimer of opinion on the financial statements, which seriously impairs the usefulness of the audit in protecting employee benefit plan assets.

DEPARTMENT'S PROGRESS:

EBSA has taken significant actions toward the implementation of the PPACA requirements through issuing regulations and sub-regulatory guidance, conducting research studies and surveys, and providing compliance assistance and outreach. To date, EBSA has issued interim-final regulations on: Coverage of Preventive Services, Preexisting Conditions Exclusions, Rescissions, Annual and Lifetime Limits, Patient Protections, Extension of Coverage for Adult Children, Grandfathered Health Plans, and Internal Claims and Appeals and External Review. For research studies and surveys, EBSA has reported on: Self-Insured Group Health Plans, Large Group Market, and Selected Benefits covered by employer and multiemployer plans. An additional study regarding the use of incentives in group health plan wellness programs is currently in progress. Additionally, EBSA has conducted numerous compliance assistance seminars, workshops and webcasts on the PPACA requirements. EBSA stated that starting in FY 2012, it added PPACA enforcement as a component part of its new national enforcement initiative, the Health Benefits Security Project. Through this project, EBSA plans to investigate a large number of health plans. EBSA has stated it plans to address public rulemaking comments when the interim final regulations are finalized.

As an initial step in developing performance metrics to measure the effectiveness of its enforcement program, EBSA implemented a broad Sample Investigation Program (SIP) in FY 2011, which reviewed randomly selected employee benefit plans for compliance with ERISA. Interim compliance data will be reported in FY 2012, and the first baseline compliance measure will be available in FY 2013.

The Department has previously sought legislative changes, such as expanding the authority of EBSA to address substandard benefit plan audits, and ensuring that auditors with poor records are not allowed to continue performing plan audits. These changes have not been enacted by Congress. In addition, the Department has unsuccessfully sought recommended legislative changes to either eliminate or modify the limited-scope audit exception to strengthen the protections afforded plan participants and beneficiaries.

WHAT REMAINS TO BE DONE:

In addition to issuing additional regulations under the PPACA, further action is needed to resolve potential challenges that may affect implementation and compliance with the statutory requirements. To ensure that affected parties can fully implement and comply with the PPACA requirements, EBSA should work with the Departments of Health and Human Services (HHS) and Treasury (who share joint jurisdiction over the Health Care Reform Act market reform regulations), and the Office of Management and Budget (OMB) to establish specific timetables to respond to public comments and issue final regulations. EBSA needs to proceed with a rulemaking to implement Section 6604 of the PPACA. Section 6604 is designed to prevent fraudulent multiple employer welfare arrangements from escaping liability for their actions under state law by claiming that state law enforcement is preempted by Federal law. EBSA needs to incorporate PPACA requirements into its enforcement program to assist plans in complying with PPACA. EBSA also needs to provide HHS with the results of a survey of benefits typically covered by employers that is sufficiently broad to enable HHS to determine benefits provided under a typical employer plan.

EBSA should complete its evaluation of the results of SIP to determine what changes are needed to improve program effectiveness. EBSA should also continue working to obtain legislative change to address deficient benefit plan audits and to ensure that auditors with poor records do not perform any additional plan audits.

CHALLENGE: Securing Information Technology Systems and Protecting Related Information Assets

OVERVIEW:

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

Providing assurances that IT systems will function reliably and safeguard information assets, especially in the face of new security threats, IT developments, and telework requirements, will challenge Federal agencies for many years. The Administration's goal of expanding the use of technology to create and maintain an open and transparent government has added to the challenge of keeping information secure.

CHALLENGE FOR THE DEPARTMENT:

Ongoing IT Security Concerns—Safeguarding information assets is a continuing challenge for Federal agencies, including DOL. The Administration's goal of expanding the use of technology to create and maintain an open and transparent government, while safeguarding systems and protecting sensitive information, has added to the challenge. OIG IT audits over the past several years have identified access controls and oversight of third-party (contractor) systems, as areas most challenging to the Department. Strong access controls are necessary to secure important, confidential, or sensitive information and equipment; however, during its FY 2010 audit testing OIG was able to gain unauthorized system administrative access to one of the Department's major information management systems. OIG also tested five contractor systems and discovered security problems in all five. In a report issued in March 2011, OIG found that approximately 50 percent of the IT assets recorded in the Department's property management system could not be physically located, and approximately 14 percent of IT assets observed during testing were not recorded in the system. Furthermore, Department security officials could not determine whether sensitive data such as personally identifiable information (PII) existed on 377 sensitive IT assets that had been reported lost, missing, or stolen. The Department could not determine whether these items—which included laptops, desktops, printers, and a server—represented a potential information security breach.

New Challenges Posed by Emerging Technologies— The security of sensitive information that can be accessed remotely (e.g., via telework), stored on mobile computers/device, or any form of data being accessed and used outside of DOL office settings is a continuing challenge to the Department and the Federal government overall. With employees' increased use of telework and reliance on new ways of communicating such as blogging, Facebook, and Twitter, the Department is challenged to evolve and adapt its information security controls to keep pace with the risks posed by these new technologies. Consolidating data centers and moving mission critical systems to the cloud increases the risk of exposing PII and unauthorized information exchanges, including sensitive pre-decisional budget and policy information.

DEPARTMENT'S PROGRESS:

The Department is developing an Identity Access Management system that will require users to access DOL IT systems by using Personal Identity Verification cards with a phased implementation approach that was set to begin in October 2011. The Department has restructured/recreated the Enterprise Implementation Committee (EIC) to replace its management review board. The EIC is composed of senior-level business executives from the Department's agencies and offices. The EIC's mission is to ensure that all initiatives affecting information technology (IT) infrastructure, common services and customer service programs that have cross-agency impacts are implemented to provide effective support for the Department's business mission and operations. Additionally, the Department established the IT Acquisition Review Board to oversee and manage IT acquisitions. The Department is also planning to consolidate its data centers and systems. Transition to the cloud computing environment has begun with systems such as Disability.gov and the New Core Financial Management System (NCFMS or New Core). The Department is in the process of implementing by the end of FY 2012 a continuous monitoring solution. The Department is also in the process of implementing the Trusted Internet Connection program to protect external communications to and from the Internet. The Department is continuing to participate on several Federal Councils, Committees and Forums to assist in the development and implementation of policies, procedures, and standards that will address these challenges.

WHAT REMAINS TO BE DONE:

In light of these challenges, the OIG continues to recommend the creation of an independent Chief Information Officer (CIO) to provide exclusive oversight of all issues affecting the IT capabilities of the Department. DOL currently manage its IT systems with a CIO who must balance IT with other competing responsibilities; the CIO presently also serves as the Chief Acquisition Officer, Chief Human Capital Officer, Privacy Officer, and Assistant Secretary of Administration and Management.

The Department must also improve upon its security controls testing and evaluation process by performing agency-specific customized testing to focus on program agencies' high-risk vulnerabilities and control weaknesses. The Department should ensure that it has a consolidated, viable inventory management system that is properly updated. As the telework program expands, the Department needs to implement additional security controls that will protect data being accessed and used outside of DOL office settings.

CHALLENGE: Ensuring the Successful Development and Implementation of Major Information Management Systems

OVERVIEW:

The Congress and the Office of Management and Budget (OMB) have raised concerns that Federal information technology (IT) investments, especially high-risk, major system developments, have experienced schedule delays and cost overruns costing billions of dollars. The Administration has called upon Federal agencies to strengthen oversight of major IT investments through greater IT investment portfolio and project management. The Clinger-Cohen Act requires agency heads to designate Chief Information Officers to lead reforms to help control system

development risks, better manage technology spending, and achieve real, measurable improvements in agency performance through better management of IT resources.

DOL reported IT development, modernization and enhancement efforts totaling about \$35 million in FY 2011. These efforts include the Foreign Labor Certification Automated Systems, MSHA Standardized Information System, and BLS Industrial Prices Systems. For FY 2012, DOL has planned IT development, modernization and enhancement efforts totaling almost \$53 million, such as the Human Resources Shared Service Center investment, IT Infrastructure Modernization, and MSHA Mine Safety Information System.

CHALLENGE FOR THE DEPARTMENT:

DOL executives and project managers will face challenges in managing system developments and other related technology initiatives to accomplish them on time and within budget, and to ensure these initiatives function as designed. The areas most likely to cause delays or budget overruns include: project vision/goals poorly defined; lack of accountability/ownership; unrealistic deadlines; poor communication of expectations; resource deprivation/competition; scope changes; uncertain dependencies; not understanding/defining project risk; and lack of stakeholder/user engagement throughout the project life cycle. These challenges are made more difficult by the inherent nature of major IT system developments, which typically occur over multiple years and are subject to changes in policy, priorities and funding.

Problems in any one of the above areas can negatively impact a project. For example, the Department reported it spent \$35 million between 2003 and 2008 in a failed effort to replace its legacy financial system. The Department then awarded a \$15 million contract for the development and implementation of New Core, which was scheduled to be fully operational by October 14, 2009. However, the Department had to postpone the deployment of the new system until January 14, 2010, to provide additional time to train users and continue data migration activities. Upon implementation, New Core experienced numerous problems, including: an underestimated user base; users' lack of understanding of the substantial changes to business processes; and data quality problems. Notably, the Department experienced significant turnover amongst its senior financial managers during most of the system's implementation and post-launch phases. To avoid similar problems in its future IT initiatives, the Department should: fully understand and develop system requirements before beginning the procurement process; ensure that interfaces with other key Departmental systems are built and tested prior to implementation; ensure that users are properly trained; and establish strict project management oversight responsibility.

DEPARTMENT'S PROGRESS:

The Department is in the process of assessing the New Core initiative for lessons learned to incorporate into future projects. DOL will note what worked well at key decision points, as well as what factors contributed to problems at other key decision points.

The Department has created the Enterprise Implementation Committee (EIC) composed of senior-level business executives from the DOL's agencies and offices. The EIC's mission is to ensure that all initiatives affecting IT infrastructure, including common services and customer service programs that have cross-agency impacts, are implemented to provide effective support for the Department's business mission and operations. The Department has implemented a new IT governance structure that it believes will strengthen the role and participation of core IT governance committees and ensure that the right people are engaged in the right conversations on an ongoing basis. Additionally, the Department established the IT Acquisition Review Board to oversee and manage IT acquisitions, and will be using new methods designed for more immediate feedback related to monitoring IT initiatives' progress and to bring about corrective actions, where necessary.

WHAT REMAINS TO BE DONE:

DOL IT initiatives in 2011 and beyond will need direct executive involvement and highly-skilled-project managers to be successful, on-time and within budget. As detailed in the top management challenge related to IT security, the

Department needs to establish an independent CIO to provide exclusive oversight of all issues affecting DOL's IT capabilities.

Achieving anticipated success will require analyzing setbacks and failures in order to improve. Project managers should be highly trained, and executives should focus on past project's challenges to learn from them in order to develop a stronger IT investment and project management capability.

CHALLENGE: Ensuring the Effectiveness of Veterans' Employment and Training Programs

OVERVIEW:

The Department's Veterans' Employment and Training Service (VETS) programs are intended to provide veterans and transitioning service members the resources and services to succeed in the workforce by maximizing their employment opportunities, protecting their employment rights, and meeting labor market demands with qualified veterans.

CHALLENGE FOR THE DEPARTMENT:

Providing meaningful employment and training services to military members transitioning to civilian employment is a continuing challenge for the Department, particularly in light of rising unemployment rates among veterans. According to the Bureau of Labor Statistics, veterans' unemployment rate has risen from 11.5 percent in June 2010 to 13.3 percent in June 2011. In 2010, young male veterans, ages 18 to 24, who served during the Gulf War II era, including those who served at any time since September 2001, had an unemployment rate of 21.9 percent. According to the Department of Veterans Affairs (VA), with the scheduled troop draw-downs in Iraq and Afghanistan, more than one million active service members will be re-entering the civilian work force in the next five years.

The VETS' Transition Assistance Program (TAP) provides a two-and-a-half-day session in which participants learn job search techniques, career decision-making processes, current occupational and labor market conditions, resume-writing, and interviewing techniques. A recent OIG audit of TAP found VETS did not ensure that participants received the employment assistance needed to obtain meaningful employment. VETS also did not use measurable performance goals and outcomes to evaluate program effectiveness and lacked adequate contracting oversight for TAP workshop services. These deficiencies undermined VETS' ability to ensure it was providing a high-quality program that helps veterans successfully transition from military to civilian employment.

VETS issues grants to SWAs to assist veterans to gain and retain employment, with a special emphasis on providing intensive services to meet the employment needs of disabled veterans. Our audit of these services in Texas found staff needed to do a better job of accurately assessing veterans' needs and documenting intensive service activities, particularly for homeless veterans and veterans with disabilities.

Reducing homelessness among veterans is another challenge for VETS. The Homeless Veterans' Reintegration Program (HVRP) was the first nationwide Federal program focused on placing homeless veterans into jobs. The program provided employment and training services to an estimated 23,500 homeless veterans in FY 2010. However, a recent OIG audit found that performance results fell short of the planned goal of placing 9,093 veterans into employment by 2,461 veterans, or 27 percent.

DEPARTMENT PROGRESS:

VETS is undertaking a redesign of the TAP workshop. This redesign involves providing a more customized workshop by assessing each individual's readiness for employment before they attend the workshop. Other elements of the redesign include updating the content of the workshop for the first time in 19 years, using contractors as workshop facilitators, developing an online TAP workshop that will be available in Spanish, providing follow-up services, and

implementing performance metrics to evaluate program effectiveness. In conjunction with the Department's Office of Procurement Services, VETS reported it has implemented more stringent management controls for contract administration.

VETS issued guidance that HVRP grantees awarded grants in Program Years 2009 and 2010 are to meet 90 percent of planned cumulative quarterly goals for Federal expenditures, enrollments, and placements into employment and training by the end of the second quarter. Grantees that do not achieve at least 75 percent of their planned cumulative quarterly goals must submit a corrective action plan. VETS also issued guidance to regional staff directing that if an eligible grantee for a second or third year award has missed its performance and/or financial goals, a corrective action plan must be initiated before recommending a second or third year funding.

VETS is coordinating with the National Veterans Training Institute to improve intensive service training for Disabled Veterans Outreach specialists. VETS also provided additional funding to the State of Texas to establish an online case management system to document intensive services to veterans.

WHAT REMAINS TO BE DONE:

VETS needs to establish standard forms and policy for monitoring TAP Employment Workshops, establish outcome goals, establish a new TAP Memorandum of Understanding with partner agencies, and follow up to ensure staff are complying with the newly implemented management controls for contract administration.

For HVRP, VETS needs to ensure that grantees are making adequate progress towards achieving their goals, and VETS staff is closely monitoring grantees' reported accomplishments and taking appropriate corrective action when needed.

VETS also needs to ensure that funds given to Texas for the implementation of an on-line management system were used properly and system outcomes meet design expectations. Further, VETS needs to provide rigorous oversight over contractors, grantees and state agencies for all programs.

CHALLENGE: Improving Procurement Integrity

OVERVIEW:

The Department contracts for many goods and services to assist in carrying out its mission. In FY 2010, DOL awarded 3,804 contracts totaling \$468 million and issued 4,422 modifications to existing contracts totaling \$1.6 billion.

CHALLENGE FOR THE DEPARTMENT:

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

The current control environment surrounding the Department's procurement activities has introduced both financial and operational risk to the Department. The lack of standard operating procedures and procurement-related training leaves the consistency and quality of DOL's procurement functions heavily dependent on the various program agencies with delegated procurement authority.

Recent OIG audits of the Departments' procurement activities have identified numerous deficiencies in procurement: MSHA could not support sole-source awards, did not promote full and open competition, or

maximize small business opportunities; the Los Angeles Job Corps Center did not comply with the Federal Acquisition Regulation for subcontracts it awarded; the Office of the Assistant Secretary for Administration and Management (OASAM) awarded a Job Corps' contract using Recovery Act funds that was not based on merit and two modifications for projects not eligible for Recovery Act funding; VETS management did not ensure contract services were properly authorized by the contracting officer or that supporting documentation was maintained for contract payments; and VETS did not conduct appropriate cost comparisons when awarding funds under its TAP to ensure the best value to the Government.

A recent OIG investigation into allegations of improper procurement activities within VETS found a pattern of conduct which reflected a consistent disregard of Federal procurement rules and regulations, Federal ethics principles and proper stewardship of appropriated dollars. Specifically, the investigation revealed the circumvention of rules and regulations related to open competition and advisory and assistance contracts, as well as the acceptance of free services.

The issues described above, along with those in the Securing Information Technology Systems and Protecting Related Information Assets challenge, highlight the need for the Department to appoint a CAO whose primary duty is acquisition management. The Department continues to be out of compliance with the Service Acquisition Reform Act of 2003 requirement that executive agencies appoint a CAO whose primary duty is acquisition management. The Assistant Secretary for Administration and Management presently serves as the Department's CAO, while retaining other significant non-acquisition responsibilities.

DEPARTMENT'S PROGRESS:

OASAM reported that it has issued 34 certifications to contracting officers and 127 certifications to contracting officers' technical representatives that have completed Federal acquisition certification training. MSHA implemented OIG recommendations to ensure procurement officials comply with DOL policy and procedures, require supervisory review of contracts, provide refresher training to personnel, and develop and implement controls to assure the SOL completes pre-award reviews of selected contracts. OASAM has de-obligated Recovery Act funds inappropriately awarded for Job Corps. VETS has implemented improved contracting controls over the request for changes to the delivery schedule of TAP workshops to prevent contracting officer's technical representatives from making unauthorized changes to task orders.

OASAM is currently updating its internal policies and procedures to clarify provisions related to acquisition planning, conflict of interest, and the administration of the Department's Procurement Review Board. OASAM completed a Procurement Management Review of VETS and is scheduled to complete a review of ETA during the first quarter of FY 2012. The Department is pursuing Federal Acquisition Certification in Contracting (FAC-C) and Federal Acquisition Certification for Contracting Officer's Technical Representative (FAC-COTR) for the acquisition workforce.

In response to the Office of Inspector General's investigative report on VETS improper procurement activities, OASAM is instituting contractual provisions and certification requirements designed to prevent re-occurrence of such activities. In addition, OASAM and the Office of the Solicitor will conduct procurement integrity and ethics training for Department's Senior Executive and Acquisition Workforce Staffs. A key aspect of the training will be ensuring that program and contracting office procurement staff know how and when to elevate procurement violation concerns. Lastly, OASAM will be conducting procurement accountability reviews of program agencies to assess the adequacy of their staff to prepare acquisition materials for submission to their servicing contracting offices and to preclude potential ethical violations.

WHAT REMAINS TO BE DONE:

The Department needs to develop standard and consistent internal controls and compliance frameworks for component agencies with procurement authority to follow to ensure the consistency and quality of DOL's

procurement functions. In addition, while the Department is taking positive actions to improve procurement integrity, it has yet to appoint a CAO whose primary duty is acquisition management.

Changes from Last Year

Changes to the Top Management Challenges from FY 2010 include the addition of a challenge on ensuring the effectiveness of Veterans' Employment and Training Programs. A previous challenge related to the implementation of the Departments NCFMS was expanded into a challenge on ensuring the successful development and implementation of major information management systems. In addition, a challenge regarding improving procurement integrity has been reintroduced, given our concerns over the consistency and quality of the Departments procurement functions.

Achieving the goals and protecting the investment provided by the American Recovery and Reinvestment Act was previously discussed in our FY 2010 Top Management Challenges. Our concerns focused on large amounts of funds that remained unspent and contract/grant awards that may not have been in the government's best interest. Through September 30, 2011, the Department reported that it had obligated \$63.1 billion, or 99.5 percent, of the \$63.4 billion in discretionary and mandatory funds made available through the Recovery Act, and all Recovery Act contract and grant competitions had been concluded. As a result, we have removed the Recovery Act as a separate issue in FY 2011 Top Management Challenges. However, we will continue to report on the Department's use of Recovery Act funds as part of its overall grant management responsibilities. We will also conduct appropriate follow up work to ensure unemployment benefit payments funded by the Recovery Act were proper, and adequate efforts were made to identify and recover overpayments.