# Semiannual Report to Congress

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

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OFFICE OF INSPECTOR GENERAL
E PLURIBUS UNUM
UNITED STATES
DEPARTMENT OF LABOR

# A Message from the Deputy Inspector General

*I am pleased to submit this Semiannual Report to Congress, which highlights the most significant activities and accomplishments of the U.S. Department of Labor (DOL), Office of Inspector General (OIG) for the six-month period ending March 31, 2010. During this reporting period, our investigative work led to 169 indictments, 157 convictions, and $48.1 million in monetary accomplishments. In addition, we issued 29 audit and other reports which, among other things, recommended that $142.4 million in funds be put to better use.*

OIG audits and investigations continue to assess the effectiveness, efficiency, economy, and integrity of DOL's programs and operations. We also continue to investigate the influence of labor racketeering and/or organized crime with respect to unions, employee benefit plans, and workers.

During this reporting period, we found that Mine Safety and Health Administration (MSHA) did not ensure the completion of required periodic training by veteran mine inspectors. Such training is needed to ensure MSHA inspectors possess the up-to-date knowledge of health and safety standards or mining technology needed to perform their duties.

In another audit, we found that Wage and Hour Division investigators did not adequately document the results of their investigations and, therefore, could not demonstrate that the proper conclusions had been reached regarding employers' compliance with the minimum wage and overtime exemption provisions of the Fair Labor Standards Act.

We also issued five audit reports related to the American Recovery and Reinvestment Act of 2009 (Recovery Act) during this semiannual period. Among our findings were that states have neither applied for, nor used, $142 million in Recovery Act funds available under the Health Coverage Tax Credit Program; and that some Local Workforce Investment Boards in the Workforce Investment Act Adult and Dislocated Worker programs failed to address the priority of service to recipients of public assistance and other low-income individuals in their Recovery Act plans, increasing the risk that funds may not be used as intended by the Congress.

Our audits of five Job Corps centers, operated by three different contractors, again raised concerns about the Job Corps' program's ability to implement adequate safety programs and report accurate financial and performance data.

Our investigations continue to combat labor racketeering and/or organized crime in the workplace. In a recent significant investigation, the national president of the Brotherhood of Locomotive Engineers and Trainmen pled guilty to bribery and interstate travel to carry out unlawful activity. Another major organized crime investigation led to guilty pleas by six individuals, including a high-ranking Gambino Organized Crime Family member and two Laborers International Union of North America officials, in a scheme involving illegal gambling, extortion, and labor racketeering.

OIG investigations also identified vulnerabilities and fraud in the Unemployment Insurance (UI) and Federal Employees' Compensation Act (FECA) programs. In one investigation, a husband and wife who conspired to defraud the UI program were ordered to pay $3.2 million in restitution and the husband was sentenced to 51 months' incarceration. Another investigation resulted in an orthopedic surgeon being ordered to pay $750,000 in restitution for defrauding the FECA program by billing for services not rendered.

Finally, the OIG continues its support of the International Organized Crime Strategy, a multi-agency task force headed by the U.S. Attorney General, which is committed to combatting crime by international organized groups.

I would like to express my appreciation to the OIG staff and commend them on their professionalism, dedication, and devotion to the mission of the Inspector General. I look forward to continuing to work with the Department to ensure the economy and efficiency of programs and that the rights and benefits of workers and retirees are protected.

Daniel R. Petrole
Deputy Inspector General

# Contents

# Selected Statistics

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|---|---|
| Investigative recoveries, cost-efficiencies, restitutions, fines and penalties, forfeitures, and civil monetary action[1] | $48.1 million |
| Investigative cases opened | 285 |
| Investigative cases closed | 218 |
| Investigative cases referred for prosecution | 163 |
| Investigative cases referred for administrative/civil action | 86 |
| Indictments | 169 |
| Convictions | 157 |
| Debarments | 44 |
| Audit and other reports issued | 29 |
| Funds recommended for better use | $142.4 million |
| Outstanding questioned costs resolved during this period | $37.4 million |
| Allowed[2] | $9.7 million |
| Disallowed[3] | $27.7 million |

1 These accomplishments do not include the following amounts that have been recovered as a result of the OIG's investigative efforts in multi-agency investigations:
- Settlement with the Government in the amount of $4.5 million obtained from Pilgrim's Pride Corporation, resulting from an investigation of hiring and employment practices by this corporation.
- Civil forfeiture in the amount of $6.132 million obtained from IFCO Systems North America (IFCO) resulting from an investigation of hiring and employment practices by this corporation. This payment is an initial payment in conjunction with a total civil forfeiture settlement agreement of $18.132 million.

2 *Allowed* means a questioned cost that DOL has not sustained.

3 *Disallowed* means a questioned cost that DOL has sustained or has agreed should not be charged to the government.

# Significant Concerns

*The OIG works with the Department and Congress to provide information and recommendations that will be useful in their management or oversight of the Department. The OIG has identified areas that we consider particularly vulnerable to mismanagement, error, fraud, waste, or abuse. The following is a synopsis of our specific concerns in each area.*

## Protecting the Safety and Health of Miners

Of continuing concern for the OIG is the safety and health of our nation's miners. Over the last several years, we have documented serious management and accountability weaknesses in the Mine Safety and Health Administration (MSHA). Our recent audit of inspector training found that MSHA did not ensure its journeyman inspectors received required periodic retraining. This occurred because MSHA lacked controls – at both the headquarter and district-level – to track and ensure completion of the required periodic retraining. A lack of training increases the possibility that hazardous conditions may not be identified and corrected during inspections, which in turn, could increase the risk of accidents, injuries, fatalities, and adverse health conditions for miners. Additionally, MSHA's system for recording training activity for entry-level inspectors lacked sufficient controls to ensure that adequate documentation was maintained so that only fully trained inspectors are assigned to do inspections. We made several recommendations to MSHA to improve accountability and controls over training for both entry-level and journeyman mine inspectors.

We are also concerned that MSHA has not completed action on all of our recommendations related to the review and approval of roof control plans. For example, MSHA has not yet developed and implemented explicit criteria and guidance for assessing the quality of, and potential safety risk associated with, proposed mine roof control plans. It has been two years since we recommended that such criteria and guidance be developed and implemented as part of our audit of MSHA's process for approving roof control plans, which was conducted in response to the Crandall Canyon mine tragedy. In that audit, we found that MSHA could not demonstrate that it had made the right decision in approving the roof control plan; or that it had done everything appropriate to ensure that the roof control plan was sufficient to protect miners. MSHA has been working with the National Institute for Occupational Safety and Health (NIOSH) to develop a pillar recovery risk factor checklist. However, MSHA indicates they must wait for NIOSH to provide its input before MSHA can develop and implement appropriate criteria and guidance, as recommended by the OIG.

Lastly, in the Legislative Recommendations section of this report, we are recommending long-standing and critical clarification of MSHA's statutory authority to issue verbal mine closure orders to protect the health and safety of miners.

## Improving Job Corps Student Safety and Center Performance

We continue to be concerned with safety and health lapses at Job Corps Centers we audit. Education, training, and support services are provided to approximately 60,000 students at 123 Job Corps centers located throughout the United States and Puerto Rico. Job Corps centers are operated for DOL by private companies through competitive contracting processes, and by other Federal agencies through interagency agreements. The program was appropriated nearly $1.7 billion in FY 2010.

The OIG's work has consistently identified unsafe or unhealthy conditions and a lack of required safety inspections at some centers. Such conditions affect the students' learning environment and could adversely impact the overall success of the Job Corps program. Our audits of five Job Corps Centers this reporting period alone found the centers were not reporting significant incidents, such as physical assaults, weapons possession, and narcotics possession, as required. Furthermore, Job Corps officials need to do more to address the problems of centers not taking appropriate disciplinary action for student misconduct, including termination of enrollment, as the lack of such action may place the remaining students at risk.

We are also concerned that weak controls at centers have resulted in overstatement of performance data and unallowable costs charged to Job Corps. We continue to identify instances in which the Centers did not ensure that attendance and reported leave were documented or that students were separated for unauthorized absences, as required. Regarding financial activity, problems identified included $65,553 that one Center operator charged for the Center Director's personal housing and travel expenses. A previous OIG audit reported that the same Center operator had similarly overcharged Job Corps, highlighting the continued need for Job Corps' fiscal diligence in overseeing the contractors operating its centers.

*"The OIG's work has consistently identified unsafe or unhealthy conditions and a lack of required safety inspections at some centers."*

## Improving Procurement Integrity

Integrity in the Department's procurement activities is an area of long-standing concern. The Department contracts for many goods and services to assist in carrying out its mission. In FY 2009, the Department's acquisition authority exceeded $1.8 billion and included more than 9,300 acquisition actions. Ensuring integrity in procurement activities is a continuing challenge for the Department. The OIG's past audit work has identified violations of Federal procurement regulations, preferential treatment in awards, procurement actions that were not in the government's best interest, and conflicts of interest in awards.

The Services Acquisition Reform Act of 2003 requires that executive agencies appoint a Chief Acquisition Officer (CAO) whose primary duty is acquisition management. The Department's organization has not been in compliance with this requirement, as the Assistant Secretary for Administration and Management serves as the CAO while retaining other significant nonacquisition responsibilities. The OIG is concerned that 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.

# Ensuring the Integrity of Foreign Labor Certification Programs

Ensuring the integrity of the Department's foreign labor certification (FLC) programs, while also providing a timely and effective review of applications to hire foreign workers, is a continuing challenge for the Department. The Department's FLC programs provide U.S. employers access to foreign labor to meet American worker shortages under terms and conditions that do not adversely affect U.S. workers.

OIG investigations continue to uncover schemes carried out by immigration attorneys, labor brokers, employers, and transnational organized crime groups, some with possible national security implications. For example, during this period the OIG and its law enforcement partners investigated eight co-conspirators in a large-scale visa fraud scheme for crimes ranging from visa, asylum, and marriage fraud, and filing fraudulent documents to obtain employment-based visas for hundreds of foreign workers. In another OIG investigation, an immigration attorney was sentenced for filing false immigration documents. The lawyer substituted her client's name and information on a previously approved labor certificate issued for a different foreign worker. She then assisted her client in successfully using the labor certificate to obtain lawful resident status in the U.S. based upon employment. These investigations demonstrate the schemes that are carried out by immigration attorneys, labor brokers, and other organized crime groups. The manner in which these programs are defrauded remains a significant concern for the OIG.

# Securing Information Technology Systems and Protecting Related Information Assets

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

Management of IT systems is a continuing challenge for DOL. Ensuring security, keeping up with new threats and IT developments, providing assurances that IT systems will function reliably, and safeguarding information assets will continue to challenge the Department. The OIG's annual audit to determine whether the Department and its component agencies were meeting requirements related to the Federal Information Security Management Act (FISMA) found that they were not meeting minimum IT security controls. For the fourth consecutive year, we identified a significant deficiency in the area of access control, as well as a significant deficiency in oversight of third-party IT security. In addition, we found other deficiencies existed in DOL's IT security programs, including areas such as contingency planning and incident response. Failure to address the deficiencies we have identified leaves the Department vulnerable to security breaches where confidential information is at risk and jeopardizes DOL's ability to meet FISMA's overarching objectives of maintaining confidentiality, integrity, and availability of critical information.

While the Department continues to take steps to improve the security of its systems, the OIG continues to recommend the creation of an independent Chief Information Officer to provide exclusive management oversight of all issues affecting the IT capabilities of the Department.

# New Core Financial Management System

In January 2010, the Department transitioned its financial systems from the Department of Labor Accounting Related Systems (DOLAR$) to the New Core Financial Management System (NCFMS). Prior to NCFMS's implementation, we issued a report citing several implementation risks that were not mitigated by the Department prior to the system going live. These implementation risks have impacted the current FY 2010 financial statement audit and present a threat to the future integrity and availability of DOL financial data. Of particular concern to the OIG is the risk that the Department will be unable to issue the consolidated financial statements in accordance with generally accepted accounting principals in sufficient time to allow the OIG to complete its financial statement audit within the timeframe required by the Office of Management and Budget (OMB). As a result of the continuing system risks and delays to the timely completion of our FY 2010 audit, we issued an Alert Memorandum on March 30, 2010, reiterating our concerns with respect to data conversion, financial reporting, and the development and implementation of certain key processes. The Department has developed an action plan to resolve the financial reporting issues and offset the audit delays; however, the plan does not specifically address the reconciliations needed to prepare the subsequent quarterly and year-end consolidated financial statements.


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# Worker Safety, Health, and Workplace Rights

# Mine Safety and Health Administration

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

*In recent years, the OIG audits of MSHA's programs and performance have revealed a pattern of weak oversight, inadequate policies, and a lack of accountability on the part of MSHA. Our most recent audit found that MSHA did not ensure its journeyman inspectors received required periodic training and there were no consequences for journeyman inspectors who did not attend required training. The OIG will continue to exercise strong oversight of MSHA's administration of its health and safety mission.*

## Journeyman Mine Inspectors Do Not Receive Required Periodic Retraining

We conducted a performance audit to determine if MSHA inspectors receive training to effectively execute their regulatory responsibilities. To ensure the health and safety of miners, MSHA personnel conduct frequent inspections in the nation's 14,000+ mines each year. As required by the Federal Mine Safety and Health Act of 1977, MSHA develops and maintains programs for the training and continuing education (retraining) of its inspectors. For entry-level miners, training comprises classroom instruction, online training, and on-the-job training in the field. Journeyman inspectors are required to receive one week of specified retraining each year or two weeks every other year. The training is based on the specific technical needs associated with examining mines within an inspector's assigned program area — Coal or Metal/Nonmetal.

Without sufficient training, MSHA inspectors may not possess the up-to-date knowledge of health and safety standards or mining technology needed to perform their inspection duties. Furthermore, lack of training increases the possibility that hazardous conditions may not be identified and corrected during inspections, which in turn could increase the risk of accidents, injuries, fatalities, and adverse health conditions for miners.

Our audit found that MSHA did not ensure its journeyman inspectors received required periodic retraining. Specifically, 56 percent of the 102 journeyman inspectors we sampled had not completed this retraining during the FY 2006–2007 training cycle, and three of these journeyman inspectors had not received retraining since the inception of MSHA's training policy in 1998. This occurred because MSHA lacked controls — at both the headquarter and district-level — to track and ensure completion of the required periodic retraining. Moreover, there were no consequences for journeymen inspectors not attending required retraining.

Furthermore, our survey of journeyman inspectors revealed that 27 percent of the 264 inspectors who responded to us believed MSHA did not provide them with the technical training they needed to effectively perform their duties. More specifically, these respondents stated that MSHA training did not provide them with sufficient knowledge of mining laws and regulations (11 percent), MSHA policies (14 percent), MSHA procedures (14 percent), or current mining technology (23 percent).

During FYs 2007–2008, MSHA increased the total number of inspectors by 26 percent and provided training for more than 350 entry-level inspectors. Our review of training records identified several examples of records for entry-level inspectors that lacked documentation to

support training completion. MSHA's system for recording training activity lacked sufficient controls to ensure that adequate documentation was maintained for this purpose. Since completion of a minimum level of training is part of MSHA's requirement to become an inspector, incomplete training records create a risk that an individual could be designated as an inspector without having completed sufficient training. We also found an instance where MSHA had authorized one individual to perform inspection duties without requiring him to complete the minimum number of entry-level training modules. MSHA had not defined circumstances that permitted a waiver of the training requirements. Furthermore, the rationale for waiving the training requirement had not been documented in this instance.

We made seven recommendations to MSHA to improve accountability and controls over training for both entry-level and journeyman mine inspectors, including the assurance that training requirements are met and properly documented and that health and safety inspection activities are suspended when designated training is not completed. The Assistant Secretary generally agreed with our recommendations and committed to implementing corrective actions. (Report No. 05-10-001-06-001; March 30, 2010)

# Occupational Safety and Health Administration

*The Occupational Safety and Health Administration (OSHA), authorized by the Occupational Safety and Health Act of 1970, promulgates and enforces occupational safety and health standards and provides compliance assistance to employers and employees.*

*The OIG audits of OSHA's programs and processes have identified opportunities for strengthening OSHA's enforcement and compliance assistance activities. In addition, over the past few years, OIG investigative work has resulted in the successful prosecution of employers who have willfully failed to provide adequate safety and protection to their employees, particularly in the construction industry.*

## Company Falsifies Employees' Qualifications to Secure Government Safety Contracts

Joseph Mazzurco and his company, IMS Safety, Inc. (IMS), were sentenced on December 14, 2009, after previously pleading guilty to charges of conspiracy and mail fraud. Mazzurco was sentenced to 36 months' incarceration followed by 2 years' supervised release, and restitution of $1.035 million to be paid jointly and severally with IMS and two former vice presidents of IMS, John Meyer and Christopher Rotante. In addition to the restitution of $1.035 million, which is payable to the New York City Department of Environmental Protection (NYCDEP), Mazzurco and IMS were ordered to jointly and severally pay restitution of $82,765 to the Army Corps of Engineers. IMS was further sentenced to 60 months' probation, a fine of $500,000, and a special assessment of $2,000.

IMS provided health and safety training courses to qualify employees working at certain NYCDEP jobsites. In order to secure these NYCDEP contracts, Mazzurco falsified résumés and instructors' qualifications to claim compliance with OSHA regulations.

IMS was hired by NYCDEP contractors to provide safety oversight at NYCDEP construction sites. NYCDEP contracts required such oversight and required that safety oversight personnel be trained in rules and regulations relating to worker safety and that they be experienced in the construction industry and construction safety. However, from approximately 2006 through 2008, IMS executives engaged in a scheme in which they made, and caused to be made, false representations to NYCDEP regarding the experience and training of certain IMS employees, so that NYCDEP would approve the employees' appointments to safety oversight positions. These included false representations concerning the employees' experience in the construction industry, with construction safety, and concerning the employees' training on rules and regulations relating to worker health and safety.

This was a joint investigation with the U.S. Environmental Protection Agency's Criminal Investigation Division, the New York City Department of Investigation, the New York State Department of Health, the New York State DOL, and Defense Criminal Investigative Service. The U.S. Attorney's Office asked the DOL-OIG to take part in this investigation. *United States* v. *Mazzurco, et al*., *United States* v. *Meyer,* and *United States* v. *Rotante* (S.D. New York)

*". . . Mazzurco falsified résumés and instructors' qualifications to claim compliance with OSHA regulations."*

# Worker and Retiree Benefit Programs

# Wage and Hour Programs

*The Wage and Hour Division (WHD) is responsible for enforcing labor laws such as those that cover, among others minimum wage, overtime pay, recordkeeping, family and medical leave, and migrant workers. Additionally, WHD administers and enforces the prevailing wage requirements of the Davis Bacon Act and other statutes applicable to Federal contracts for construction and for the provision of goods and services. The Davis-Bacon Act and related acts require the payment of prevailing wage rates and fringe benefits on Federally financed or assisted construction. The McNamara-O'Hara Service Contract Act requires the payment of prevailing wage rates and fringe benefits to service employees on Federally financed service contracts. The OIG investigates violations by contractors who receive Federal funding and who submit falsified certified payroll records.*

## Oversight of the Minimum Wage and Overtime Exemption Provisions Could Be Strengthened

We conducted a performance audit of the Wage and Hour Division's (WHD's) enforcement of the minimum wage and overtime exemption provisions contained in Part 541 of the Fair Labor Standards Act (FLSA). The objective of our audit was to determine if WHD had adequate controls in place to ensure employers complied with these exemption provisions.

The FLSA requires that most employees in the United States be paid at least the Federal minimum wage rate for all hours worked, and overtime pay for hours worked over 40 in a work week unless specifically Part 541 exempt. Determining who meets the FLSA overtime exemption provisions frequently must be made on a case-by-case basis, as job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements.

Our audit found that WHD did not have adequate controls in place to ensure employers complied with the minimum wage and overtime exemption provisions required by Part 541 of the FLSA. We also found that WHD could improve its investigative process by strengthening its management oversight and providing better policy guidance. Furthermore, we found that WHD investigators could better document the results of their investigations and ensure compliance assistance is provided to employers. Specifically, in our analysis of 160 investigative cases — 65 with Part 541 violations and 95 without — we identified:

- 60 (38 percent) for which the OIG concluded WHD investigators did not adequately document the results of their investigations and, therefore, could not demonstrate that they reached proper conclusions regarding employers' compliance with required Part 541 exemption provisions.
- 28 (18 percent) of the files contained inaccurate or incomplete data in the Wage and Hour Investigative Support and Reporting Database (WHISARD). WHISARD information, such as descriptions of violations, is key to assessing employer compliance and understanding an employer's violation history.
- WHD did not document that Part 541 compliance publications or related materials had been provided to employers for 9 of the 65 sampled cases (14 percent) with Part 541 violations. Similarly, WHD did not document this in 2 of 18 reinvestigations (11 percent) with a repeat violation(s). Lack of such documentation makes it more difficult for WHD to establish that a repeat, willful violation has occurred. If WHD is unable to establish that a repeat, willfull violation occurred, the remedies available, such as the amount of civil monetary penalties that can be assessed, are more limited.

We made six recommendations to the WHD Deputy Administrator to strengthen management oversight and provide better policy guidance to ensure Part 541 investigations are properly conducted and documented. WHD agreed to consider taking action to address recommendations for updating and providing training related to WHISARD, and reminding supervisors that deficiencies in case files must be corrected before cases can be closed. WHD responded that given its resources and the number of laws it administers, its overall enforcement approach must be flexible in order to resolve problems quickly and with the least expenditure of scarce resources. Furthermore, WHD expressed concerns that recommendations requiring new documentation, standardized forms, and use of a revised reviewer checklist will place an additional burden on investigators that must be balanced against the value they add to the investigative process. Furthermore, WHD stated that such forms would limit the free flow of information required in its investigative process, creating dependencies rather than using the skill and knowledge of the investigator to frame interview questions. (Report No. 04-10-002-04-420, December 16, 2009)

# Wage and Hour Division Northeast Region's Management of Civil Money Penalties and Back Wages Could Be Improved

The OIG conducted a performance audit of the WHD Northeast Region's compliance with policies and procedures when investigating employers who repeatedly and/or willfully violated the minimum wage or overtime provisions of FLSA. WHD investigates wage violations and assesses civil money penalties (penalties) when it can prove that an employer is a repeat and/or willful violator of FLSA regulations. A *repeat* violator is an employer who previously violated the minimum wage or overtime requirements of FLSA, provided the employer was previously notified by WHD that it had allegedly violated the law. A *willful* violator is an employer who knew its conduct was prohibited by FLSA or showed reckless disregard for the requirements of FLSA. Penalties are intended to discourage employers from future violations. WHD also uses stipulation agreements — written compliance agreements between employers and WHD — as a tool to encourage employers' future compliance with FLSA.

There were a total of 737 investigative cases closed between October 1, 2004, and September 30, 2008. We reviewed a statistical sample of 145 closed investigations and found 45 ( 31 percent) in which the WHD Northeast Region did not comply with WHD policies and procedures for assessing penalties against employers or ensuring they paid back wages to employees as a result of violating FLSA regulations. We found that documentation was often insufficient to support management's determination to reduce or, in some cases, not assess penalties against employers; to substantiate that employers had paid employees the back wages they were due; or to demonstrate that WHD had pursued a waiver to protect employees' back wage recovery against forfeiture due to expiration of the statute of limitations. Based on our sample results, we estimated for the period October 1, 2004 to September 30, 2008, there were a total of 27 cases and $227,733 in penalties where the Northeast Region's rationale for reducing or not assessing penalties were inconsistent with WHD guidance.

We also found that the Northeast Region made limited use of stipulation agreements. We determined that for 57 ( 86 percent) of the 66 cases involving penalty assessments against employers, stipulation agreements were not used but may have been useful to encourage the employers' future compliance with FLSA.

In response to the report, WHD stated that it did not believe the improper documentation of the rationale for not assessing penalties or tracking whether back wages were received had negatively impacted WHD's efforts to enforce the FLSA. Specifically, WHD noted that there was no suggestion that the reductions in penalties in some cases were improper even though the reasons for the reductions were improperly documented. WHD also stated that there was no finding that back wages were not actually received even though their receipt, in some cases, were not verified in accordance with WHD guidance. Finally, WHD agreed that stipulation agreements were an important enforcement tool, but did not agree that increased use of stipulation agreements will promote compliance.

We made five recommendations to the WHD Administrator related to adhering to policies and procedures for assessing penalties, documenting the rationale for reducing and/or not assessing penalties, using stipulation agreements to the fullest extent, adhering to policies and procedures for documenting back wage payments, and implementing controls for pursuing statute of limitations waivers. WHD agreed to take actions to address four of our recommendations, but did not agree that stipulation agreements are a tool that should be used more frequently than they already are. However, WHD did agree to encourage its district offices to more fully consider the use of stipulation agreements where appropriate. (Report No. 04-10-001-04-420; March 31, 2010)

## Failure to Pay Prevailing Wage Results in Restitution of More Than $200,000

Ajay Pujara, owner of Ajay Construction and Electrical, Inc. (ACE), was sentenced on December 14, 2009, to 5 months' incarceration, 5 months' home confinement, and 36 months' supervised release and was ordered to pay $203,884 in restitution. The restitution represents back wages that will be returned to 37 employees who were victims of Pujara's scheme. On January 8, 2010, Pujara was barred from entering into contracts with the United States for 3 years.

ACE, a construction company, was awarded a $4 million contract to construct a firehouse at the U.S. Army's Picatinny Arsenal in New Jersey. This contract was subject to prevailing wage rate provisions contained in the Davis-Bacon Act.

From 2007 to 2009, Pujara engaged in a scheme to cheat his employees out of pay and circumvent his obligation to pay employees at the prevailing wage rate. Pujara falsified employees' pay stubs to fraudulently reduce the total hours each employee worked, thereby enabling him to significantly underpay his workers. He then completed and submitted forms to DOL that falsely reported and concealed the true number of hours worked by his employees. During the investigation, Pujara tampered with a witness by telling the witness to withhold his timecards and to falsely state to WHD that the timecards did not exist. Pujara pled guilty in May 2009 to making false statements and obstructing justice. *United States* v. *Ajay Pujara* (D. New Jersey)

## Government Contractor Ordered to Pay $1.66 Million in Damages for Violation of the False Claims Act

A motion for summary judgment of treble damages in the amount of $1,661,423 against Circle C Construction Company, LLC (Circle C), a Kentucky construction company, was granted on March 15, 2010. Circle C violated the Federal False Claims Act and the Davis-Bacon Act by failing to pay electricians agreed-upon wages for constructing buildings at the Fort Campbell Army base in Kentucky and by filing false certifications with the government.

In October 2008, the United States filed a lawsuit against Circle C and its electrical subcontractor, Phase Tech, LLC (Phase Tech), alleging that Circle C filed false payroll certifications that failed to disclose Phase Tech as a subcontractor, failed to identify any of Phase Tech's employees, and falsely certified that Circle C and its agents were paying the prevailing wages to employees as required by the contract. The case against Phase Tech was settled in May 2009, when Phase Tech agreed to pay $15,000 in damages.

Circle C, a company that has held government contracts for nearly 20 years, entered into a "delivery order contract" with the U.S. Army in which Circle C was paid a fixed price for each building completed. Circle C agreed to pay its electrical workers a base hourly rate of $19.19 plus fringe benefits of $3.94 per hour; however, it only paid electricians total wages of between $12 and $16 per hour for their work at Fort Campbell. Circle C also agreed to submit complete and accurate payroll certifications to Fort Campbell as a condition of payment. Although Circle C submitted payroll certifications for its employees and for other subcontractors, it did not submit certifications for Phase Tech. After the United States filed suit, Circle C submitted payroll certifications to the government for Phase Tech. The judge found that both Circle C's original payroll certifications and its later payroll certifications contained false entries as they omitted Phase Tech workers and falsely stated that all workers on the project were paid the prevailing wages.

This was a joint investigation with the U.S. Army Criminal Investigation Command and the Defense Criminal Investigative Service, with assistance from DOL-WHD. *United States ex rel. Wall* v. *Circle C Construction, LLC* (M.D. Tennessee)

# Disadvantaged Business Enterprises

*The Disadvantaged Business Enterprises (DBE) program is an effort to increase the participation of minority-owned small businesses in all Federal aid and state transportation facility contracts and procurement.*

## Disadvantaged Business Enterprise Fraud Scheme Results in $9.75 Million Civil Settlement

The U.S. Attorney's Office, Eastern District of New York, entered into a civil settlement agreement with Tutor Perini Corporation (Perini), formerly Perini Corporation, on October 30, 2009. Perini is a publicly traded construction services corporation. Pursuant to the settlement, Perini paid the United States $9.75 million to settle claims that it falsely and fraudulently reported that minority and DBEs were performing subcontracted work on Federally funded public works contracts with the City and State of New York. In fact, non-DBE subcontractors were performing the work. The settlement agreement provides that it does not constitute an admission of liability on behalf of Perini.

In a related investigation, criminal indictments for money laundering, conspiracy to defraud the government, mail fraud, and wire fraud were brought against Perini's former president and its former director of purchasing on December 18, 2008. These allegations are in connection with an approximately $19 million DBE fraud that occurred on Federally funded public works contracts.

This case was investigated jointly by members of the Federal Construction Fraud Task Force under the direction of the U.S. Attorney's Office, Eastern District of New York. Other Task Force members include Internal Revenue Service Criminal Investigation Division (IRS-CI), the U.S. Department of Transportation OIG (DOT-OIG), and the New York City Department of Investigation.

## Former Business Owners Indicted in $136 Million DBE Fraud Scheme

Two former owners and operators of a manufacturer of concrete products used on highway construction projects were indicted on November 19, 2009, on charges of conspiracy, mail and wire fraud, and money laundering, as well as two related forfeiture counts. The defendants were indicted in connection with one of the largest DBE fraud schemes in DOT history. The scheme, which is alleged to have run for more than 15 years, involved the improper award at the state level of hundreds of Federally funded highway and mass transit contracts in Pennsylvania and other states.

The defendants and others allegedly used a small highway construction firm, known as Marikina Construction Company (Marikina), as a front company to obtain lucrative government contracts reserved for small and disadvantaged businesses. Between 1993 and 2008, Marikina received hundreds of Federally funded contracts for highway and mass transit construction projects worth millions of dollars but did not perform the work. In Pennsylvania alone, more than 300 Federally funded contracts that were worth approximately $136 million were awarded to Marikina; however, the defendants' company and another firm allegedly performed the work. The owner of Marikina previously pled guilty to preparing fraudulent certified payroll reports to the general contractor and DOL, falsely indicating that Marikina employees had preformed work that they had not done, which is a violation of the Copeland Anti-Kickback Act.

It is alleged that the money from the contracts merely passed through Marikina to make it appear that a DBE was involved. Personnel from the defendants' company allegedly found, negotiated, coordinated, performed, managed, and supervised all the contracts awarded to Marikina. All profits from the contracts allegedly ended up with the defendants' company. In exchange for allowing the company to use its name, Marikina was paid a small fixed fee.

This is a joint investigation with the Federal Bureau of Investigations (FBI), DOT-OIG, and the IRS-CI.

# Office of Workers' Compensation Programs

*The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA), Black Lung, Longshore and Harbor Workers, and Energy Employees Occupational Illness Compensation programs, each of which has separate financing schemes through Federal and/or industry funds.*

## Former ACS Employee Sentenced to 21 Months for Embezzling More Than $260,000

Laquoia Mills, a former Affiliated Computer Systems, Inc. (ACS) employee, was sentenced on November 13, 2009, to 21 months' imprisonment and 5 years' supervised release and was ordered to pay $265,744 in restitution. Mills pled guilty in August 2009 to wire fraud in a scheme to embezzle more than $260,000.

DOL contracts with ACS for medical-bill processing functions relating to claims under the Federal Employee's Compensation Act (FECA), Black Lung Program, and Energy Employees Occupational Illness Compensation Act programs. ACS reported in May 2009 that an electronic funds transfer of $263,726 had been wrongfully diverted from the intended recipient to an unknown account. The intended recipient was a legitimate vendor registered with ACS. Mills orchestrated the embezzlement by using her ACS position to redirect the funds transfer from ACS to an account she controlled. Shortly afterward, the defendant purchased two vehicles, gave a family member $20,000, and attempted to pay for a new home in cash. OIG agents stopped the purchase of the home on the day the transaction was to close. The OIG took possession of the remaining $228,954 in the defendant's account and returned the recovered funds to DOL. *United States* v. *Laquoia Mills* (N.D. Florida)

**Federal Employees' Compensation Act Program**
*The FECA program provides workers' compensation coverage to 2.8 million Federal and postal employees for employment-related injuries and occupational diseases. In FY 2009, OWCP made over $1.7 billion in wage loss compensation payments to claimants and processed approximately 18,800 initial wage loss claims. At that FY's end, 42,800 claimants were receiving regular monthly wage loss compensation payments.*

## Former U.S. Senate Employee Sentenced for Illegal Receipt of $259,000 in FECA Benefits

Theodore Holmes, who worked as a printing and reprographics specialist at the U.S. Senate, was sentenced on November 13, 2009, to 6 months' intermittent confinement (weekends in jail), 1 year of home confinement, 5 years' probation, and was ordered to pay restitution in the amount of $259,645. Holmes pled guilty in August 2009 to mail fraud and admitted he wrongfully received $259,645 in FECA benefits.

In February 1999, Holmes filed a notice of an on-the-job knee injury and received FECA benefits for total disability as a result of his work-related condition from February 2000 to August 2009. OWCP repeatedly informed Holmes that he was required to report any outside work activities or income, volunteer work, self-employment, or involvement in a business enterprise. Holmes denied any such activities or income in entries made on documents he submitted to DOL.

However, Holmes owned, conducted the day-to-day operations of, and derived income from several car-wash businesses from February 2000 to August 2009. He also devoted a substantial amount of time to coaching a traveling flag football team. *United States* v. *Theodore Holmes* (D. District of Columbia)

## Former Special Agent Ordered to Forfeit Almost $285,000 in FECA Benefits

Santiago Gonzalez, a former IRS Treasury Inspector General for Tax Administration (TIGTA) Special Agent, was ordered by OWCP on October 20, 2009, to forfeit $284,697 of FECA benefits he received between May 2002 and August 2006.

According to OWCP records, Gonzalez injured his shoulder and arm in 1993 while participating in a Federal Law Enforcement Training Center Health Improvement Program. Gonzales later allegedly developed a depression condition which was also accepted by OWCP.

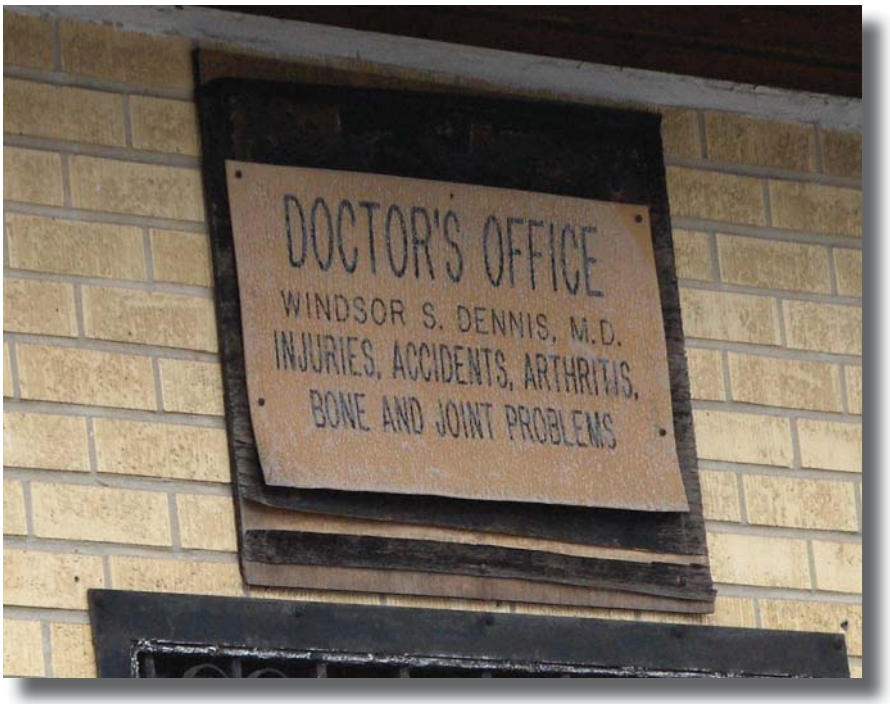
The investigation determined Gonzalez did not properly report income earned from his family-owned and -operated business, Alhi Sales, where he served as the general manager. In an effort to disguise his income, Gonzalez did not receive a salary, but utilized several credit cards to pay for his personal living expenses. Each month, Gonzalez's credit cards were paid from an Alhi Sales business account.

This was a joint investigation with IRS-TIGTA.

*"In an effort to disguise his income, Gonzalez did not receive a salary, but utilized several credit cards to pay for his personal living expenses."*

# Physician Pleads Guilty to Health Care Fraud

Windsor Dennis, an orthopedic surgeon who operated a medical practice in New Orleans, Louisiana, pled guilty March 3, 2010, to one count of health care fraud. Between August 2005 and August 2006, Dennis defrauded the OWCP by billing for services not rendered, including services he claims he performed at the time when his clinic was shut down after Hurricane Katrina. Dennis has agreed to pay $750,000 in restitution to DOL. This is a joint investigation with the United States Postal Service Office of Inspector General (USPS-OIG). *United States* v. *Windsor S. Dennis, M.D.* (E.D. Louisiana)




# Texas Massage Therapist Indicted in $2.5 Million FECA Fraud Scheme

A licensed massage therapist, who allegedly represented herself as a physical therapist, was indicted on December 9, 2009, on charges of making a false statement involving a health care matter and health care fraud. From January 2003 through April 2008, the defendant allegedly submitted false and or fraudulent billings to OWCP totaling $2,419,573, of which OWCP subsequently paid $1,884,541.

The defendant, who is the owner of a massage clinic and its only therapist, would purportedly contact and receive approval from OWCP to perform physical therapy treatments for OWCP patients who presented her with a prescription for physical therapy. In addition, the defendant received OWCP payments for alleged services seven days per week and often for more than 24 hours per date. This is a joint investigation with the USPS-OIG.

**The Black Lung Benefits Act Program**

*The Black Lung Program provides monthly payments and medical benefits to coal miners totally disabled from pneumoconiosis (black lung disease) arising from employment in or around the nation's coal mines. This Act also provides monthly benefits to a miner's dependent survivors if black lung disease caused or hastened the miner's death. OIG investigations focus on fraud involving individuals who illegally claim or obtain Black Lung benefits for themselves or due to the death of a family member.. In addition, OIG investigations also address fraud perpetrated by medical or health care providers intent on defrauding the system.*

## Ohio Woman Pleads Guilty to Stealing Almost $350,000 in 32-Year Fraud Scheme

Lillie Pearson pled guilty on January 19, 2010, to three counts of theft of Federal funds for her involvement in a 32-year scheme in which she knowingly received $349,186 to which she was not entitled from the Black Lung Program and the Social Security Administration's (SSA's) Supplemental Security Income Program (SSI).

Pearson's grandmother-in-law was a living widow beneficiary of Black Lung benefits who died in December 1977; however, the death was never reported to Black Lung or the SSA. Pearson submitted numerous false documents to Black Lung to cover up the death of her grandmother-in-law and continued to receive the payments and use the money for her own benefit.

At the same time she was defrauding the Black Lung Program, Pearson was receiving SSI due to a disability, and failed to report the Black Lung benefits she fraudulently received. SSI is a Federal income supplement program administered by the SSA, which is funded by general tax revenues (not Social Security taxes). The program is designed to help aged, blind, and disabled people who have little or no income to provide cash to meet basic needs for food, clothing, and shelter. Any additional income potentially affects one's eligibility for SSI benefits.

This investigation was worked jointly with the SSA-OIG. *United States* v. *Lillie M. Pearson* (N.D. Ohio)

**Division of Longshore and Harbor Workers' Compensation Program**

*The Longshore program offers compensation and medical care to employees disabled from injuries that occur on the navigable waters of the United States, or in adjoining areas customarily used in loading, unloading, repairing, or building a vessel. Fraud schemes associated with this program include claimant fraud which consists of knowingly and willfully making a false statement or representation to obtain benefits.*

## Father and Son Sentenced for False Injury Fraud Scheme

Ralph M. Bertelle and his son, Ralph A. Bertelle, were sentenced in November and December of 2009, respectively, after both pled guilty in August 2009 to conspiracy to commit mail and wire fraud. Ralph M. Bertelle was sentenced to 2 years' incarceration and ordered to forfeit $30,594 for which he is jointly and severally liable with his son. Ralph A. Bertelle was additionally ordered to forfeit $188,196 and was sentenced to time served and 3 years' supervised release. On January 13, 2010, the judge ruled on an order of restitution for the Bertelles. Restitution was ordered in the amount of $265,863 to be paid jointly and severally to Signal Mutual Indemnity Association, Ltd.

In September 2006, while on a break from work at the New York Container Terminal (NYCT) facility, Ralph A. Bertelle shot himself in the eye with a paintball gun. Thereafter, the Bertelles, together with others, devised a scheme in which they falsely claimed that Ralph A. Bertelle had been injured when a metal bar accidentally struck him while he was working on a crane located at the NYCT facility. They made this claim to others, including co-workers, hospital staff, insurance investigators, and defendants in a civil lawsuit brought by Ralph A. Bertelle. The Bertelles then used these false claims to obtain money and other benefits from Signal Mutual Indemnity Association, a group-self insurer, and NYCT. Under the Longshore and Harbor Workers' Compensation Act, NYCT is required to secure medical and disability payments for its employees for any employment-related injury or illness. Both Bertelles are members of International Longshoremen's Association Local 1804.

This was a joint investigation with the Waterfront Commission of New York Harbor. *United States* v. *Bertelle, et al.* (E.D. New York)

*". . . Ralph A. Bertelle shot himself in the eye with a paintball gun. Thereafter, the Bertelles, together with others, devised a scheme in which they falsely claimed that Ralph A. Bertelle had been injured when a metal bar accidentally struck him while he was working on a crane located at the NYCT facility."*

# Unemployment Insurance Programs

*Enacted more than 70 years ago as a Federal–state partnership, the Unemployment Insurance (UI) program is the Department's largest income-maintenance program. This multibillion-dollar program assists individuals who are unemployed due to lack of suitable work. While the framework of the program is determined by Federal law, the benefits for individuals are dependent on state law and are administered by State Workforce Agencies (SWAs) in 53 jurisdictions covering the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands under the oversight of ETA.*

*The OIG actively performs criminal investigations and refers for prosecution cases that involve individuals who defraud unemployment benefit programs. Recent investigations have documented the manner in which criminals steal identities to file for fraudulent UI benefits.*



## Six Indicted in Fictitious Employer Scheme

Six defendants were indicted in California on March 11, 2010, on charges of mail fraud and conspiracy to commit mail fraud for their alleged roles in a scheme to defraud the State of California of more than $800,000 in UI benefits.

From January 2000 to May 2007, the ring leader and her co-defendants purportedly devised a criminal scheme in which they registered fictitious casting agencies as employers of fictitious employees entitled to UI benefits. The defendants allegedly reported the fraudulent employee information to the California Employment Development Department (EDD) in order to collect the undue benefits on behalf of the fictitious employees. The group allegedly obtained the names of high-school students and other minors whom they reported to EDD to be laid-off actors, actresses, or models of fictitious southern California casting agencies. The names of the children were ostensibly obtained through friends and relatives of the defendants, with some of the defendants using their own children's names on the UI claims. This is a joint investigation with the California EDD Investigations Division.

## Husband and Wife Sentenced for Conspiracy to Defraud the Government

Mario Jurado Pena (Pena) and his wife Jacqueline Chavez Jurado (Jurado) were sentenced on October 30, 2009, for their role in an UI fraud scheme. Pena, who is serving a 9-year sentence on unrelated drug charges, was sentenced to 51 months' incarceration (33 months to run concurrently and 18 months to run consecutively) and was ordered to pay $3,120,707 in restitution. Jurado was sentenced to 1 year of home detention and 3 years of supervised release, and ordered to pay $37,929 in restitution. Both pled guilty in July 2009 to mail fraud and conspiracy charges.

From January 2001 to April 2003, Pena and Jurado carried out the scheme to defraud the California EDD, by using thousands of fraudulently acquired identities of unsuspecting individuals to file fraudulent UI claims with the EDD. The defendants acquired post office boxes throughout the State of California and directed the resulting EDD checks to be sent to these post office boxes.

This was a joint investigation with the California EDD. *United States* v. *Mario Jurado Pena and Jacqueline Chavez Jurado* (E.D. California)

# Company Owner and Senior Staff Accountant Sentenced in Conspiracy Scheme with Labor-Leasing Agency Owners

Eugene DiNatale, owner and president of DiNatale & Associates (D&A), was sentenced on October 1, 2009, to 42 months' incarceration followed by 3 years' supervised release, a $3,000 fine, a special assessment of $800, and ordered to pay $4.3 million in restitution to the Federal government for his role as the "mastermind" behind a conspiracy to unlawfully aid and assist labor-leasing company owners in filing false income tax returns. Chakawarn "Chuck" Sirirathasuk, a former D&A senior staff accountant, was sentenced on November 23, 2009, to 1 day incarceration followed by 3 years' supervised release, with the first 12 months on electronic home confinement, and ordered to pay $1.3 million in restitution to the Federal government for conspiring with DiNatale in the scheme.

DiNatale pled guilty in April 2009 to charges of conspiracy and aiding in the preparation and filing of false tax returns to the Federal government. DiNatale, along with Sirirathasuk, advised labor-leasing agency owners on how to evade employment taxes and unemployment compensation taxes owed to the State of Pennsylvania. Sirirathasuk pled guilty to the same charges as DiNatale in January 2009.

In several cases, DiNatale actually prepared two sets of returns for the labor-leasing agency client, one with a small tax liability to the IRS and one with a large tax liability to the IRS, and then instructed the labor-leasing agency owners to file only the small returns. DiNatale and Sirirathasuk also prepared false corporate income tax returns showing overstated business expense deductions allowable for "Other Costs" on IRS forms in order to generate false income tax returns. The amount of DiNatale's restitution was based on the tax loss from the unpaid Federal payroll and corporate income taxes of the labor-leasing companies with which DiNatale conspired and provided tax services. This was a joint investigation with IRS-CI. *United States* v. *Eugene DiNatale and Chakawarn (Chuck) Sirirathasuk* (E.D. Pennsylvania)

*". . . [Eugene DiNatale was] ordered to pay $4.3 million in restitution to the Federal government for his role as the 'mastermind' behind a conspiracy to unlawfully aid and assist labor-leasing company owners in filing false income tax returns."*

# Employment and Training Programs

# Job Corps

*Job Corps operates 123 centers throughout the United States and Puerto Rico to provide occupational skills, academic training, job placement services, and other support services, such as housing and transportation, to approximately 60,000 students each year. Its primary purpose is to assist eligible youth who need intensive education and training services.*

*Our audit work continues to reveal that the performance results (i.e., vocational training completions and student attendance) of some Job Corps centers were overstated because center operators did not ensure compliance with Job Corps' policy and requirements.*

## Performance Audits of Five Job Corps Centers Identify Concerns with Center Safety and with Performance and Financial Reporting

We conducted performance audits of five Job Corps Centers operated by three different companies under contract with the Office of Job Corps — Gainesville and Albuquerque Centers under DEL-JEN, Treasure Island and Miami Centers under ResCare, and Iroquois Center under Education and Training Resources. The audits included coverage of the contractors' safety programs, performance reporting, and financial activity at the centers; and each audit was expanded to address hotline complaints alleging improper practices by center management.

Student safety and health conditions are critical to ensuring students can participate fully in their training and maximize their benefit from the Job Corps program. We found all three contractors needed to improve in the three areas of safety we reviewed: safety inspections, safety committee meetings, and reporting of student misconduct. Contractor monitoring and center documentation were not sufficient to ensure that required safety program activities, such as inspections and committee meetings, were conducted at the centers. Also, at the Gainesville Center, officials had previously identified some of the safety and health related deficiencies we observed when on site, but their corrective action did not effectively eliminate the problems. More importantly, we found the Centers were not reporting significant incidents, such as physical assault, weapons possession, and narcotics possession, to Job Corps as required. As a result, there was an increased likelihood that serious safety and health hazards could have existed at the Centers that were not identified and corrected at the earliest opportunity. The lack of information on these incidents hindered Job Corps' ability to properly monitor Center safety, ensure significant student misconduct was handled appropriately, and respond to negative press regarding such incidents.

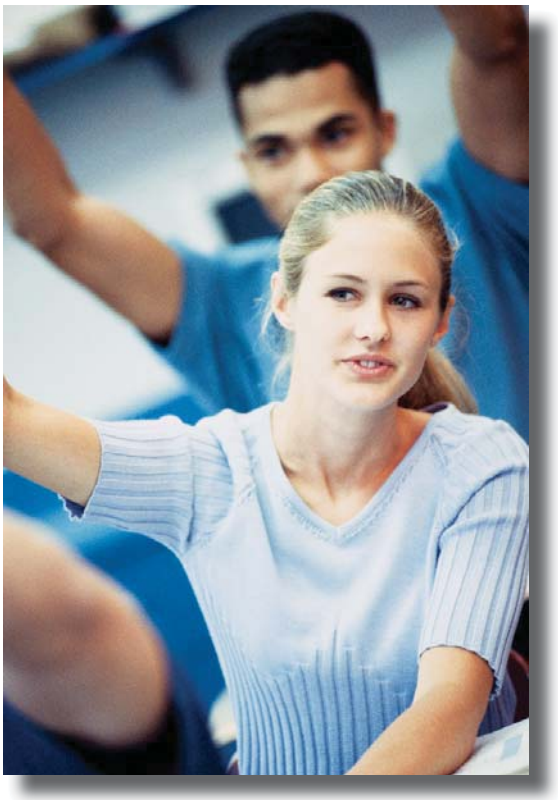
In the area of performance reporting, we found errors at each of the Centers we audited. Specifically, we found that the Centers did not ensure attendance and reported leave were documented or students were separated as required. This resulted in overstatement of the Centers' Onboard Strength and the assessment of applicable liquidated damages for not separating nonenrolled students. We also found two contractors did not adequately ensure that the Centers completed students' Training Achievement Records as required.

Regarding financial activity, we found instances where two contractors did not ensure Center compliance with Job Corps requirements for nonpersonnel expenses. At one Center, the contractor charged $116,794 in unallowable costs to Job Corps, included in this were $65,553 costs for the Center director's personal housing and travel expenses which were reported as office and staff travel/training

expenses. This occurred despite the fact that a 2005 OIG audit reported this contractor had overcharged Job Corps for compensation paid to a prior Center director. In addition, the contractor's two Centers did not always provide reasonable assurance that other Center expenses, including payments for consultant services and food products, were appropriate. The Centers also bypassed the contractor's financial controls, which included corporate headquarters' review of purchase transactions, by improperly processing transactions for goods and services through their respective imprest funds. A second contractor bypassed procurement and accounting controls through improper use of its Center's imprest fund. A review of a sample of 26 imprest fund transactions identified 9 whose documentation did not support the costs claimed, resulting in $11,228 in unallowable costs charged to Job Corps.

We substantiated a portion of each of the complaint allegations directed at the individual Centers. In some cases, the substantiated allegations directly correlated to areas we reviewed in the course of completing our performance audit. Our audit of one allegation resulted in identification of $11,530 in questioned costs for holiday party costs at a Center covering three separate contract years. We also substantiated two allegations against another Center, finding that a Center manager had used Job Corps funds to purchase prescription medications for personal use and that a staff member had inappropriately received dental services at the Center. At the latter Center, the contractor demonstrated that it had timely identified the problems and taken the necessary corrective actions.

In summary, we recommended that Job Corps ensures that the contractors improve corporate oversight procedures and training to ensure compliance with significant incident reporting requirements; implement corrective action plans when noncompliance is identified during data integrity audits; and enhance corporate-level controls and monitoring over all centers for financial managing and reporting. (Report Nos. 26-10-001-01-370, 26-10-002-01-370, and 26-10-003-01-370: issued November 3, 2009; March 3, 2010; and March 18, 2010, respectively)



# Foreign Labor Certification Programs

*The Employment and Training Administration (ETA) administers a number of foreign labor certification programs which allow U.S. employers to employ foreign labor to meet American worker shortages. The H-1B visa specialty workers program requires employers who 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 workplace guidelines will be followed. The H-2B program established a means for U.S. nonagricultural employers to bring foreign workers into the United States for temporary employment. The Permanent Foreign Labor Certification program allows an employer to hire a foreign worker to work permanently in the United States.*

*The OIG audits and investigations continue to identify program weaknesses and schemes by unscrupulous attorneys, labor brokers, employers, and others to abuse the programs.*

## Eight Co-Conspirators Sentenced in Large-Scale Visa Fraud Scheme

Eight co-conspirators of Viktar Krus, the leader of a widespread visa fraud conspiracy, were sentenced between October 2009 and February 2010. Krus was sentenced in July 2009 for, among other violations, operating a criminal conspiracy responsible for committing visa, asylum, and marriage fraud and for filing fraudulent documents to obtain employment-based visas for hundreds of foreign workers. Those sentenced during this reporting period include Beth Anne Broyles, Patricia Pochtaruk, Dana Whitney, Otis Martin, Clover May Robinson-Gordon, Clifton Cawley, Alexis Starkes, and Ryan Bulkley.

Broyles, a former immigration attorney responsible for filing the majority of the labor certification petitions on behalf of the Krus criminal organization, was sentenced to 8 months' imprisonment. Pochtaruk, a labor broker and owner of H-2B Solutions, was sentenced to 12 months' imprisonment; and Whitney, an employee of H-2B Solutions, received 12 months' imprisonment. Martin, who was the manager of the Caliber Auto Terminal and conspired with Krus to allow him to submit fraudulent H-2B petitions for workers at his facility, received 9 months' imprisonment. Additionally, these defendants each received a term of home confinement with electronic monitoring and probation.

Robinson-Gordon, a Jamaican labor broker who conspired with the Viktar Krus criminal organization to provide laborers for the H-2B visa fraud scheme and laundered the unlawful proceeds internationally, was sentenced to 45 months' imprisonment.

Cawley, who was also a labor broker and had provided Krus with hundreds of workers, was sentenced to 15 months' imprisonment for his role in assisting Krus in obtaining Jamaican workers.

Starkes, a human resources manager with the Crowne Plaza Hotel in Williamsburg, Virginia, who had signed two fraudulent labor services agreements, was sentenced to 3 years of probation for mail fraud. Bulkley was sentenced to 3 years of probation for his participation in a fraudulent marriage scheme.

Since 2003, the Krus organization was instrumental in fraudulently filing labor certification applications with DOL to obtain visas for more than 3,800 individuals; defrauding the government of $7.4 million in payroll taxes; charging visa recipients exorbitant fees for visa-related services; and housing visa recipients in unsanitary, overcrowded stash houses that Krus owned and for which he charged excessive rent.

Some visa petitions were submitted with the intent of bringing in substantially more workers than contracted for or needed by clients. Once in the United States, most of the workers were leased out to undisclosed hotels or businesses not listed

on the clients' visa petitions in states not identified in the applications. The workers were transported and shielded from detection for commercial advantage and private financial gain.

The DOL-OIG investigated this case as part of a task force that included the U.S. Department of Homeland Security Immigration and Customs Enforcement (ICE), the IRS-CI, the U.S. Department of State Bureau of Diplomatic Security (DS), the U.S. Department of the Treasury Financial Crimes Enforcement Network, the U.S. Postal Inspection Service (USPIS), the FBI, the U.S. Department of Defense Naval Criminal Investigative Service, and the Virginia Beach (Virginia) Police Department. *United States* v. *Viktar Krus, et al.* (E.D. Virginia)

## Company Owner and Three Employees Plead Guilty in Work Visa Fraud Scheme

Michael Glah, the owner and operator of International Personnel Resources (IPR), pled guilty in December 2009 to visa fraud, conspiracy to commit visa fraud, and immigration fraud. Three IPR employees, Theresa Klish, Mary Gillin, and Emily Ford, pled guilty to visa fraud and to conspiracy to commit visa fraud for their roles in a conspiracy that shuttled undocumented workers through the immigration system to obtain temporary work visas. As part of the plea agreement, Glah and Klish agreed to forfeit $1 million at sentencing.

IPR recruited workers from outside the United States for client businesses and then helped secure the work visas for those workers. Between 2003 and 2008, IPR systematically applied for a greater number of temporary work visas than its client businesses needed. By inflating this number, IPR created its own supply of approved H-2B visas. Since each visa must be assigned to a person identified on the visa petition, the conspirators devised a scheme in which they randomly selected names from a Mexico City phone book and fabricated personal information for the fraudulent petitions submitted. If the clients' visa petitions were rejected or if the clients wanted additional workers, those workers would be substituted on the visas by the fabricated placeholder names.

To further perpetuate the scheme, IPR instructed the undocumented workers to return to their home country, and IPR then fraudulently obtained temporary work visas on behalf of those workers. The workers, who were largely from Mexico, were instructed to lie to U.S. Department of State officials during visa interviews about whether they had ever previously been in the United States. The defendant's company chartered buses that transported approximately 433 undocumented workers from Mexico into the United States where they were picked up by their former employers and returned to the employment sites. This is a joint investigation with ICE. *United States* v. *International Personal Resources* (E.D. Pennsylvania)

*". . . the conspirators devised a scheme in which they randomly selected names from a Mexico City phone book and fabricated personal information for the fraudulent petitions submitted."*

## Immigration Attorney Sentenced for Filing False Immigration Documents

Sai Hyun Lee, a Georgia immigration attorney, was sentenced on March 22, 2010, to 12 months and 1 day of incarceration, 24 months' probation, and payment of a $100,000 forfeiture. Lee pled guilty on November 18, 2009, to filing a false document with DOL in a fraudulent effort to assist a client in obtaining legal status in the United States. As part of the plea agreement, Lee surrendered her law license.

Lee charged at least 17 clients, who were foreign nationals seeking lawful status in the United States, up to $25,000 each to substitute the client name and information on a previously approved labor certificate issued for a different foreign worker. Lee then assisted her clients in successfully using the labor certificate to obtain lawful resident status in the United States, based upon employment. She did this with the knowledge that the client did not work for the employer and did not intend to work for the employer to which the labor certificate was issued, as required by Federal law. The employer was unaware that Lee used the labor certificate to assist her clients in obtaining legal status.

Lee agreed to forfeit $100,000, which represents the fees she charged the 17 foreign nationals to assist them in submitting fraudulent applications for legal status.

This was a joint investigation with ICE Document Benefit Fraud Task Force, FBI, USPIS, and the U.S. Citizenship and Immigration Services (USCIS) Office of Fraud Detection and National Security (FDNS). *United States* v. *Sai Hyun Lee* (N.D. Georgia)

*"Lee charged at least 17 clients . . . up to $25,000 each to substitute the client name and information on a previously approved labor certificate issued for a different foreign worker."*

## California Attorney and Two Business Associates Indicted in Visa Fraud Scheme

A California immigration attorney and two of his business associates were indicted on October 29, 2009, for allegedly orchestrating a decade-long employment visa fraud scheme to file approximately 137 fraudulent employment-based visa petitions with DOL and USCIS. The defendants purportedly set up nearly a dozen shell companies to file the petitions, many of which were for H-1B visas, on behalf of their clients. The clients did not actually work for these companies and did not perform the jobs described in the fraudulent petitions. The defendants allegedly charged their clients between $6,000 and $50,000 to file the petitions and attempted to launder the money through the purchase of several hundred thousand dollars' worth of vacant cemetery plots.

This is a joint investigation of the Document and Benefit Fraud Task Force in Los Angeles (CA), ICE, and the USCIS-FDNS.

# Five Sentenced for Conspiracy to Fraudulently Obtain Employment Visas

Charles Keith Viscardi, the owner and manager of a construction company, Viscardi Industrial Services, LLC (VIS), and four other men were sentenced in December 2009 for their involvement in a visa fraud scheme in which the conspirators submitted petitions for nonimmigrant worker visas and other documentation to DOL, USCIS, and other government entities, falsely representing that the undocumented workers would be employed at VIS. They recruited Indian citizens who were willing to pay money in exchange for fraudulently obtained H-2B visas, which generated an estimated $1.8 million in profits for the conspirators. The men conspired to obtain fraudulent H-2B visas for 87 Indian nationals in exchange for at least $20,000 per visa. They were employed by Viscardi to recruit the applicants and process their government documents for their fraudulent H-2B visas.

Alberto and Bernardo Peña, twin brothers and principal officers of AMEB Business Group, Inc., a foreign contract labor firm, were sentenced to 41 and 30 months' imprisonment, respectively. They were each additionally sentenced to 36 months' probation and each ordered to pay special assessments of $1,600. Viscardi received a sentence of 6 months' home confinement and 36 months' probation. Rakesh Patel, who collected payments on behalf of Viscardi for fraudulent visas, was sentenced to 15 months' imprisonment and 36 months' probation. Mahendrakumar Patel, a check cashing business owner who pled guilty to conspiracy to commit visa fraud and conspiring to encourage and induce illegal immigration, was sentenced to 36 months' probation with the special condition of 18 months' home confinement and a $10,000 fine.

As part of the scheme, the conspirators assisted the undocumented workers in completing the H-2B visa petitions and in filing them with DOL. After their arrival in the United States, Viscardi transported and temporarily housed the workers, and they were granted H-2B visas. Viscardi and his co-conspirators accepted cash and other forms of payment from the undocumented workers. None of the undocumented workers was ever employed by VIS; instead they simply dispersed throughout the country after paying for their fraudulently obtained visas. This was a joint investigation with DS and ICE. *United States* v. *Alberto Peña, United States* v. *Bernardo Peña* (S.D. Texas)

# Workforce Investment Act

*The primary goal of the Workforce Investment Act (WIA) is to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States. The OIG has conducted numerous audits of the WIA program and its grantees since WIA's enactment, including audits of state WIA expenditures, training and educational services provided to dislocated workers, and state-reported performance data. The Department has implemented many of our recommendations to improve WIA program administration and performance. OIG investigations have resulted in the prosecution of individuals who illegally obtained WIA funds, thereby denying eligible persons the benefit of employment services. Our investigations have also documented conflict-of-interest issues involving program administrators.*

## Ensuring Access for Persons with Disabilities to the One-Stop Career System

In response to a request from Congress, we reported on the Department's efforts to ensure that persons with disabilities have comprehensive access to the One-Stop Career System.

Unemployment among persons with disabilities remains high, with a reported unemployment rate of 13.8 percent in December 2009, compared with 9.5 percent for persons without a disability. Moreover, ETA estimates that an additional 20 million working-age individuals with disabilities have dropped out of the labor market.

WIA was designed to provide employment and training services that help eligible individuals to find meaningful employment through a One-Stop delivery system. Section 188 of the Act requires WIA grantees to provide persons with disabilities equal opportunity to participate in and benefit from One-Stop services. However, except for veterans, for whom Federal law mandates priority of services, the One-Stop System, as a whole, does not give preference to serving any particular group.

The review covered services and outcomes for participants exiting WIA programs for adults, dislocated workers, and youths in program years 2003 through 2008. The OIG based its review solely on information provided by DOL; we did not test its accuracy or reliability.

- *We found that the Department has not established quantifiable goals for serving persons with disabilities through the One-Stop System.* Although the One-Stops cannot give priority to disabled participants, establishing goals would help the Department in assessing the progress being made by One-Stops in providing comprehensive access. The Department stated that its Disability Program Navigator (DPN) Initiative did establish annual goals for serving persons with disabilities in all of its Solicitation for Grant Applications.
- *The number of people with disabilities who participate in WIA programs is probably higher than the data indicates, as WIA participants are not required to disclose disabilities, and many do not.* The characteristics reported indicate whether a participant has a disability, but not the nature of the disability. Information regarding the nature of the disability could help states and local workforce agencies to develop appropriate service strategies. ETA stated that this problem will be examined more closely under the new Disability Employment Initiative, which will include additional data collection and individualized data, such as disability type, on customers served by the One-Stop system.
- *Overall, persons with disabilities receive the same basic services — such as job search, case management, and occupational skills training — as those without disabilities, although their*

*rates of participation in those services may vary*. For example, adults with disabilities participated in training services at a slightly lower rate (9 percent) than all program exiters (11.6 percent). Program exiters with disabilities generally had lower entered employment rates compared to all exiters. For example, WIA adult exiters with disabilities had a 53.4 percent entered employment rate compared to 68.1 percent for all exiters. However, the employment retention rate for exiters with disabilities was about the same as the retention rate achieved by all exiters.

- *DOL's most visible initiative for helping persons with disabilities access and benefit from the One-Stop System has been the DPN*. Disability Navigator positions were established in 48 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands to better inform people with disabilities about the work support programs available at One-Stop Career Centers. For program years 2006 through 2007, the entered employment rate for local workforce investment boards with a DPN was 65 percent, compared with 56 percent for those without a DPN.

Since 2003, the Department has conducted several independent evaluations of its initiatives to improve WIA services to persons with disabilities. An evaluation of the DPN initiative, as well as Office of Disability Employment Programs' demonstration projects, identified "promising practices" of what the One-Stop System can do to help persons with disabilities access appropriate workforce training, employment, and related services. For example, front-line staff in One-Stop Career Centers can benefit from more training on how to work effectively with people who have different types of disabilities. DOL received $24 million from Congress for its FY 2010 budget to implement a Disability Employment Initiative. The purpose of the initiative is to build on lessons learned from the DPN grants and to build the capacity of the One-Stop System nationwide to better serve persons with disabilities. Also, the Department recently implemented a community of practice platform page on its Workforce3One Web site (http://disability.workforce3one.org) that includes videos and narratives on successful practices when working with individuals with disabilities in the workforce system. [Note:As indicated, this report was done in response to a Congressional request. It was not the result of an audit and we did not verify information obtained from the Department, nor did the report contain findings or recommendations to which the Department was expected to respond.] (Report No. 25-10-001-03-390; March 10, 2010)

# American Recovery and Reinvestment Act

# American Recovery and Reinvestment Act

*The American Recovery and Reinvestment Act of 2009 (Recovery Act) was enacted on February 17, 2009, to create new jobs and save existing ones, spur economic activity and invest in long-term growth, and foster unprecedented levels of accountability and transparency in government spending. As of March 31, 2010, the Department reported it had obligated $64.4 billion of Recovery Act funds, primarily to extend and increase unemployment benefits and worker training, and assist and educate workers and employers regarding expanded access to health benefits. Funds have also been used for Job Corps construction and rehabilitation, and departmental oversight.*

*The OIG has developed an audit oversight plan as follows:*

- *Phase One - Addresses how DOL is planning to administer and provide oversight of Recovery Act funds and how grantees are planning to utilize funds. This includes assessing how DOL will account for Recovery Act funds, provide guidance to states and grantees, establish performance measures for Recovery Act activities, and develop required reporting.*
- *Phase Two - Focuses on how DOL awards funds to grantees and contractors.*
- *Phase Three - Reviews how grantees and contractors performed and what was accomplished with Recovery Act funding.*

## The Department of Labor's Plan to Ensure Data Quality in Recipient Reporting

To promote accountability and transparency, Section 1512 of the Recovery Act requires each recipient receiving Recovery Act funds to submit a quarterly report to the Federal agency providing those funds. As of September 30, 2009, the Department had awarded 507 Recovery Act grants and contracts totaling $3.7 billion.

The quarterly reports submitted by recipients of Recovery Act funds must contain specific, detailed information on funded projects and activities, such as their completion status; the amount of funds spent or obligated; and an estimate of the number of jobs that were created and retained as a result. Section 1512 also requires Federal agencies to issue reporting guidance to recipients, and directs recipients to register with a central database and comply with other requirements issued by the Office of Management and Budget (OMB) through OMB M-09-21, "Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009." OMB M-09-21 requires Federal agencies receiving Recovery Act funds to implement a limited data review process to identify material omissions and/or significant errors and notify grant recipients of the need to make complete, accurate, and timely adjustments.

We conducted an audit to determine whether the Department had established policies and procedures for reviewing quarterly Recovery Act data submitted by recipients to ensure its accuracy and completeness. Our review focused on the three component agencies — Employment and Training Administration (ETA), Office of the Assistant Secretary for Administration and Management (OASAM), and Occupational Safety and Health Administration (OSHA) — that are involved in awarding Recovery Act grants and contracts.

We found that the Department has not issued an overall policy for ensuring the quality of data reported by recipients; however, the three component agencies reviewed have since developed procedures to review their recipients' quarterly reports. Furthermore, these agencies have developed and implemented processes to minimize two key data problems with recipient reporting — material omissions and significant errors — and to remediate systemic or chronic problems. Finally, the Department expects to use Section 1512 data as a tool to complement

existing management controls and to monitor recipients' compliance with Recovery Act award agreements.

In response to the draft report, the Senior Accountable Official for the Recovery Act cited our audit report as being a reasonable assessment of the Department's efforts to ensure that recipients of Recovery Act funds report in an accurate and timely manner; review reported data in accordance with government-wide guidance; and readily remediate any problems. (Report No. 18-10-001-01-001; October 30, 2009)


## OASAM Needs to Ensure That Job Corps Contract Modifications Meet Recovery Act Requirements

We conducted a performance audit to determine whether Job Corps Recovery Act contracting actions were awarded based on merit and met specific Recovery Act requirements, and whether Job Corps had plans in place to ensure Recovery Act funds are awarded and distributed by the June 30, 2010, deadline. The Recovery Act provided Job Corps $250 million for construction, operations, and administrative costs, and imposed unique reporting and transparency requirements in which specific contracting requirements were to be followed. As of September 30, 2009, Job Corps had awarded 10 contracts totaling $54.2 million and a lease for $82 million, and made modifications to 72 existing contracts totaling $14.4 million. Within the Department, OASAM is responsible for the overall implementation of the procurement program and ensures that the program complies with the appropriate laws and regulations, including those specific to the Recovery Act.

Our audit found that Job Corps had adequate plans in place to ensure Recovery Act funds are awarded and distributed by the June 30, 2010, deadline; however, OASAM did not ensure Job Corps contracting actions consistently met Recovery Act contracting requirements. Through our review of a statistical sample of 44 of 83 contracting actions comprising $142.5 million (95 percent) of the $150.6 million awarded, we found the following:

- OASAM did not maintain documentation to support that one modification totaling $122,103 was merit based.
- OASAM obligated funds for two modifications totaling $122,523 that were for projects that the OIG concluded were not eligible for Recovery Act funding — $118,229 to make repairs to a building that supports a swimming pool, and $4,294 to make repairs to a miniature golf course.
- OASAM did not ensure that Recovery Act contracting requirements were met for 4 of 10 sampled contracts and 11 of 33 sampled modifications. One or more required contract clauses were excluded.

We made four recommendations to the DOL Senior Accountable Official to: issue a modification or recompete the work for the modification totaling $122,103 that OASAM could not demonstrate was issued based on merit; provide documentation that $122,523 of Recovery Act funds were deobligated; modify the contracting actions that did not properly include required Recovery Act clauses; and recommunicate and monitor the Department's policy for using the preaward checklist. In response to the draft report, the Senior Accountable Official agreed with the findings and recommendations and has either planned or has taken actions to address the recommendations. (Report No. 18-10-005-07-001; March 30, 2010)

## ETA Took Recommended Corrective Action to Ensure Congressional Intent Could Be Met in the YouthBuild Program

The Recovery Act expanded the population permitted to be served under the YouthBuild program to include individuals who have dropped out of high school and re-enrolled in alternative schools, if that re-enrollment is part of a sequential service strategy. As we previously reported in an Alert Memorandum on September 29, 2009, ETA did not make YouthBuild grantees aware of the expanded population that could be served with Recovery Act funds. This raised the potential that the $50 million provided by the Recovery Act may not be spent as permitted by Congress. In response to the Alert Memorandum, on October 7, 2009, the ETA Grant Officer sent a memorandum to all YouthBuild grantees informing them of the expanded population that may be served. In addition, on December 4, 2009, ETA issued Training and Employment Guidance Letter 11-09 clarifying the expanded population and defining high-school dropout, alternative school, and sequential service program. (Report No. 18-10-006-03-001; March 16, 2010)

## ETA Should Assess Need for $150 Million for Health Coverage Tax Credit

As part of the Recovery Act, $150 million was designated for use for the Department's Health Coverage Tax Credit (HCTC) National Emergency Grants (NEG). We conducted a Recovery Act audit of the administration of the HCTC NEG program to determine the status of states applying for and using these funds, and to determine what outreach ETA conducted to inform states of the availability of additional program funds. The HCTC NEG program allows states to provide for the cost of qualifying health insurance coverage — for up to three months — for eligible individuals until they can enroll in the Internal Revenue Service's (IRS's) HCTC program. HCTC is limited to eligible Trade Adjustment Assistance (TAA) participants and Pension Benefit Guaranty Corporation (PBGC) recipients, and their qualified family members. The Recovery Act increased the coverage from 65 percent to 80 percent, and allows qualified individuals to receive benefits until December 31, 2010; after that time, the coverage amount returns to 65 percent. ETA is responsible for administering the HCTC NEG program for the Department.

We found that only $8 million of the appropriated $150 million designated for the HCTC NEG program has been awarded to states since the Recovery Act was signed into law on February 17, 2009. As of December 3, 2009, ETA had awarded only three grants covering six states for this program. Forty-four states, the District of Columbia, and Puerto Rico have not applied for HCTC NEG funds. Furthermore, eight states have $4 million in HCTC NEG non-Recovery Act funds remaining from prior years. The low participation in HCTC NEG may have resulted from factors outside of ETA's control, such as the reduction in wait time to enroll in the IRS's HCTC program and the lack of knowledge of the PBGC population to enable targeted outreach. The OIG believes that ETA's lack of urgency to provide effective outreach and issue guidance may be attributed to the Department's interpretation of HCTC NEG funds as no-year money which conflicts with the Recovery Act's clear message that funds should be expended expeditiously by the end of FY 2010. As a result, $142 million of HCTC NEG funds may be better used if management took action to evaluate and strengthen the HCTC NEG program.

We made five recommendations to the Assistant Secretary for Employment and Training to evaluate and strengthen the HCTC NEG program in order to address the program's low participation rate. Specifically, we recommended that ETA assess the need for the remaining $142 million by obtaining an annual estimate of the amount of Recovery Act HCTC NEG funds needed by each state; reconcile the apparent conflict concerning the period of availability of Recovery Act funds; and issue guidance, provide effective outreach, and coordinate with PBGC to identify eligible PBGC recipients for potential enrollment. ETA generally agreed with the recommendations and will pursue efforts to improve implementation of the HCTC NEG. However, ETA took exception with our conclusion that HCTC NEG funds are not available indefinitely. (Report No. 18-10-003-03-390; March 31, 2010)

# Actions Needed to Better Ensure Congressional Intent Can Be Met in the Workforce Investment Act Adult and Dislocated Worker Programs

We conducted a performance audit to determine if Recovery Act funds designated for the WIA Adult and Dislocated Worker programs were being used to provide services to targeted populations in accordance with Recovery Act requirements.

The Department received $1.75 billion in Recovery Act funds to supplement appropriated funds for the WIA Adult and Dislocated Worker programs. The Recovery Act included two primary provisions related to the Adult program: providing funding for WIA employment and training activities, including supportive services and needs-related payments; and requiring recipients of public assistance and other low-income individuals, regardless of funding limitations, to be given priority of service in receiving funds. For both the Adult and Dislocated Worker programs, the Recovery Act also provided that a local workforce investment board (LWIB) may award a contract to an institution of higher education or other eligible training provider if the LWIB determined it would facilitate the training of multiple individuals in high-demand occupations and the contract did not limit customer choice. ETA issued policy guidance to the states and specific instructions for modifying state plans. These plans were to be used to communicate to the public each state's plan for implementing Recovery Act funds and serve as a baseline for monitoring the states' implementation. Our audit covered six states — California, Florida, Michigan, New York, North Carolina, and Texas — that had received $750 million in funding, and one LWIB within each state.

Our audit found inconsistencies and a lack of Recovery Act provisions in two of the six LWIB plans we reviewed. As of March 2010, one LWIB had not yet finalized its plan for spending WIA Recovery Act funds, although by December 31, 2009, it had already obligated $24 million, or 75 percent, of its Recovery Act funding. The state agency responsible for approving the LWIB's plan cited deficiencies in it, including incomplete or incorrect application of the Recovery Act priority of service provision for the Adult program. A second LWIB had addressed its plan for Recovery Act funds in a separate internal document to the state in accordance with state policy; however, the official public plan made no reference to the Recovery Act. A likely cause of the breakdown between the state and local plans was that WIA regulations required local plans to be amended in accordance with state policy, making ETA's oversight more challenging. When a local plan does not adequately reflect Recovery Act provisions and guidance from ETA, the risk increases that these funds may be spent in a way that is not consistent with Recovery Act provisions and ETA's guidance.

Despite being adequately addressed in Federal and state plans, we found mixed results at the LWIBs in terms of how well they addressed targeted populations in their plans. Two LWIBs failed to address the priority of service to recipients of public assistance and other low-income individuals in the Adult program as required by the Recovery Act, thereby potentially limiting how well congressional intent will be met in providing benefits to these populations.

We recommended that the Assistant Secretary for Employment and Training take actions to better ensure that Recovery Act funds for the WIA Adult and Dislocated Worker programs are spent as intended by Congress, with its focus on developing strategies to promote consistency in the LWIB plans with Recovery Act provisions and timeliness in developing those plans. ETA disagreed with our conclusion that deficiencies in one LWIB's plan increased the risk that the $24 million it had already obligated may not be spent in accordance with specific Recovery Act provisions. (Report No. 18-10-004-03-390; March 31, 2010)

# Labor Racketeering

# Labor Racketeering

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



**Traditional Organized Crime:** Traditionally, organized crime groups have been involved in benefit plan fraud, violence against union members, embezzlement, and extortion. Our investigations continue to identify complex financial and investment schemes used to defraud benefit fund assets, resulting in millions of dollars in losses to plan participants. The schemes include embezzlement or other sophisticated methods, such as fraudulent loans or excessive fees paid to corrupt union and benefit plan service providers. OIG investigations have demonstrated that abuses by service providers are particularly egregious due to their potential for large dollar losses and because they often affect several plans at the same time. The OIG is committed to safeguarding American workers from being victimized through labor racketeering and/or organized crime schemes.

**Nontraditional Organized Crime:** Our current investigations are documenting an evolution of labor racketeering and/or organized crime corruption. We are finding that nontraditional organized criminal groups are engaging in racketeering and other crimes against workers in both union and nonunion environments. Moreover, they are exploiting DOL's foreign labor certification and Unemployment Insurance (UI) programs.

**Impact of Labor Racketeering on the Public:** Labor racketeering activities carried out by organized crime groups affect the general public in many ways. Because organized crime's exercise of market power is usually concealed from public view, millions of consumers unknowingly pay what amounts to a tax or surcharge on a wide range of goods and services. In addition, by controlling a key union local, an organized crime group can control the pricing in an entire industry.

The following cases are illustrative of our work in helping to eradicate both traditional and nontraditional labor racketeering in the nation's labor unions, employee benefit plans, and workplaces.

# Internal Union Investigations

*Our internal union investigation cases involve instances of corruption, including officers who abuse their positions of authority in labor organizations to embezzle money from union and member benefit plan accounts and defraud hard-working members of their right to honest services. Investigations in this area also focus on situations in which organized crime groups control or influence a labor organization, frequently to influence an industry for corrupt purposes or to operate traditional vice schemes. Following are examples of our work in this area.*

## Genovese Organized Crime Family Captain Sentenced to 16 Years for Racketeering Charges and Mob Control of New Jersey Waterfront

Michael Coppola, a captain in the Genovese La Cosa Nostra (LCN) Crime Family, was sentenced on December 18, 2009, to 16 years' imprisonment and 3 years' supervised release. Coppola's sentence is to run consecutively with the 42-month sentence he is currently serving for an unrelated case.

Coppola was convicted of violating the Racketeer Influenced and Corrupt Organizations (RICO) Act and RICO conspiracy after being found guilty in July 2009 of racketeering acts, which included the Genovese LCN Crime Family's 33-year extortion and control of International Longshoremen's Association (ILA) Local Union 1235; the deprivation of honest services by Local Union 1235 presidents; wire fraud in connection with a scheme to defraud Local Union 1235 members of property; and conspiracy to possess identification documents or false identification documents with the intent to use in an unlawful manner. ILA Local 1235 represents port workers in New Jersey. This was a joint investigation with the FBI and the New Jersey Division of Criminal Justice. *United States* v. *Michael Coppola* (E.D. New York)

## Locomotive Engineers' Union President Pleads Guilty to Bribery

Edward W. Rodzwicz, the national president of the Brotherhood of Locomotive Engineers and Trainmen (BLET) and president of the International Brotherhood of Teamsters (IBT) Rail Division, pled guilty on March 4, 2010, to one felony count of bribery in connection with a Federally funded program and one felony count of interstate travel to carry on unlawful activity. Rodzwicz previously resigned from his union positions after being suspended by the BLET Executive Board. BLET, a division of the IBT, is a national labor union with more than 55,000 members consisting of railroad employees throughout the United States.

Rodzwicz solicited a bribe from an attorney who was a member of the BLET's Designated Legal Counsel (DLC) program. DLC attorneys represent BLET members in Federal Employers' Liability Act injury cases. The attorney ostensibly committed a violation of DLC rules and was subject to termination from the program. Rodzwicz solicited a bribe from the attorney in exchange for Rodzwicz's assurances that the attorney would retain his status as a DLC. Rodzwicz accepted two $10,000 payments from the attorney. This investigation is being conducted with the U.S. Attorney's Office for the Eastern District of Missouri. *United States* v. *Edward Rodzwicz* (E.D. Missouri)

# Benefit Plan Investigations

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

## Laborers' Business Manager Who Embezzled More Than $1 Million Sentenced to 21 Months in Prison

Carmelo Sita, a business manager and secretary treasurer of the Hudson County District Council of Laborers (HCDCL), was sentenced on October 26, 2009, to 21 months' imprisonment followed by 3 years' supervised release, and was ordered to pay restitution of $850,000 to HCDCL, Laborers' International Union of North America (LIUNA) Local 325, and the HDCL Benefit Funds. Sita pled guilty in January 2005 to conspiracy to embezzle $1,062,787 from the HCDCL and its benefit funds, and to falsifying reports required to be kept under the Employee Retirement Income Security Act (ERISA).

Sita used the stolen money to purchase personal residences in New Jersey and Martha's Vineyard, refurbish his boat, and fund a personal investment account.

From January 1995 through March 1999, in his capacity as business manager and secretary treasurer of the HCDCL and executive director of the HCDCL Benefit Funds, Sita conspired with others to improperly extract money from eight bank accounts that were maintained for the benefit of union members and plan participants. Sita also admitted to reporting false information on disbursement logs and other documents of the union and benefit funds, which were relied upon by the accountant in preparing required Form 5500. This was a joint investigation with Employment Benefits Security Administration (EBSA) and the FBI. *United States* v. *Carmelo Sita* (D. New Jersey)

*"Sita used the stolen money to purchase personal residences in New Jersey and Martha's Vineyard, refurbish his boat, and fund a personal investment account."*

# Eight Indicted in LCN Organized Crime Kickback and Extortion Scheme at World Trade Center Construction Site

Eight defendants, including five suspected members of the Colombo LCN Organized Crime Family, were indicted on charges that included racketeering conspiracy, wire fraud conspiracy, extortion, and embezzlement of union benefit funds. The March 9, 2010, indictment is a result of a multi-year investigation in which a cooperating witness infiltrated the Colombo Crime Family and made hundreds of consensual recordings.

The indictment alleges that the Colombo family used a trucking company they controlled to execute a kickback and extortion scheme for debris removal subcontracting from a demolition contractor headquartered near Boston, Massachusetts. The Colombo family purportedly carried out the scheme at locations including the World Trade Center construction site through an agreement in which the trucking company would kickback a portion of its profits, as a commercial bribe, to a demolition contractor foreman, in exchange for the trucking company obtaining debris removal subcontracts from the demolition company. After the trucking company secured subcontracting work from the demolition contractor, Colombo family associates allegedly threatened the demolition contractor's employees when the demolition contractor failed to pay the trucking company on the timetable set by the crime family.

The indictment also charges a Colombo associate and his wife with embezzlement from the welfare benefit plan and pension benefit plan funds operated on behalf of union laborers of IBT Local 282. The husband and wife allegedly engaged in a double-breasting scheme in which they used Colombo-controlled non-union shell companies to circumvent Local 282 collective bargaining agreement (CBA) union benefit contribution requirements.

This is an ongoing investigation with the FBI.

## Sandhogs Benefit Funds Administrator Charged with Embezzling More Than $40 Million

The former administrator of the employee benefit funds of the Compressed Air and Free Air Foundations, Tunnels, Caissons, Subways, Cofferdams, Sewer Construction Workers Local 147 of New York, New Jersey States and Vicinity AFL-CIO (commonly known as the Sandhogs' Union) was indicted on February 17, 2010, for allegedly embezzling more than $40 million from the employee benefits funds that she administered.

The Sandhogs' Union has approximately 1,000 members and represents workers employed in numerous construction projects in the New York City area. The defendant provided administrative services to the Local 147 Benefit Funds through the company that she controlled.

Between 2002 and 2008, the defendant allegedly caused the transfer of more than $40 million from the bank accounts of the Local 147 Benefit Funds into an account controlled by her company. She purportedly wrote checks in amounts ranging from $20,000 to $65,000, sometimes several in a single day.

The indictment also seeks forfeiture of all of the property the defendant allegedly purchased with the embezzled funds, including real estate, luxury vehicles, jewelry and precious stones, nine horses, and the contents of several bank accounts. This is a joint investigation with EBSA and the IRS.

*". . . the defendent allegedly caused the transfer of more than $40 million from the bank accounts of the Local 147 Benefit Funds into an account controlled by her company."*

## Labor-Leasing Company Official Ordered to Pay More Than $10 Million

Edward Fisher, former vice president and general counsel for Simplified Employment Services (SES), was sentenced October 22, 2009, to 41 months in prison, and 3 years' supervised release, and was ordered to pay restitution to the IRS in the amount of $10 million for unpaid employment taxes. Fisher, who was found guilty in July 2008 of conspiracy to defraud the United States, lost his membership in the Michigan Bar Association and can no longer practice law.

Fisher is the last defendant in a long-term investigation of SES, a now-defunct labor leasing company that provided management services to businesses in the administration of human resources and employer obligations. SES was the largest privately held Professional Employer Organization in the nation. Fisher and other SES principal officers were convicted of various financial crimes, including embezzlement from an employee benefit plan, defrauding the United States of employment taxes, and bank fraud. This is a joint investigation with the FBI, IRS-CI, and EBSA. *United States* v. *Edward Fisher* (E.D. Michigan)

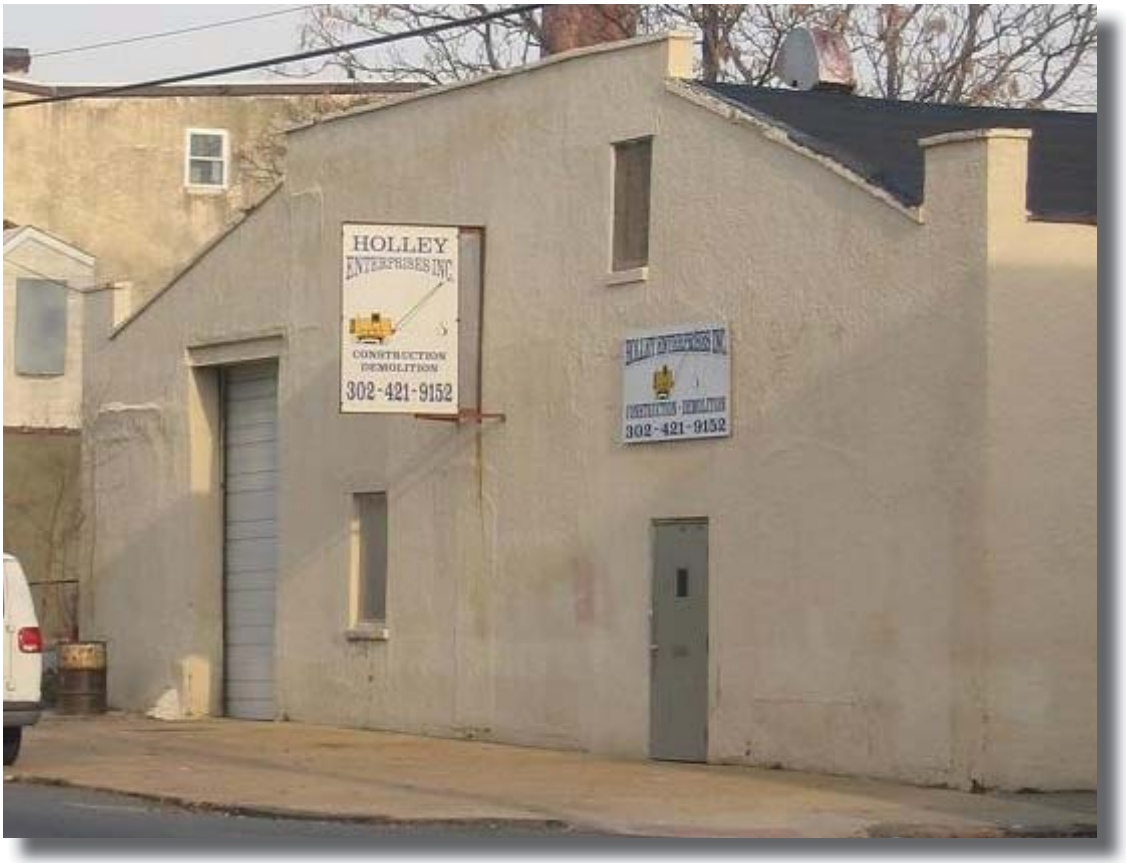
# President and Vice President of Demolition Company Convicted of Multiple Fraud Schemes

William C. Holley and Joseph E. Funk, Jr., president and vice president of Holley Enterprise Incorporated (HEI) were found guilty on March 10, 2010, of various fraud-related crimes, including defrauding the pension and employee welfare benefit plans of the LIUNA Local Union 332. Both were convicted of conspiracy to defraud the United States and conspiracy to commit wire fraud. Funk was separately convicted of ERISA fraud and Holley was separately convicted of tax-related charges.

Holley and Funk were president and vice president, respectively, of HEI, a Delaware-based demolition company. From 2004 through May 2007, they engaged in a number of fraudulent schemes related to their cash payroll. Through their schemes, the men were able to wrongfully retain payroll taxes that should have been paid to the IRS, wages that they were obligated to pay their workers pursuant to state law, and contributions that they were obligated to pay to employee benefit funds on behalf of their union-affiliated employees.

The illegal conduct gave them an unfair advantage over legitimate contractors and allowed them to pay less in wages, taxes, and benefit plan contributions. Holley and Funk attempted to conceal this conduct by creating false documentation and submitting the documents to private businesses, government agencies, employee benefit plans, and other entities. The total loss from these fraud schemes is approximately $750,000.

This was a joint investigation with IRS-CI and the FBI. *United States* v. *William C. Holley and United States* v. *Joseph E. Funk, Jr.* (D. Delaware)



## Consultant Company Owner Pleads Guilty to Giving Kickback to Michigan Carpenters' Union Boss

Joseph Roxlyn Jewett, a consultant and company owner, pled guilty on January 11, 2010, for his role in a kickback scheme with the former leader of the Michigan Regional Council of Carpenters (MRCC), who was also the chairman of the board of trustees of the Carpenters Pension Trust Fund and executive secretary-treasurer of the MRCC (the union leader).

The union leader engineered the use of Jewett's company, J&R Ventures, as a consultant on a deal involving the construction of a casino that was funded by the Carpenters Pension Trust Fund. In return, Jewett promised the union leader one-third interest in an $800,000 investment—an investment made by Jewett with his corporate proceeds at the end of the project. Private equity manager, John Orecchio, was also promised one-third interest in the $800,000 investment by Jewett and the union leader. Orecchio pled guilty to the theft of pension fund assets in a separate case.

As part of Jewett's guilty plea to giving a kickback to a fiduciary of a labor union pension fund and as part of a separate civil forfeiture case, Jewett signed a consent judgment wherein he agreed to forfeit funds totaling $157,108. The forfeited funds are being returned to the pension fund.

This is a joint investigation with the FBI and EBSA. Assistance was provided by the Nevada Gaming Commission and the Securities and Exchange Commission. *United States* v. *Joseph Roxlyn Jewett* (E.D. Michigan)

## Illinois Bookkeeper Sentenced for Embezzlement

Mary R. Storer, the former office manager for Elk Heating and Sheet Metal, Inc. (Elk), was sentenced on January 7, 2010, to 30 months' imprisonment for embezzlement from an employee benefit plan, tax evasion, willful failure to file Federal income tax returns, and failure to pay employment taxes. Storer was additionally ordered to serve 3 years' supervised release and pay restitution of $266,056 to Elk and $76,267 to the IRS.

In 2006, Storer was given complete control over Elk's bookkeeping process. Elk is a small, family-owned heating and air conditioning company that is signatory to a CBA with Sheet Metal Workers Local 268 and the various benefit plans under the Sheet Metal Workers contract.

In her embezzlement scheme, Storer would fail to deposit into Elk's bank account cash she received from customers who paid all or part of their bill in cash. She then destroyed, removed, or falsified company records so that Elk officials could not determine which customers may have paid Storer in cash. Additionally, Storer wrote checks to herself for approximately $130,000. As a result of her conduct, Storer failed to pay amounts owed to the Sheet Metal Workers benefit plans. Company officials signed checks to pay the benefits owed to the plans. However, these checks were never forwarded by Storer, but rather deposited for her own benefit.

This was a joint investigation with IRS-CI, EBSA, and the Wood River (Illinois) Police Department. *United States* v. *Mary R. Storer* (S.D. Illinois)

# Former Benefit Funds Manager Sentenced for Embezzlement

Harry Keil, a former administrative manager, was sentenced on October 29, 2009, to 27 months' incarceration and 3 years' probation and was ordered to pay restitution of $341,787 to Chubb Insurance Company. Keil is barred for 13 years from holding any position with a labor union or benefit plan.

Keil was hired in August 2006 by the trustees of the International Association of Machinists and Aerospace Workers District 9 (District 9) as the administrative manager of their pension and health and welfare funds (benefit plans). Between 2006 and 2008, Keil caused a series of payments to be made from the benefit plans based on false invoices that he created. In some instances, he supported the illegal payments with invoices that bore the names of entities that did legitimate business with the benefit plans. As a result, the false invoices appeared to be valid. Payments were made to his personal bank accounts and to pay off personal loans. Keil's theft was completely covered by fidelity bond insurance and the District 9 benefit plans were completely made whole. This was a joint investigation with EBSA. *United States* v. *Harry Keil* (E.D. Missouri)


# Labor Union Officers Sentenced for Misuse of Funds

John Romero (Romero), former president of Amalgamated Industrial Workers Union (AIWU) Local 61, and his son, John J. Romero, Jr. (Romero, Jr.), Local 61's former secretary-treasurer, were sentenced on January 25, 2010. Romero was sentenced to 41 months' incarceration, 3 years' supervised release, 300 hours of community service, and fined $75,000. Romero, Jr. was sentenced to 24 months' incarceration, 3 years' supervised release, and 1,200 hours of community service. Both had previously pled guilty in July 2009 to making false statements to DOL.

The Romeros filed a union financial statement that failed to report a "slush fund" in five undisclosed bank accounts. The accounts contained nearly half of the union's cash and were used to make payments to the union officers and a family member.

This was a joint investigation with EBSA, with assistance from the Office of Labor Management Standards (OLMS) and IRS-CI. *United States* v. *John Romero and United States* v. *John J. Romero* (C.D. California)

# Labor-Management Investigations

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

## Longshoremen's Union President Found Guilty of Having No-Show Job

Frank R. Rago, an international representative for the International Longshoremen's Association (ILA) and president of ILA Local 1604 Ship Line Handlers union, was convicted on January 29, 2010, on several charges including receipt of unlawful labor payments and falsification of documents required by ERISA to be kept.

In 2001, Frank Rago told the owner of Boston Line & Shipping, which was the sole employer of Local 1604 members, that he could no longer work as a line handler because he obtained a job as an international representative. Frank Rago directed Boston Line to place him on a salary to replace his weekly wages even though he would no longer work for Boston Line. Rago directed Boston Line to finance the salary through deductions from the wages of the remaining Local 1604 members. In 2003, Rago changed the scheme slightly by directing Boston Line to transfer the deductions to Local 1604 as dues, and he arranged for his salary to be paid by Local 1604. In both cases, Rago made the salary arrangements and started to receive his no-show income several weeks prior to obtaining authorizations from the Local 1604 members.

In 2004, Frank Rago arranged for his son to work at Boston Line. Boston Line paid Rago's son for shifts that occurred during his high school classes when Rago's son was not working for Boston Line. Frank Rago caused false reports to be filed with the ILA's employee benefit plans including the false recording of hours that were not worked by his son.

This was a joint investigation with OLMS. *United States* v. *Frank R. Rago, et al.* (D. Massachusetts)

# Gambino Soldier and Two Union Officials Plead Guilty in Scheme Involving Illegal Gambling, Extortion, and Labor Racketeering

Between October 2009 and February 2010, guilty pleas were entered by 6 of 23 defendants indicted in May 2008 on Federal racketeering charges related to the running of an enterprise that engaged in illegal gambling, extortion, fraud schemes, and labor racketeering. Those pleading guilty were Andrew Merola, a high-ranking Gambino LCN Crime Family soldier and the main defendant in this investigation, and LIUNA Local 1153 officials Michael Urgola and Joseph Manzella. These guilty pleas bring the total to 22 of the 23 originally charged for their roles in the various conspiracies.

Merola, who had ultimate authority in the management and supervision of a crew of the Gambino Crime Family, pled guilty to RICO Conspiracy. Merola admitted that between February 2002 and March 2008, he was associated with other individuals in an enterprise known as the Gambino Crime Family, which operated principally in New Jersey and New York. Merola admitted that he conducted the affairs of the enterprise through a pattern of illegal activity that included the commission of the racketeering acts.

Merola admitted committing nine specific racketeering acts which included the operation of an illegal gambling business; collection of an extension of credit by extortionate means; conspiracy to commit wire fraud involving a bar code scheme as well as a credit card scheme; conspiracy to extort lunch truck vendors; two Taft-Hartley violations that involved demanding and/or receiving unlawful labor payments or bribes; wire fraud involving the theft of honest services where individuals were permitted to bypass the out-of-work list of LIUNA Local 1153; and wire fraud involving a no-show/low-show job Merola had while employed as an operating engineer for Local 825 of the International Union of Operating Engineers (IUOE).

Merola conspired with reputed Lucchese Crime Family member Martin Taccetta, business organizer of Local 825, and with John Cataldo, Paul Lanza, and Jonathan Lanza, to circumvent and ignore requirements of the CBA between Barone Construction and Local 825 involving the use of nonunion labor at a construction project at a car dealership.

In a similar scheme, Merola and Ralph Cicalese, a Gambino associate and a LIUNA Local 1153 shop steward, conspired with Joseph Manzella, business agent of Local 1153, to allow Par Wrecking Corporation to use nonunion labor at a demolition project in violation of the CBA with Local 1153. Par Wrecking paid more than $35,000 in cash to Cicalese.

Merola also pled guilty to a scheme in which Merola, Cicalese, Manzella, and Michael Urgola, Local 1153 business manager, knowingly and willfully devised a scheme to defraud Local 1153 members by having Urgola and Manzella use their union positions to provide Merola's friends and criminal associates with jobs that they would otherwise not be able to obtain. Urgola pled guilty to his role in this wire fraud conspiracy.

Merola and Charles "Buddy Musk" Muccigrosso, a Gambino soldier and member of IUOE Local 825, were also charged with defrauding Kiska Construction, their employer at a construction project at Goethal's Bridge in New Jersey. Merola and Muccigrosso were paid for full-time employment when in fact they alternated workweeks with each other, so that each of them only worked part-time. Cataldo and Joseph Schepisi, a foreman for Kiska Construction, previously pled guilty for assisting in the scheme.

This is an ongoing, large scale, multiagency investigation involving numerous Federal, state, and local law enforcement agencies, including the FBI, IRS-CI, the New Jersey State Police, and the Union County (New Jersey) Prosecutor's Office. *United States* v. *Andrew Merola, et al.* (D. New Jersey)

# Departmental Management

## FY 2009 FISMA - Actions Required to Resolve Significant Deficiencies and Improve DOL's Overall IT Security Program

As required by the Federal Information Security Management Act (FISMA), the OIG conducted an independent audit to determine whether the Department and its component agencies were meeting requirements related to FISMA. Failure to comply with FISMA leaves the Department vulnerable to security breaches where confidential information is at risk. We tested 5 systems from DOL's 72 major information technology (IT) systems and selected five control families for detailed testing — access control; certification, accreditation, and security assessment; configuration management; contingency planning; and incident response. In addition, we considered work performed by the OIG and external auditors, which included OIG's financial statement audit work covering 17 systems, one Statement on Auditing Standards No. 70 Service Auditor's Report, and a performance audit report of IT-UI contingency plans in all 53 State Workforce Agencies (SWAs).

We found that DOL and its component agencies were not meeting minimum IT security controls identifying significant deficiencies in access control and oversight of third-party IT security, as well as deficiencies in other audited control families. Regarding access control, this was the fourth consecutive year in which it was identified as a significant deficiency. Access control vulnerabilities included unauthorized access, improper privileges, insufficient logging and review, uncorrected prior-year deficiencies, and improper account management. Most notably, 93 user accounts were not disabled or deleted within the required time period, and two of those accounts were accessed by former employees. Regarding oversight of third-party IT security, vulnerabilities were identified in all five security control families tested, and included unprocessed background investigations, incompatible segregation of duties, unperformed incident response procedures, out-of-date and incorrect certification and accreditation documentation, and incomplete contingency planning documentation. Most notably, 49 of the 51 SWAs' contingency plans were missing critical elements.

In addition, we found that other IT security control deficiencies existed in DOL's IT security programs covering certification, accreditation, and security assessment; configuration management; contingency planning; incident response; and planning. Cumulatively, we issued 21 notifications of findings and recommendations to component agency management requiring corrective action for their respective identified deficiencies.

We made three recommendations to the Chief Information Officer to take steps to develop an information security and risk-based assessment strategy, and link system security risks and priorities to specific policies and procedures; target areas of greatest risk for focused oversight and timely remediation of identified IT security program deficiencies; and develop monitoring policies and procedures of third-party compliance with required minimum-security controls. The OASAM Deputy Assistant Secretary for Operations generally agreed to take the necessary corrective actions to address the recommendations. (Report No. 23-10-001-07-001; March 30, 2010)

# FINANCIAL MANAGEMENT - Consolidated Financial Statement Audit

*The Department received an unqualified opinion on its annual consolidated financial statements for the 13th consecutive year. The OIG contracted with KPMG, LLP, to audit these statements. KPMG issued an unqualified opinion and concluded that DOL's financial statements were presented fairly, in all material respects, and in conformity with generally accepted U.S. accounting principles.*

## Significant Deficiencies

In considering internal control over financial reporting, KPMG identified four significant deficiencies requiring management's attention, three of which were repeated from prior years. However, none of the significant deficiencies were believed to be material weaknesses.

1. **Lack of Adequate Controls over Access to Key Financial and Support Systems**
   KPMG noted continuing problems with account management, configuration management, and review of system audit logs that increase the risk of someone gaining unauthorized access to the Department's financial systems. Examples of account management weaknesses included certain terminated personnel having active system accounts and in some cases, accessing systems after their termination dates, and generic accounts existing on a system without a proper business justification. Configuration management weaknesses included weak password settings that did not comply with DOL security policy and inactive accounts that were not disabled or deleted in a timely manner. KPMG also noted that system audit logs for monitoring activities, such as changes to security profiles, remote access, and failed login attempts were not reviewed. Furthermore, audit log review procedures were not documented and finalized, and the logs were not secured against editing by system administrators. These access control weaknesses could result in users having inappropriate access to financial systems; lack of completeness, accuracy, or integrity of financial data; and/or undetected unusual activity within financial systems. KPMG made 12 new recommendations related to access controls, including one that was corrected during the review period. KPMG also noted that 25 prior-year, agency-specific recommendations related to access controls remained uncorrected by agency management.

2. **Weakness Noted over Payroll Accounting**
   DOL relies on the U.S. Department of Agriculture's National Finance Center (NFC) to process its payroll and should have controls in place to ensure the accuracy and reliability of DOL payroll transactions. KPMG had previously noted that DOL policies and procedures required review of only time and attendance records, and that the timeliness of these reviews could not be verified because the related reports lacked a space to insert the review date. The Department subsequently issued revised policies and procedures effective July 2009, which provided guidance for agencies' review of payroll-related items other than time and attendance records. KPMG's testing of payroll reconciliations resulted in its determination that insufficient evidence existed to support that agencies had completed these reviews. DOL's lack of compensating reconciliation controls around the NFC payroll outputs increases the risk of payroll-related misstatements due to errors in NFC's processing.

3. **Lack of Segregation of Duties over Journal Entries**
   The Office of the Chief Financial Officer (OCFO) did not provide documentation for 55 of 622 journal entries that KPMG selected for review to support that the journal entries were reviewed by a supervisor or someone other than the preparer before they were posted to the Department

of Labor and Accounting Related Systems (DOLAR$). KPMG also noted that 20 journal entries were posted to DOLAR$ prior to review and approval as evidenced by the signatures on the journal entries' cover sheets. In addition, OCFO staff made approximately $1.3 billion in adjustments to the consolidated financial statements' Combined Statement of Budgetary Resources without posting these adjustments into DOLAR$ in the form of journal entries (i.e., top-side adjustments). No evidence existed to support that appropriate management personnel had reviewed and approved these adjustments, and current DOL policies and procedures do not specifically cover top-side adjustment entries. By posting transactions and making adjustments to the consolidated financial statements without proper review and approval, and allowing individuals the authority to prepare and approve their own transactions in DOLAR$, there is an increased risk that a material error would not be prevented, or detected and corrected in a timely manner. Furthermore, there is a risk that employees are not following policies, and management is unaware of employee non-compliance.

The OCFO stated that DOL's new core financial management system, to be implemented in January 2010, will require electronic approval by someone other than the preparer before journal entries are posted. Therefore, DOL did not plan to implement the recommendation to reconfigure DOLAR$, so that journal entries entered into DOLAR$ are approved electronically by an individual other than the preparer before posting.

4. **Lack of Sufficient Controls over Financial Statement Preparation**

KPMG noted several errors and omissions that the OCFO did not detect in its review of the DOL draft financial statements. Furthermore, the OCFO did not provide KPMG a complete set of the draft consolidated financial statements and trial balances in a timely manner. These issues occurred because the OCFO did not perform a sufficiently detailed review of the consolidated financial statements to ensure that related misstatements, errors, and omissions were detected and corrected. In addition, the U.S. Department of Labor Manual Series did not include specific guidance on the review procedures of the consolidated financial statements that would guide DOL supervisors during their reviews. These issues resulted in the need for OCFO to correct the consolidated financial statements prior to final submission, causing delays in the financial reporting process. (Report No. 22-10-002-13-001; November 15, 2009)

# Audit of DOL's Fiscal Year 2008 Procurement Data Reported in the Federal Procurement Data System—Next Generation

The Federal Procurement Data System—Next Generation (FPDS-NG) is the government- wide system of information on the Federal government's purchase of goods and services. The data it contains is used to create recurring and special reports to the President, Congress, Government Accountability Office, Federal executive agencies, and the general public. Therefore, it is imperative that DOL ensures the completeness and accuracy of all information entered into FPDS-NG. The General Services Administration (GSA) administers FPDS-NG, and OASAM is responsible for implementing the procurement program within DOL, including the FPDS-NG. For FY 2008, DOL reported in the FPDS-NG 9,367 contracting actions totaling approximately $1.8 billion. We conducted a performance audit to determine if the Department provided Congress, GSA, and the OMB with complete and accurate procurement data.

We found that the Department generally reported all FY 2008 procurement actions in the FPDS-NG; however, the detailed data elements that comprised these procurement actions were not always accurately reported. Our statistical sample of 1,386 procurement data elements found that approximately 8 percent were either incorrect or unsupported. Examples of the procurement data elements with which we found problems were Current Completion Date, Extent Competed, Base and Exercised Options Value, Type of Set Aside, and Action Obligation Amount. Procurement officials told us one cause of the reporting errors was that contracting specialists may differ in their understanding of certain data field requirements because the data field descriptions are sometimes ambiguous. As a result, the procurement data that the Congress, GSA, and OMB received from the Department through the FPDS-NG were not always reliable.

Furthermore, the report DOL used to certify to OMB the accuracy of its FY 2008 procurement data in the FPDS-NG could not be adequately supported. The contractor DOL hired to perform its procurement data validation reported that the overall accuracy rate of DOL's FY 2008 procurement data in the FPDS-NG was 99.32 percent. However, the contracting vehicle OASAM used did not require — and the contractor did not maintain — documentation to support the methodology, conclusions, findings, or recommendations contained in the contractor's report. Without this documentation, OASAM had no assurance as to the quality of the contractor's work. Because the contractor's work could not be relied upon for DOL's certification to OMB, we believe the $190,718 paid for this work could have been put to better use.

We made four recommendations to OASAM to improve the accuracy of FPDS-NG data. If a contractor is used for future FPDS-NG reviews, it is important to ensure that contract requirements are specific and the contractor's work complies with those requirements. The OASAM Deputy Assistant Secretary for Operations concurred with the recommendations. (Report No. 03-10-001-07-711; February 22, 2010)

# The OIG Remains Concerned About Department's Implementation of New Financial System

The OIG issued two reports during this period expressing concerns about the New Core Financial Management System (NCFMS) as the Department continued forward with its implementation process. Previously, we had issued two memoranda during the NCFMS's pre-implementation stages to alert the Department to risks identified that related to employee training and cut-over procedures.

The OIG contracted with KPMG to conduct a pre-implementation performance audit of DOL's NCFMS prior to its rescheduled deployment in January 2010. OCFO is responsible for the migration of the previous financial management system (DOLAR$) to NCFMS. Implementation risks present a threat to the future integrity and availability of DOL financial data. Therefore, it is important for departmental officials to make decisions based on risk management regarding implementation risks and their realizable/potentially realizable impacts on controls and DOL financial statements.

In the pre-implementation audit, KPMG identified 11 implementation risks related to the design and execution of user acceptance testing, batch interface testing, real-time interface testing, and mock data conversion. These risks included system users that were not involved in the testing; the tests were not comprehensive; and the OCFO lacked documentation demonstrating whether identified problems had been corrected and re-tested.

KPMG also followed up on two related Alert Memoranda that were issued on August 21, 2009, and September 3, 2009. KPMG found that the OCFO had taken corrective actions to address previously identified risks related to training and cut-over procedures. Specifically, the OCFO increased training opportunities for DOL employees, and DOL employees attended this training; and the OCFO refined the NCFMS cut-over procedures from DOLAR$.

We recommended that OCFO take into consideration the risks identified by KPMG when making its decision to implement the NCFMS. The OCFO responded that it considered the audit results and discussed them in detail during the OCFO Change Control Board meeting in consideration of the NCFMS readiness to go forward with implementation. (Report No. 22-10-014-13-001; January 13, 2010)

On January 14, 2010, following the issuance of our pre-implementation audit report, the Department implemented NCFMS. Consequently, the risks that we identified, which were not mitigated prior to the system going live, are impacting the Department's ability to meet its FY 2010 financial reporting deadlines with the OMB and the related financial statement audit. Specifically, our contracted auditor, KPMG, has experienced delays in completing its planning procedures for the FY 2010 audit of the Department's consolidated financial statements. The delays occurred due to the challenges we previously identified that the Department was facing prior to the implementation of NCFMS. On March 30, 2010, as a result of the continuing system risks and delays to the timely completion of our FY 2010 audit, we issued an Alert Memorandum to the Acting Deputy Chief Financial Officer (CFO). The Alert Memorandum reiterated our concerns, which fell into three primary areas: data conversion, financial reporting, and the development and implementation of certain key processes.

- **Data Conversion** - Data from the previous accounting system, DOLAR$, had to be migrated to the new system; however, DOL has not adequately completed verification that all data was migrated correctly.
- **Financial Reporting** - DOL is unable to produce financial statements and is still addressing data integrity issues that impact the financial statements.
- **Development and Implementation of Certain Key Processes** - The implementation of the NCFMS has changed the way certain key processes need to be performed. However, procedures have not been developed and implemented for some processes.

Collectively, these areas of concern pose a risk that DOL will be unable to issue the consolidated financial statements in accordance with generally accepted accounting principles in sufficient time to

allow the OIG (specifically, the contractor KPMG) to complete its financial statement audit within the time frame required by OMB.

The Acting Deputy CFO stated that his office has developed an action plan to resolve the financial reporting issues and to offset the audit delays. Our preliminary analysis of the action plan indicates that the CFO's plan should satisfy the financial reporting issues associated with reporting for the second quarter and assist in getting the FY 2010 audit back on track. However, the plan does not include certain key tasks – such as reconciling activity reported in NCFMS and DOL's feeder systems and Treasury– which need to be completed by DOL management to ensure that DOL's March 31, 2010, financial statements are complete and accurate. Additionally, the plan does not include information on all tasks that OCFO will need to complete in the third and fourth quarters of FY 2010 to ensure DOL will be able to provide OMB with audited financial statements by November 15, 2010.

We will continue working with the OCFO on these matters. As noted in our Alert Memo, we recommended that the OCFO proceed with its plan and ensure it addresses the risks we identified related to data conversion, financial reporting, and development and implementation of certain key processes. (Report No. 22-10-015-13-001; March 30, 2010)

# Legislative Recommendations

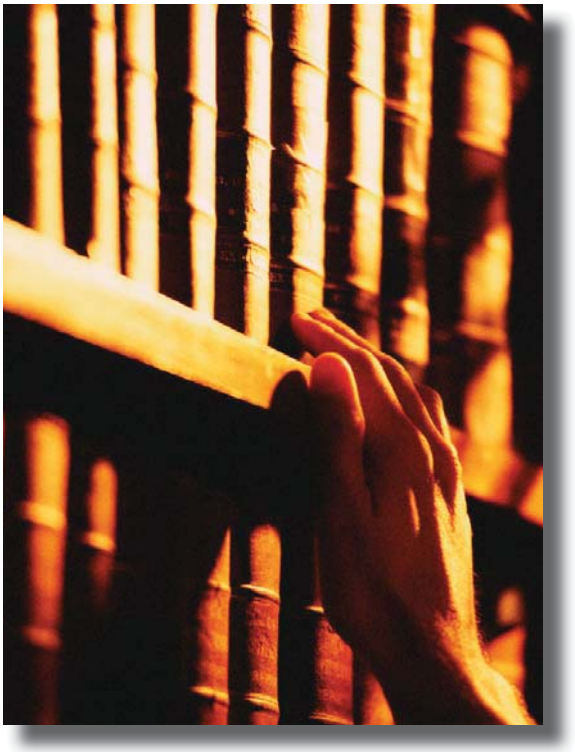
# Legislative Recommendations

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

## Allow DOL Access to Wage Records

To reduce overpayments in employee benefit programs, including UI, FECA, and DUA, the Department and the OIG need legislative authority to easily and expeditiously access state UI wage records, SSA wage records, and employment information from the National Directory of New Hires (NDNH), which is maintained by the Department of Health and Human Services.

By cross-matching UI claims against this new-hire data, states can better detect overpayments to UI claimants who have gone back to work but who continue to collect UI benefits. However, this law does not provide DOL nor the OIG with access to the NDNH. To make the new-hire data even more useful for this purpose, legislative action is needed requiring that employers report a new hire's first day of earnings and provide a clear, consistent, nationwide definition for this date. Moreover, access to SSA and UI data would allow the Department to measure the long-term impact of employment and training services on job retention and earnings. Outcome information of this type for program participants is otherwise difficult to obtain.



## Amend Pension Protection Laws

Legislative changes to ERISA and criminal penalties for ERISA violations would enhance the protection of assets in pension plans. To this end, the OIG recommends the following:

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

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

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

**Strengthen criminal penalties in Title 18 of the United States Code.** Three sections of Title 18 serve as the primary criminal enforcement tools for protecting pension plans covered by ERISA. Embezzlement or theft from employee pension and welfare plans is prohibited by Section 664; making false statements in documents required by ERISA is prohibited by Section 1027; and giving or accepting bribes related to the operation of ERISA-covered plans is outlawed by Section 1954. Sections 664 and 1027 subject violators up to 5 years' imprisonment, while Section 1954 calls for up to 3 years' imprisonment. We believe that raising the maximum penalties to 10 years for all three violations would serve as a greater deterrent and would further protect employee pension plans.

## Provide Authority to Ensure the Integrity of the Foreign Labor Certification Process

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

The OIG also recommends that ETA seek the authority to bar employers and others who submit fraudulent applications to the H-1B foreign labor certification program, similar to the authority it has regarding the H-2A and the H-2B programs.

## Enhance the WIA Program Through Reauthorization

The reauthorization of the WIA provides an opportunity to revise WIA programs to better achieve their goals. Based on our audit work, the OIG recommends the following:

- Improve state and local reporting of WIA obligations. A disagreement between ETA and the states about the level of funds available to states drew attention to the way WIA obligations and expenditures are reported. The OIG's prior work in nine states and Puerto Rico showed that obligations provide a more useful measure for assessing states' WIA funding status if obligations accurately reflect legally committed funds and are consistently reported.
- Modify WIA to encourage the participation of training providers. WIA participants use individual training accounts to obtain services from approved eligible training providers. However, performance reporting and eligibility requirements for training providers have made some potential providers unwilling to serve WIA participants.
- Support amendments to resolve uncertainty about the release of WIA participants' personally identifying information for WIA reporting purposes. Some training providers are hesitant to disclose participant data to states for fear of violating the Family Education Rights and Privacy Act.
- Strengthen incumbent worker guidance to states. Currently, no Federal criteria define how long an employer must be in business or an employee must be employed to qualify as an incumbent worker, and no Federal definition of "eligible individual" exists for incumbent worker training. Consequently, a state could decide that any employer or employee can qualify for a WIA-funded incumbent worker program.

## Improve the Integrity of the FECA Program

The OIG continues to support reforms to improve the integrity of the FECA program. Implementing the following changes would result in significant savings for the Federal government:

- Move claimants into a form of retirement after a certain age if they are still injured.
- Return a 3-day waiting period to the beginning of the 45-day continuation-of-pay process to require employees to use accrued sick leave or leave without pay before their benefits begin.
- Grant authority to DOL to directly and routinely access Social Security wage records in order to identify claimants defrauding the program.

# MSHA's Authority to Issue Verbal Mine Closure Orders

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

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

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# Audit and Investigative Schedules

## Funds Put to a Better Use

| Funds Put to a Better Use Agreed to by DOL | | |
|---|---|---|
| | Number of Reports | Dollar Value ($ millions) |
| For which no management decision had been made as of the commencement of the reporting period | 0 | 0 |
| Issued during the reporting period | 3 | 142.4 |
| Subtotal | 3 | 142.4 |
| For which management decision was made during the reporting period: | | |
| •Dollar value of recommendations that were agreed to by management | | 0.2 |
| •Dollar value of recommendations that were not agreed to by management | | 0 |
| For which no management decision had been made as of the end of the reporting period | | 142.2 |

| Funds Put to a Better Use Implemented by DOL | | |
|---|---|---|
| | Number of Reports | Dollar Value ($ millions) |
| For which final action had not been taken as of the commencement of the reporting period | 3 | 1.4 |
| For which management or appeal decisions were made during the reporting period | 1 | 0.2 |
| Subtotal | | |
| For which final action was taken during the reporting period: | | |
| •Dollar value of recommendations that were actually completed | | 0 |
| •Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed | | 0 |
| For which no final action had been taken by the end of the period | 4 | 1.6 |

## Questioned Costs

| Questioned Costs | | |
|---|---|---|
| **Resolution Activity: Questioned Costs** | | |
| | Number of Reports | Questioned Costs ($ millions) |
| For which no management decision had been made as of the commencement of the reporting period (as adjusted) | 29 | 56.3 |
| Issued during the reporting period | 7 | 0.3 |
| Subtotal | 36 | 56.6 |
| For which a management decision was made during the reporting period: | | |
| •Dollar value of disallowed costs* | | 27.7 |
| •Dollar value of costs not disallowed | | 9.7 |
| For which no management decision had been made as of the end of the reporting period | 13 | 19.2 |
| For which no management decision had been made within six months of issuance | 5 | 18.9 |

* DOL Grant Officers also disallowed an additional $300 thousand above auditors' original questioned costs this period.

| Closure Activity: Disallowed Costs | | |
|---|---|---|
| | Number of Reports | Disallowed Costs ($ millions) |
| For which final action had not been taken as of the commencement of the reporting period (as adjusted)* | 72 | 34.3 |
| For which management or appeal decisions were made during the reporting period | 16 | 27.8 |
| Subtotal | 88 | 62.1 |
| For which final action was taken during the reporting period: | | |
| •Dollar value of disallowed costs that were recovered | | 21.9 |
| •Dollar value of disallowed costs that were written off by management | | 0.0 |
| •Dollar value of disallowed costs that entered appeal status | | 0 |
| For which no final action had been taken by the end of the reporting period | 79 | 40.2 |

*These figures are provided by DOL agencies and are unaudited. Does not include $2.4 million of disallowed costs that are under appeal. Partial recovery/write-offs are reported in the period in which they occur. Therefore, many audit reports will remain open awaiting final recoveries/write-offs to be recorded.

# Final Audit Reports Issued

| Program Name / Report Name | # of Nonmonetary Recommendations | Questioned Costs ($) | Funds Put To Better Use ($) | Other Monetary Impact ($) |
|---|---|---|---|---|
| **Employment and Training Programs** | | | | |
| **Job Corps Program** | | | | |
| Performance Audit of DEL-JEN, Incorporated Job Corps Centers; Report No. 26-10-001-01-370; 11/03/09 | 6 | 0 | 0 | 19,740 |
| Performance Audit of Res Care, Incorporated Job Corps Centers; Report No. 26-10-002-01-370; 03/03/10 | 6 | 116,794 | 0 | 0 |
| Audit of Education and Training Resources, Job Corps Center Operator, Report No. 26-10 003-01-370; 03/18/10 | 8 | 22,758 | 0 | 5,193 |
| **YouthBuild** | | | | |
| Recovery Act: ETA Took Recommended Corrective Action to Ensure Congressional Intent Could Be Met in the YouthBuild Program; Report No. 18-10-006-03-001; 03/16/10 | 0 | 0 | 0 | 0 |
| **Workforce Investment Act** | | | | |
| Recovery Act: The U.S. Department of Labor Needs to Evaluate its Role in The Health Coverage Tax Credit (HCTC) Program; Report No. 18-10-003-03-390; 03/31/10 | 4 | 0 | 142,000,000 | 0 |
| Recovery Act: Actions Needed to Better Ensure Congressional Intent Can Be Met in the Workforce Investment Act Adult and Dislocated Worker Programs; Report No. 18-10-004 03-390; 03/31/10 | 1 | 0 | 0 | 0 |
| **Goal Totals (6 Reports)** | **25** | **139,552** | **142,000,000** | **24,933** |
| **Worker Benefit Programs** | | | | |
| **Wage and Hour** | | | | |
| Wage and Hour's Management Oversight of the FLSA's Minimum wage and Overtime Exemption Provisions Under 29 CFR Part 541 Could Be Strengthened; Report No. 04-10-002-04-420; 12/16/09 | 6 | 0 | 0 | 0 |
| WHD Northeast Region's Management of Civil Money Penalties and Back Wages Could Be Improved; Report No. 04-10-001-04-420; 03/31/10 | 3 | 0 | 0 | 304,225 |
| **Federal Employees' Compensation Act** | | | | |
| Special Report Relating to the Federal Employees' Compensation Act Special Benefit Fund; Report No. 22-10-001-04-431; 10/29/09 | 1 | 0 | 0 | 0 |
| **Longshore and Harbor Workers' Compensation** | | | | |
| Longshore and Harbor Workers' Compensation Act Special Fund Financial Statement and Independent Auditors' Report; Report No. 22-10-004-04-432; 03/09/10 | 0 | 0 | 0 | 0 |
| District of Columbia Workmens' Compensation Act Special Fund Financial Statement and Independent Auditors' Report; Report No. 22-10-005-04-432; 03/09/10 | 0 | 0 | 0 | 0 |
| **Goal Totals (5 Reports)** | **10** | **0** | **0** | **304,225** |
| **Worker Safety, Health and Workplace Rights** | | | | |
| **Mine Safety and Health** | | | | |
| Journeymen Mine Inspectors Do Not Receive Required Periodic Retraining; Report No. 05-10-001-06-001; 03/30/10 | 7 | 0 | 0 | 0 |
| **Goal Totals (1 Report)** | **7** | **0** | **0** | **0** |

# Final Audit Reports Issued, continued

| Program Name / Report Name | # of Nonmonetary Recommendations | Questioned Costs ($) | Funds Put To Better Use ($) | Other Monetary Impact ($) |
|---|---|---|---|---|
| **Departmental Management** | | | | |
| **OASAM Management** | | | | |
| Recovery Act: OASAM Needs to Ensure that Job Corps Contract Modifications Meet Recovery Act Requirements; Report No. 18-10-005-07-001; 03/30/10 | 2 | 0 | 244,626 | 0 |
| Actions Required to Resolve Significant Deficiencies and Improve DOL's Overall IT Security Program; Report No. 23-10-001-07-001; 03/30/10 | 2 | 0 | 0 | 0 |
| **OASAM Business Operations Center** | | | | |
| Audit of DOL's Fiscal Year 2008 Procurement Data Reported in the Federal Procurement Data System - Next Generation; 03-10-001-07-711; 02/22/10 | 3 | 0 | 190,718 | 0 |
| **Office of the Chief Financial Officer** | | | | |
| Independent Auditors' Report on the U.S. Department of Labor's FY 2009 Consolidated Financial Statements; Report No. 22-10-002-13-001; 11/15/09 | 5 | 0 | | 0 |
| Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements for the Year Ended September 30, 2009; Report No. 22-10-006-13-001; 03/18/10 | 56 | 0 | | 0 |
| Department of Labor (DOL) New Core Financial Management System (NCFMS) Pre-Implementation Performance Audit Report; Report No. 22-10-014-13-001; 01/13/10 | 1 | 0 | | 0 |
| **Goal Totals (6 Reports)** | **69** | **0** | **435,344** | **0** |
| **Final Audit Report Totals (18 Reports)** | **111** | **139,552** | **142,435,344** | **329,158** |

# Other Reports

| Program Name<br>Report Name | # of Nonmonetary Recommendations | Questioned Costs ($) |
|---|---|---|
| **Employment and Training Programs** | | |
| **Employment and Training - Multiple Programs** | | |
| Status of ETA Information System Recommendations Pertaining to the Financial Reporting in the Department's Performance and Accountability Report; Report No. 22-10-011-03-001; 11/09/09 | 21 | 0 |
| **Senior Community Service Employment Program** | | |
| Quality Control Review of Senior Service America, Inc. Audit of Federal Awards under OMB Circular A-133 June 30, 2008; Report No. 24-10-002-03-360; 12/14/09 | 0 | 0 |
| **Workforce Investment Act** | | |
| Information on DOL's Efforts to Ensure Access for Persons with Disabilities to the One-Stop Career System; Report No. 25-10-001-03-390; 03/10/10 | 0 | 0 |
| **Goal Totals (3 Reports)** | **21** | **0** |
| **Worker Benefit Programs** | | |
| **Wage and Hour** | | |
| Updated Status of Prior-Year Recommendations Related to Wage and Hour IT Security; Report No. 23-10-005-04-420; 03/31/10 | 1 | 0 |
| **Employee Benefits Security Program** | | |
| Updated Status of Prior-Year Recommendations Related to EBSA IT Security; Report No. 23-10-004-12-001; 03/30/10 | 1 | 0 |
| **Goal Totals (2 Reports)** | **2** | **0** |
| **Departmental Management** | | |
| **Office of the Secretary** | | |
| Recovery Act: The Department of Labor's Plan to Ensure Data Quality in Recipient Reporting; Report No. 18-10-001-01-001; 10/30/09 | 0 | 0 |
| **ESA Management** | | |
| Status of ESA Information System Recommendations Pertaining to the Financial Reporting in the Department's Performance and Accountability Report Audit; Report No. 22-10-010-04-001; 10/26/09 | 21 | 0 |
| **Office of the Assistant Secretary for Administration and Management** | | |
| OASAM Information System Recommendations Pertaining to the Financial Reporting in the Department's Performance and Accountability Report; Report No. 22-10-012-07 001; 11/9/09 | 10 | 0 |
| Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit; Report No. 23-10-002-07-001; 01/29/10 | 5 | 0 |
| **Office of the Chief Financial Officer** | | |
| OCFO Information System Recommendations Pertaining to the Financial Reporting in the Department's Performance and Accountability Report; Report No. 22-10-009-13-001; 11/9/09 | 8 | 0 |
| Alert Memorandum: Risks to Timely Completion of the U.S. Department of Labor Fiscal Year 2010 Consolidated Financial Statement Audit; Report No. 22-10-015-13-001; 03/30/10 | 1 | 0 |
| **Goal Totals ( 6 Reports)** | **45** | **0** |
| **Other Report Totals (11 Reports)** | **68** | **0** |

# Single Audit Reports Processed

| Program Name<br>Report Name | # of Nonmonetary Recommendations | Questioned Costs ($) |
|---|---|---|
| **Office of the Secretary** | | |
| **Office of Disability Employment Policy** | | |
| Worksystems, Inc.; Report No. 24-10-510-01-080; 01/05/10 | 1 | 0 |
| **Employment and Training Programs** | | |
| **Veterans Employment and Training Service** | | |
| Goodwill Industries of Greater Rapids, Inc.; Report No. 24-10-530-02-201; 03/11/10 | 3 | 0 |
| Way Station, Inc.; Report No. 24-10-532-02-201; 02/17/10 | 1 | 0 |
| Wyoming Contractors Association, Inc.; Report No. 24-10-539-02-201; 03/11/10 | 8 | 30,342 |
| **Employment and Training - Multiple Programs** | | |
| State of New Mexico Office of Workforce Solutions; Report No. 24-10-503-03-001; 11/03/09 | 7 | 0 |
| State of Ohio; Report No. 24-10-506-03-001; 11/10/09 | 4 | 0 |
| Worksystems, Inc.; Report No. 24-10-511-03-001; 01/05/10 | 2 | 0 |
| Kentucky Farmworkers Program; Report No. 24-10-514-03-001; 01/05/10 | 2 | 0 |
| Indian Center, Incorporated and Affiliates;; Report No. 24-10-519-03-001; 01/13/10 | 3 | 0 |
| Western Washington Employment and Training Program; Report No. 24-10-522-03-001; 01/21/10 | 1 | 0 |
| Job Service North Dakota; Report No. 24-10-527-03-001; 01/25/10 | 2 | 0 |
| Quad County Urban League; Report No. 24-10-528-03-001; 02/17/10 | 2 | 0 |
| Northeast Parent and Child Society, Inc.; Report No. 24-10-534-03-001; 03/05/10 | 2 | 0 |
| **Indian and Native American Program** | | |
| Minneapolis American Indian Center. Inc.; Report No. 24-10-501-03-355; 11/03/09 | 1 | 0 |
| Phoenix Indian Center, Inc.; Report No. 24-10-508-03-355; 11/10/09 | 7 | 0 |
| **Senior Community Service Employment Program** | | |
| National Indian Council on Aging, Inc.; Report No. 24-10-513-03-360; 01/13/10 | 3 | 0 |
| Experience Works, Inc.; Report No. 24-10-526-03-360; 01/21/10 | 1 | 250 |
| **Seasonal Farmworker Programs** | | |
| NAF Multicultural Human Development Corporation; Report No. 24-10-502-03-365; 11/03/09 | 2 | 0 |

# Single Audit Reports Processed, continued

| | | |
|---|---|---|
| **Workforce Investment Act** | | |
| City of Chicago; Report No. 24-10-500-03-390; 11/03/10 | 1 | 0 |
| Venice Community Housing; Report No. 24-10-505-03-390; 11/03/09 | 1 | 0 |
| Workforce Partnership of Greater Rhode Island; Report No. 24-10-507-03-390; 11/10/09 | 1 | 0 |
| Project Adventure, Incorporated and Subsidiary; Report No. 24-10-509-03-390; 11/24/09 | 11 | 0 |
| Youthbuild Newark, Inc.; Report No. 24-10-516-03-390; 02/17/10 | 4 | 0 |
| Spanish American Civic Association for Equality; Report No. 24-10-529-03-390; 02/17/10 | 4 | 0 |
| People of Color Against Aids Network Seattle; Report No. 24-10-531-03-390; 02/17/10 | 1 | 0 |
| Crater Regional Workforce Investment Board; Report No. 24-10-533-03-390; 02/17/10 | 3 | 0 |
| State of California, ARRA; 24-10-535-03-390; 03/04/10 | 1 | 0 |
| Cochise County Workforce Development, Inc.; Report No. 24-10-537-03-390; 03/05/10 | 1 | 0 |
| The Directors Council; Report No. 24-10-538-03-390; 03/05/10 | 2 | 5,333 |
| **Goal Totals (29 Reports)** | **82** | **35,925** |
| **Worker Benefit Programs** | | |
| **Unemployment Insurance Service** | | |
| Government of the Virgin Islands; Report No. 24-10-512-03-315; 01/13/10 | 7 | 170,067 |
| State of Nevada; Report No. 24-10-515-03-315; 01/05/10 | 3 | 25 |
| State of California; Report No. 24-10-517-03-315; 01/06/10 | 1 | 0 |
| State of Ohio; Report No. 24-10-518-03-315; 01/06/10 | 1 | 0 |
| Government of the District of Columbia; Report No. 24-10-521-03-315; 1/21/10 | 1 | 0 |
| **Goal Totals (5 Reports)** | **13** | **170,092** |
| **Worker Safety, Health and Workplace Rights** | | |
| **International Labor Affairs** | | |
| Partners of the Americans, Inc.; Report No. 24-10-504-01-070; 11/03/09 | 1 | 0 |
| **Goal Totals (1 Reports)** | **1** | **0** |
| **Report Totals (35 Reports)** | **96** | **206,017** |

# Unresolved Reports: Over Six Months Old

| Agency | Date Issued | Name of Audit | # of Recommendations | Questioned Costs ($) |
|---|---|---|---|---|
| **Nonmonetary Recommendations and Questioned Costs** | | | | |
| **Final Management Decision/Determination Issued by Agency Did Not Resolve; OIG Negotiating with Agency** | | | | |
| MSHA | 1/9/2009 | Complaint Received from the American Coal Company: Report No. 05-09-002-06-001 | 1 | 0 |
| EBSA | 3/31/2009 | EBSA Could More Effectively Evaluate Enforcement Project Results: Report No. 05-09-003-12-001 | 3 | 0 |
| EBSA | 9/30/2009 | EBSA Could Strengthen Policies and Procedures over the REACT Project: Report No. 05-09-005-12-001 | 2 | 0 |
| **Final Management Decision Not Issued by Agency by Close of Period** | | | | |
| Job Corps | 9/15/2009 | Notifications of Findings and Recommendations Related to the Federal Information Security Management Act Audit of: Job Corps' General Support: Report No. 23-09-006-01-370 | 5 | 0 |
| OSHA | 3/31/2009 | Employees With Reported Fatalities Were Not Always Properly Identified and Inspected Under OSHA's Enhanced Enforcement Program: Report No. 02-09-203-10-105 | 6 | 0 |
| **Final Determination Not Issued by Grant/Contracting Officer by Close of Period** | | | | |
| Job Corps | 9/30/2008 | Career Systems Development Corporation Controls Over Center Operations Were Not Effective: Report No. 26-08-001-01-370 | 1 | 21, 750 |
| Job Corps | 9/30/2008 | Performance Audit of Applied Technology System, Inc. Job Corps Centers: Report No. 26-08-005-01-370 | 2 | 678,643 |
| Job Corps | 3/31/2009 | Performance Audit of Management and Training Corporation Job Corps Centers: Report No. 26-09-001-01-370 | 1 | 63,943 |
| Job Corps | 9/30/2009 | Performance Audit of Adams and Associates, Incorporated Job Corps Centers: Report No. 26-09-003-01-370 | 1 | 0 |
| OSHA | 1/9/2009 | Procurement Violations and Irregularities Occurred In OSHA's Oversight of a Blanket Purchase Agreement: Report No. 03-09-002-10-001 | 3 | 681,379 |
| **Agency Has Requested Additional Time to Resolve** | | | | |
| ETA | 11/17/2008 | The City of Atlanta, Georgia Did Not Adequately Manage Welfare-to-Work and Workforce Investment Act Grants: Report No. 04-09-001-03-001 | 6 | 11,343,253 |
| OSHA | 9/18/2009 | Single Audit: Michigan Department of Energy, Labor and Economic Growth: Report No. 24-09-607-10-001 | 4 | 6,105,381 |
| **Total Nonmonetary Recommendations, Questioned Costs** | | | **35** | **18,894,349** |

# Investigative Statistics

| | Division Totals | Total |
|---|---|---|
| **Cases Opened:** | | 285 |
| Program Fraud | 229 | |
| Labor Racketeering | 56 | |
| **Cases Closed:** | | 218 |
| Program Fraud | 151 | |
| Labor Racketeering | 67 | |
| **Cases Referred for Prosecution:** | | 163 |
| Program Fraud | 115 | |
| Labor Racketeering | 48 | |
| **Cases Referred for Administrative/Civil Action:** | | 86 |
| Program Fraud | 72 | |
| Labor Racketeering | 14 | |
| **Indictments:** | | 169 |
| Program Fraud | 95 | |
| Labor Racketeering | 74 | |
| **Convictions:** | | 157 |
| Program Fraud | 97 | |
| Labor Racketeering | 60 | |
| **Debarments:** | | 44 |
| Program Fraud | 7 | |
| Labor Racketeering | 37 | |
| **Recoveries, Cost Efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions:** | | $48,056,470 |
| Program Fraud | $27,585,545 | |
| Labor Racketeering | $20,470,925 | |

| | |
|---|---|
| **Recoveries:** The dollar amount/value of an agency's action to recover or to reprogram funds or to make other adjustments in response to OIG investigations | $1,429,666 |
| **Cost-Efficiencies:** The one-time or per annum dollar amount/value of management's commitment, in response to OIG investigations, to utilize the government's resources more efficiently | $4,874,781 |
| **Restitutions/Forfeitures:** The dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations | $26,889,924 |
| **Fines/Penalties:** The dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations | $939,200 |
| **Civil Monetary Actions:** The dollar amount/value of forfeitures, settlements, damages, judgments, court costs, or other penalties resulting from OIG civil investigations | $13,922,899 |
| **Total** | **$48,056,470**[1] |

[1] These monetary accomplishments do not include the following amounts that have been recovered as a result of the OIG's investigative efforts in multi-agency investigations:

- Settlement with the Government in the amount of $4.5 million obtained from Pilgrim's Pride Corporation, resulting from an investigation of hiring and employment practices by this corporation.
- Civil forfeiture in the amount of $6.132 million obtained from IFCO Systems North America (IFCO) resulting from an investigation of hiring and employment practices by this corporation. This payment is an initial payment in conjunction with a total civil forfeiture settlement agreement of $18.132 million.

# OIG Hotline

*The OIG Hotline provides a communication link between the OIG and persons who want to report alleged violations of laws, rules, and regulations; mismanagement; waste of funds; abuse of authority; or danger to public health and safety. During the reporting period (October 1, 2009, through March 31, 2010), the OIG Hotline received a total of 1,372 contacts. Of these, 774 were referred for further review and/or action.*

| **Complaints Received (by method reported):** | **Totals** |
|---|---|
| Telephone | 983 |
| E-mail/Internet | 210 |
| Mail | 155 |
| Fax | 20 |
| Walk-In | 4 |
| **Total** | **1,372** |

| **Contacts Received (by source):** | **Totals** |
|---|---|
| Complaints from Individuals or Nongovernmental Organizations | 1,315 |
| Complaints/Inquiries from Congress | 12 |
| Referrals from GAO | 7 |
| Complaints from Other DOL Agencies | 26 |
| Complaints from Other (non-DOL) Government Agencies | 12 |
| **Total** | **1,372** |

| **Disposition of Complaints:** | **Totals** |
|---|---|
| Referred to OIG Components for Further Review and/or Action | 41 |
| Referred to DOL Program Management for Further Review and/or Action | 406 |
| Referred to Non-DOL Agencies/Organizations | 327 |
| No Referral Required/Informational Contact | 611 |
| **Total** | **1,385*** |

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

Office of Inspector General
United States Department of Labor

# Report Fraud, Waste, and Abuse

## Call the Hotline

202.693.6999 800.347.3756

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

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

OIG Hotline
U.S. Department of Labor
Office of Inspector General
200 Constitution Avenue, NW
Room S-5506
Washington, DC 20210

Office of Inspector General, U.S. Department of Labor
200 Constitution Avenue, NW
Room S-5506
Washington, DC 20210

Report Fraud, Waste, and Abuse by calling or e-mailing
the OIG Hotline
800.347.3756 or hotline@oig.dol.gov