



Semiannual Report to Congress

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





Contents

Significant Concerns.....	8
----------------------------------	----------

Worker and Retiree Benefit Programs

Unemployment Insurance Programs	20
Office of Workers' Compensation Programs	32
Employee Benefit Plans	33

Worker Safety, Health, and Workplace Rights

Occupational Safety and Health Administration	38
Mine Safety and Health Administration.....	42
Wage and Hour Programs	45

Employment and Training Programs

Employment and Training Administration Programs	48
Job Corps	50
Foreign Labor Certification Programs.....	52

Labor Racketeering

Labor Racketeering	56
--------------------------	----

Departmental Management

Departmental Management	60
Single Audits.....	63

Employee Integrity Investigations

OIG Whistleblower Activities.....

Legislative Recommendations.....

Appendices

Funds Recommended for Better Use	77
Questioned Costs	78
Final Audit Reports Issued.....	79
Unresolved Audit Reports Over 6 Months Old.....	82
Corrective Actions Taken by the Department	83
Unimplemented Recommendations	87
Investigative Statistics	97
Peer Review Reporting.....	99
OIG Hotline.....	100
Fiscal Year 2021 Audit Workplan.....	101

Message from the Acting Inspector General

As millions of COVID-19 vaccine doses are distributed around the world, our country is looking to a future beyond this pandemic. Businesses are reopening and the U.S. economy is beginning to show signs of recovery. However, millions of workers are still filing unemployment insurance (UI) claims each week. U.S. Department of Labor (DOL) programs support the health, safety, and financial stability of every working American. Now, the need for these programs to function efficiently and effectively is more important than ever. As the federal agency with primary oversight of DOL, the Office of Inspector General (OIG) is committed to ensuring that DOL meets its challenges head-on and assisting DOL and Congress in protecting the American workforce. We are diligently focused on reducing the negative impacts of the pandemic as the country continues to reopen.

The OIG took immediate steps to respond to the crisis, quickly developing a comprehensive Pandemic Response Oversight Plan (Plan) to address known and expected risks resulting from the pandemic. The plan was developed using experience and information gained from OIG work on previous disaster responses and stimulus bills. OIG work in this area provided a very useful foundation that facilitated the swift development and execution of the plan, especially in the area of expected risks. These risks include fraud, waste, and abuse as well as the need for efficiency and effectiveness in providing benefits, guidance, training, and other assistance to help the country get through the pandemic quickly and safely.

We continue to conduct oversight that focuses on the Department's response to the pandemic and, in particular, the Department's actions under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the American Rescue Plan Act of 2021, and other relevant legislation. Specific areas of review include DOL's efforts to help states administer and to oversee the expansion of unemployment benefits, protect workers from exposure to COVID-19, and provide guidance and enforce CARES Act regulations related to paid leave. During this reporting period, we issued an alert memorandum and two audit reports on COVID-19 and the pandemic, in addition to 15 audit and other reports reviewing DOL programs and operations. A short summary of each pandemic-related report is included herein, and the full publications and additional information about how we are conducting oversight and responding to the pandemic are available via the OIG's [Pandemic Response Portal](#).

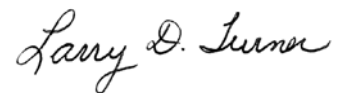
We have also issued numerous fraud alerts and worked alongside our law enforcement partners to notify public and private stakeholders, as well as the general public, of financial schemes relating to UI. As part of our investigative program, we have identified and stopped several multi state, multi million dollar UI fraud schemes targeting the unemployment insurance program. The OIG is committed to safeguarding this essential program and will

continue to alert the Department, the public, and our law enforcement and State Workforce Agency partners of any threats to the integrity of the UI system.

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

In addition to our extensive work relating to the pandemic, the OIG has continued to conduct audits to review the effectiveness, efficiency, economy, and integrity of DOL programs and operations, and investigations into alleged violations of federal laws relating to DOL programs, personnel, and operations. This report highlights all of our office's significant audit and investigative accomplishments during the reporting period, and several significant concerns, including those that relate to DOL's response to the pandemic.

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

A handwritten signature in cursive script that reads "Larry D. Turner".

Larry D. Turner
Acting Inspector General



OIG Mission

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

Core Values

Excellence

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

Integrity

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

Independence

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

Service

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

Transparency

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

Strategic Goals

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

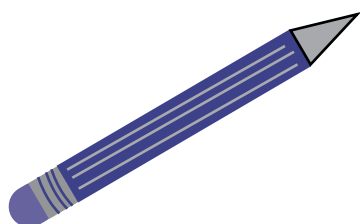
Goal 2: Foster an internal OIG culture that drives high performance and engagement.

Goal 3: Promote responsible stewardship of OIG financial and nonfinancial resources.

Audit Statistics

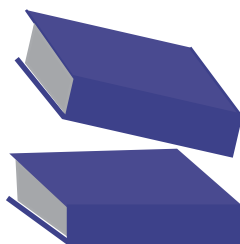
18

Audits and Other
Reports Issued



91

Recommendations for
Corrective Action



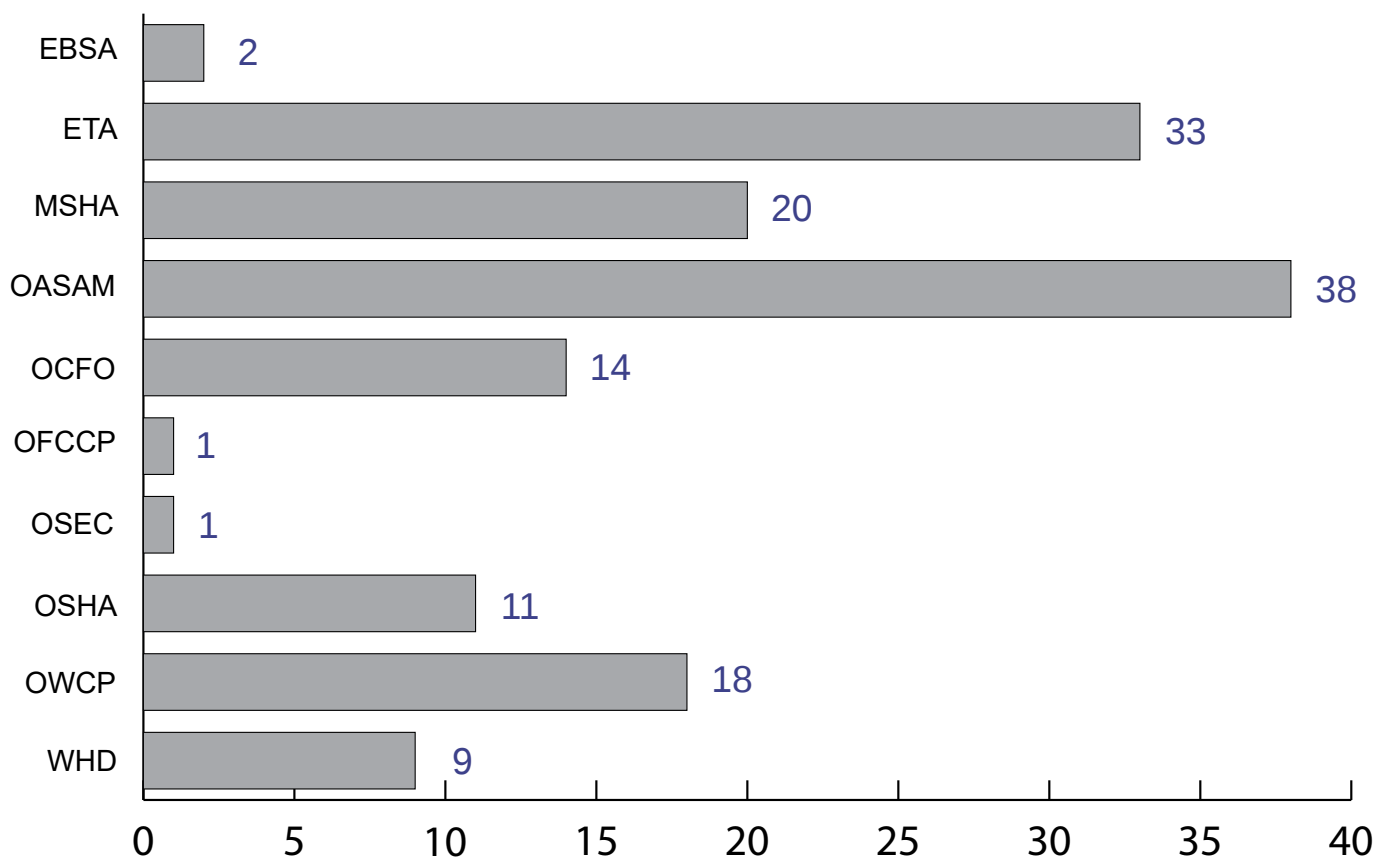
\$2 Million

in Questioned Costs



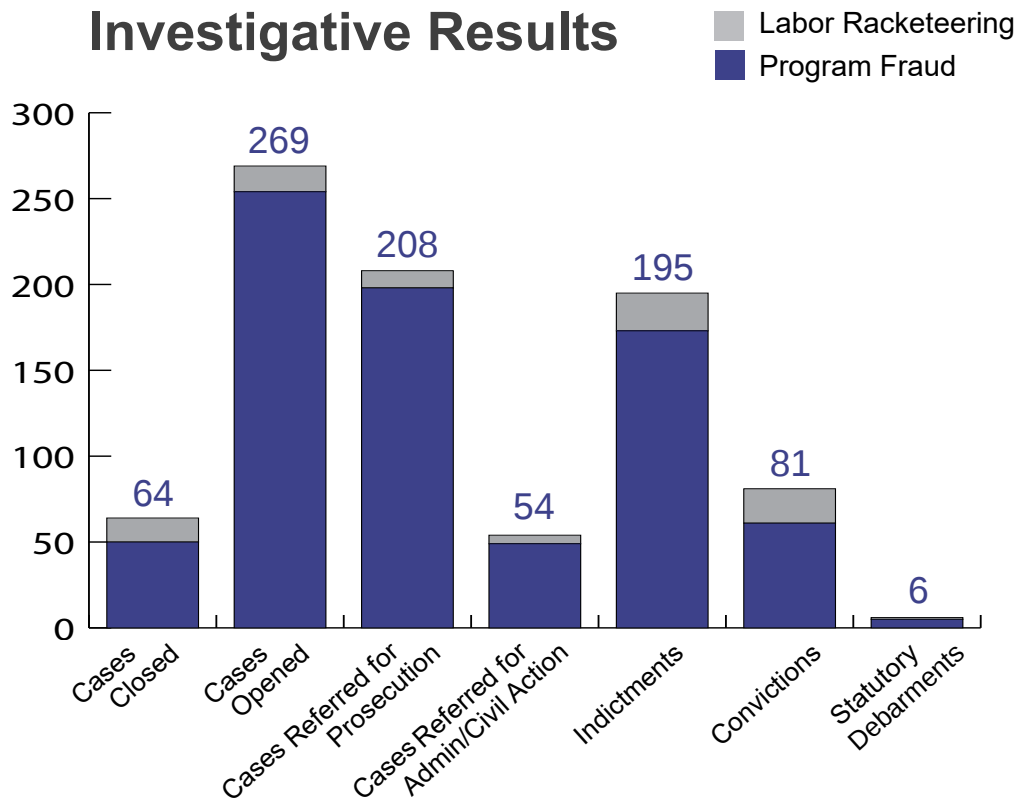
OIG Unimplemented Recommendations

OIG recommendations not fully implemented as of March 31, 2021

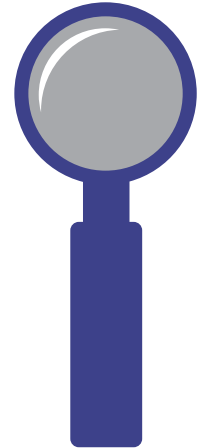


Investigative Statistics

Investigative Results

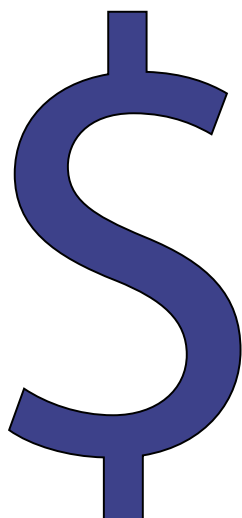


269 / 64



Over 260
investigative cases
opened and over 60
cases closed

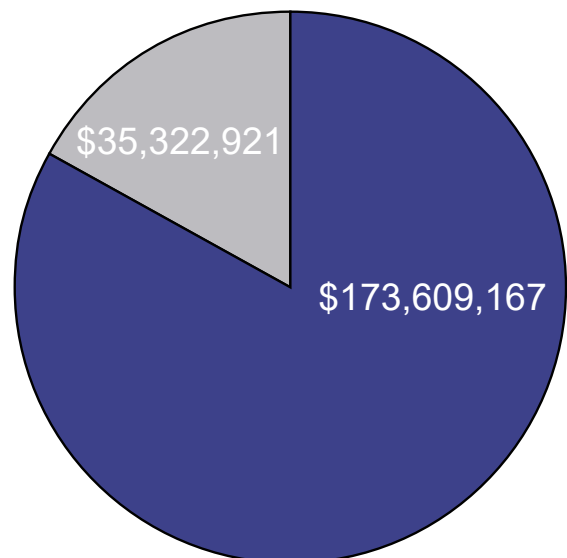
Monetary Accomplishments



These include

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

\$208,932,088
Total



■ Labor Racketeering
■ Program Fraud

Significant Concerns

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



Significant Concerns

Deploying Unemployment Insurance Benefits Expeditiously While Reducing Improper Payments

Over the years, the OIG has repeatedly reported significant concerns with DOL and State Workforce Agencies' (SWA's) ability to deploy program benefits expeditiously and efficiently while ensuring integrity and adequate oversight, particularly in response to national emergencies and disasters. The OIG has reiterated these concerns following the economic downturn created by the COVID-19 pandemic and the unprecedented levels of federal funding allocated to the Unemployment Insurance (UI) program, which is currently estimated at approximately \$896 billion.

The extraordinary increase in UI funding has resulted in a proportional increase in our investigative work in the UI program. Since the start of the pandemic, the OIG has reviewed more than 15,000 investigative matters and has opened more than 2,600 complaints and investigations relating to UI benefits paid under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and subsequent legislation. As a result of the surge in complaints, UI investigations now account for 76 percent of the OIG's investigative case inventory, compared with 12 percent prior to the pandemic.

For many years, the OIG has reported on the limitations of the Department's ability to measure, report, and reduce improper payments in the UI program. Historically, the UI program has experienced some of the highest improper payment rates among federal government benefit programs. The reported improper payment estimate for the regular UI program has been above 10 percent for 14 of the last 17 years,

falling to just over 9 percent during the first three quarters of Fiscal Year (FY) 2020. However, DOL has not estimated an improper payment rate for UI benefits provided in response to the COVID-19 pandemic. Assuming an improper payment rate of 10 percent or higher for extended federal benefits under the CARES Act and subsequent legislation, at least \$89 billion of the estimated \$896 billion in UI program funds could be paid improperly, with a significant portion attributable to fraud. The OIG's initial pandemic audit and investigative work indicate that UI program improper payments, including fraudulent payments, will be higher than 10 percent. For example, the alert memorandum we issued on February 22, 2021, identified \$5.4 billion in potential fraudulent payments.

Our prior audit work revealed that the Department has not done enough to formally assess the various strategies available to combat improper payments. Furthermore, improper payments stemming from fraudulent activity continue to pose a significant threat to the integrity of the UI program, as identity thieves and organized criminal groups have found ways to exploit program weaknesses. For example, benefits paid via non-state-issued prepaid debit cards help provide anonymity to those who submit fraudulent claims. Such issues are exacerbated by the significant funding increase in response to the COVID-19 pandemic, resulting in the need for greater oversight and scrutiny.

Under the Continued Assistance for Unemployed Workers Act of 2020, Congress did include additional provisions to mitigate the risk of improper payments, with applicants now being required to provide additional evidence to support their initial eligibility for UI benefits for the Pandemic Unemployment Assistance program. However, the Department needs to continue its

Significant Concerns

ongoing work with states to implement strategies designed to reduce CARES Act UI improper payments and share best practices identified among states. These strategies include:

- providing guidance to states on how to deploy resources efficiently and expeditiously;
- using analytics to close IT security and process gaps as well as to tighten controls for benefit integrity;
- establishing performance measures for activities to ensure timely delivery of benefits to those in need; and
- developing the required reporting to improve effectiveness and accountability.

In addition, the Department needs to provide timely oversight to ensure that states are effectively carrying out these critical responsibilities.

Providing the OIG Access to UI Claimant Data and Wage Records

The OIG's lack of direct access to SWA UI claimant data and wage records is of significant concern because this deficiency directly impedes the OIG's ability to combat fraud, waste, and abuse and provide independent oversight to help DOL reduce improper payments in employee benefit programs, including UI and Disaster Unemployment Assistance. For decades, OIG audits and investigations have been impeded by the lack of access to SWA UI claimant data and wage records. The COVID-19 pandemic and its detrimental consequences for U.S. unemployment greatly amplified that challenge to OIG work.

The OIG must have easy and expeditious access to state UI claimant and wage records to conduct appropriate oversight of the use of UI funds. In

support of OIG oversight activities, the OIG needs the authority to access SWA UI claimant data and wage records to verify claimants' eligibility for UI benefits, including both initial eligibility (and amounts) and continuing eligibility. Direct and timely access to these records will permit the OIG to identify claimants who are receiving benefits while also earning wages. The OIG could also use those records to assess the outcomes of UI reemployment programs, as well as other training programs, such as YouthBuild and Job Corps, where employment and wage increases are important factors in determining a program's success.

Granting the OIG access to SWA UI claimant data and wage records would provide the OIG with a valuable source of information for both audits and investigations. Similarly, sharing this information with DOL could help improve programmatic controls as well as the integrity of benefit payments.

Protecting the Safety and Health of Workers

The Occupational Safety and Health Administration (OSHA) is responsible for the safety and health of 130 million workers employed at more than 8 million establishments, and OSHA must ensure that employers are providing the level of protection required under relevant laws and policies. The OIG remains concerned about OSHA's ability to target its compliance activities to areas where it can have the greatest impact.

OSHA carries out its compliance responsibilities through a combination of self-initiated and complaint-based inspections. However, due to resource limitations, the program reaches only a fraction of the regulated entities. Consequently,

Significant Concerns

OSHA must target the most egregious or persistent violators to protect the most vulnerable worker populations. For example, about 2 million construction workers in the United States are exposed to respirable crystalline silica at work. Employers are required to limit worker exposure to silica and to take other steps to protect workers. However, because of limited resources, OSHA faces challenges to ensure that workplaces where workers are exposed are sufficiently covered.

Moreover, since the start of the pandemic, OSHA has received an influx of complaints. At the same time, OSHA has had to reduce the number of its inspections, particularly on-site inspections, as a way to reduce person-to-person contact. It received 15 percent more complaints in 2020 but performed 50 percent fewer (13,164 fewer) inspections compared to a similar period in 2019. Therefore, the risk that OSHA may not ensure the level of protection that workers need at various job sites has increased. OSHA's on-site presence during inspections has historically resulted in timely mitigation efforts for at least a portion of the hazards identified. However, with most OSHA inspections performed remotely during the pandemic, workplace hazards may remain unidentified and unabated longer, thereby leaving more employees vulnerable.

While OSHA has issued several guidance documents to enhance safety provisions during the pandemic, guidance does not carry the weight of OSHA rules or standards. Since the outbreak of COVID-19 more than a year ago, OSHA has not issued an emergency temporary standard for airborne infectious diseases that could protect employees' health and safety at worksites.

Protecting the Safety and Health of Miners

The Mine Safety and Health Administration's (MSHA's) ability to complete mine inspections while safeguarding the health of miners and the agency's staff during the COVID-19 pandemic is a concern for the OIG. At the same time, mine operators' underreporting of occupational injuries and illnesses hinders MSHA's ability to focus its resources on addressing concerns at the most dangerous mines. We are also concerned with the high incidence of powered haulage accidents in mines, which accounted for about half of all mine fatalities in 2017 and 2018 and a quarter of all mine fatalities in 2019. MSHA also needs to develop strategies to address lung disease in Appalachian coal mining states, in particular by updating regulations regarding quartz content in respirable dust. Quartz can cause deadly and incurable chronic diseases such as silicosis and black lung disease.

Improving the Performance Accountability of Workforce Development Programs

The OIG has concerns about the Department's ability to ensure that its investment in workforce development programs is successful in advancing participants' skills and placing them in suitable employment. The high unemployment rates caused by the pandemic make it more important than ever that the Department's workforce development programs assist job seekers and employers in finding and filling available jobs and assist workers in developing the right skills to fill new job openings. Critical to this task is the Department's ability to obtain accurate and reliable data to measure, assess, and make decisions regarding the performance of grantees,

Significant Concerns

contractors, and states in meeting the programs' goals.

The Department needs to ensure that its investments in credential attainment align with the needs of local employers and are having the desired impact on participants' ability to obtain or advance in a job. In a 2018 audit that followed up on the employment status of a sample of Job Corps students 5 years after they left the program, we found that Job Corps faced challenges in demonstrating the extent to which its training programs helped those participants obtain meaningful jobs appropriate to their training.

Research suggests that opioid dependency has been a leading cause of workforce exits for workers ages 25 to 54. To date, the Employment and Training Administration (ETA) has approved up to \$116 million in National Health Emergency Grants for 21 states and the Cherokee Nation to address the opioid crisis. It is vital that the Department monitor the performance of the discretionary grants it has awarded for the delivery of services to employers and workers affected by the opioid crisis.

Ensuring a Safe Return to On-Site Instruction at Job Corps Centers and Implementing Distance Learning During the Pandemic

The OIG is concerned about Job Corps' ability to effect a safe return to in-person learning during the COVID-19 pandemic. Job Corps released a program instruction notice in September 2020 to help guide centers as they begin a phased reopening. Preventing outbreaks of COVID-19 at centers across the United States will pose a significant challenge for Job Corps. Job Corps centers are mostly residential, with students and

some staff living on campus. Other residential educational institutions have had substantial difficulty containing and preventing outbreaks of COVID-19 due to students living, learning, and working in close proximity to one another. While Job Corps also plans to continue to improve its distance learning programs, the OIG is concerned with two issues related to this option. First, many Job Corps programs are intensively hands-on and may not successfully transition to a virtual training model. Second, many Job Corps students may not have access to the equipment or high-speed Internet services they need in order to effectively participate in distance learning. Since the summer of 2020, Job Corps has procured and distributed laptops and mobile hot spots to students to participate in distance learning. According to ETA, as of March 2021, Job Corps centers have distributed less than half the available equipment; however, new enrollment has decreased and ETA estimates that the remaining devices will be utilized once enrollment returns to normal, virtual enrollment is initiated, and distance learning is fully implemented.

Ensuring the Safety of Students and Staff at Job Corps Centers

In addition to the safety challenges posed by the COVID-19 pandemic, controlling on-campus violence and other criminal behavior remains a substantial challenge for Job Corps centers. OIG audits from 2015 and 2017 revealed that some Job Corps centers failed to report and investigate serious misconduct, such as drug abuse and assaults. The audits also disclosed that some Job Corps centers downgraded incidents of violence to lesser infractions, creating an unsafe environment for students and staff. The follow-up work we completed in December 2017, and our ongoing review of Job Corps' corrective

Significant Concerns

actions, showed that Job Corps has taken steps to improve center safety and security. However, the OIG has concerns with the process Job Corps uses to evaluate incoming applicants with respect to substance abuse and mental health issues. A March 2021 OIG audit report showed that the current process does not provide Job Corps centers the appropriate tools and resources to properly evaluate applicants as they enter the program. The OIG continues to monitor Job Corps' various safety initiatives and actions to keep students and staff safe.

Ensuring the Integrity of the DOL Rulemaking Process

We are concerned about the Department's procedures for issuing rules and guidance to promote the welfare of workers, job seekers, and retirees by safeguarding working conditions, health and retirement benefits, and wages. The Department's rules and guidance should be transparent to American taxpayers, comply with DOL's policies and procedures and applicable federal laws and regulations.

The OIG has previously noted this concern for transparency in rulemaking. For example, in December 2020, the OIG issued its report on DOL's 2017 Notice of Proposed Rulemaking (NPRM) to rescind portions of its 2011 regulations concerning tipped employees under the Fair Labor Standards Act. The report showed that DOL did not demonstrate it had followed a sound process in promulgating the 2017 NPRM and did not fully adhere to regulatory guidance. Consequently, DOL was not transparent and did not provide the public with complete information either to assess the potential impact of the proposed rule or to

meaningfully participate in DOL's rulemaking process.

DOL also faces the challenge of ensuring that it enters into rulemaking, rather than simply issuing guidance, when appropriate. For example, a 2019 OIG audit found that OSHA lacked a procedure to ensure that it had considered and determined the appropriateness of issuing a document as guidance, rather than a rule. Issuing a document as guidance is appropriate if the document is interpretative or a general statement of policy, and if it does not create, modify, or revoke a standard. Between 2014 and 2016, OIG found that OSHA had not followed its existing procedures for 80 percent of sampled guidance.

DOL is aware of the challenges associated with its rulemaking process and continues to review its rulemaking policies and to update its rulemaking standard operating procedures. However, questions remain regarding the Department's transparency with American taxpayers when it comes to the rulemaking process and its compliance with federal laws and regulations applicable to rulemaking.

Maintaining the Integrity of Foreign Labor Certification Programs

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

Significant Concerns

agents, attorneys, labor brokers, employers, and, most often, organized criminal enterprises.

In 2003, the OIG issued a white paper¹ outlining vulnerabilities that then existed in four FLC programs, PERM, H-1B, H-2A, and H-2B, and, in 2020, we issued a similar report. We found that, although the post-2003 rules revamped the PERM, H-2A, and H-2B visa programs, as well as addressed some of the vulnerabilities cited in OIG and Government Accountability Office (GAO) audits and investigations, those same rules created challenges regarding DOL's responsibilities. Additionally, DOL continues to have limited authority over the H-1B and PERM programs which challenges protecting the welfare of the nation's workforce.

The statute limits DOL's ability to deny H-1B applications. Specifically, DOL may only deny incomplete and obviously inaccurate H-1B applications and has only limited authority to conduct H-1B investigations in the absence of a complaint. The PERM program itself is persistently vulnerable to employers not complying with its qualifying criteria. Therefore, both the PERM and H-1B programs remain highly prone to fraud.

With various new DOL rules going into effect since 2003, there have been opportunities for the PERM, H-2A, and H-2B visa programs to change. For example, these new rules implemented employer attestation programs, which allow employers to agree to the conditions of employment without providing supporting documentation to validate their agreements.

¹Department of Labor. 2003. *Overview and Assessment of Vulnerabilities in DOL's Alien Labor Certification Programs*. Report No. 06-03-007-03-321. Washington, DC: Office of Inspector General. <https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=06-03-007-03-321&y=2003>.

However, DOL has identified instances in which the employer is not complying with the conditions of employment, reinforcing how susceptible these programs are to fraud.

Finally, DOL has not established a risk-based process to determine which H-2A and H-2B applications to audit. The current selection process does not use data analytics or account for risk when selecting applications to audit. Further, ETA has not documented any risk factors it considers before initiating an audit; thus, it is difficult to determine whether the applications audited were those most likely to result in violations eligible for debarment.

Protecting the Security of Employee Benefit Plan Assets

The OIG remains concerned over the Employee Benefits Security Administration's (EBSA's) ability to protect the benefit plans of about 154 million plan participants and beneficiaries under the Employee Retirement Income Security Act of 1974 (ERISA). In particular, the OIG is concerned about the statutory limitations on EBSA's oversight authority and inadequate resources to conduct compliance and enforcement. A decades-long challenge to EBSA's compliance program, ERISA provisions allow billions of dollars in pension assets to escape full audit scrutiny. We have previously found that as much as \$3.3 trillion in pension assets, including an estimated \$800 billion in hard-to-value alternative investments, held in otherwise regulated entities such as banks, received limited-scope audits that provided few assurances to participants regarding the financial health of their plans. EBSA needs to focus its limited available resources on investigations that are most likely to result in the deterrence, detection, and correction of

Significant Concerns

ERISA violations, particularly given the number of benefit plans EBSA oversees relative to the number of investigators it employs. Finally, EBSA lacks the authority under the Federal Employees' Retirement System Act (FERSA) to effectively oversee more than \$500 billion in Federal employee Thrift Savings Plan (TSP) assets. FERSA requires EBSA to conduct regular compliance audits to determine whether the Federal Retirement Thrift Board (the Board), an independent agency, is fulfilling its fiduciary duties and properly safeguarding TSP participants' assets.

Managing Medical Benefits in the Office of Workers' Compensation Programs, Including Opioids

The OIG has concerns about the Office of Workers' Compensation Programs' (OWCP) ability to effectively manage rising home health care costs in the Energy Employees Occupational Illness Compensation Act (Energy Workers) program, as well as the use and cost of pharmaceuticals in the Federal Employees' Compensation Act (FECA) program. The Department needs to make sure it has controls in place to ensure that the medical benefits it provides to energy workers and FECA program claimants are safe, effective, medically necessary, and the most cost-effective.

In the Energy Workers program, with an aging claimant population and an increased demand for home health-care services, there is a potential for providers to exploit these benefits through unauthorized or unnecessary billings. Since 2010, home health care costs paid by the Energy Workers program have grown from \$100 million to more than \$675 million, amounting to 74 percent of all medical benefits paid by the program in

FY 2020. OWCP needs to continue its efforts to analyze home health-care billings for abusive practices and to identify and refer allegations involving potential fraud or abuse to the OIG for further investigation.

Past audits of the FECA program have identified internal control weaknesses related to OWCP's management of pharmaceuticals. For example, OWCP allowed increases in billings for compounded drugs to go undetected and failed to identify the overuse of opioids. Given the high risk of fraud related to prescription payments, OWCP needs to analyze and monitor FECA program costs to promptly detect and address emerging issues before they manifest into material concerns.

Consistent with prior OIG audit recommendations, OWCP imposed restrictions on opioid prescriptions in September 2019, limiting all initial opioid prescriptions to 7 days, with three subsequent 7-day refills, and requiring prior authorization to obtain opioids beyond 28 days. According to OWCP-provided data, OWCP's efforts to address the opioid problem have resulted in declines in opioid use and new prescriptions. However, in response to the COVID-19 pandemic, OWCP has had to divert resources from focusing on claimants with opioid prescriptions to processing an influx of COVID-19 claims from federal workers, which has the potential to negatively impact the FECA program's opioid user population. OWCP needs to balance program needs under this pandemic, all the while

Significant Concerns

continuing its efforts to help identify claimants at risk of opioid dependence and determine the associated costs of addiction treatment.

Ensuring the Solvency of the Black Lung Disability Trust Fund

Miners and their dependent survivors receive lifetime benefits when awarded under the Black Lung Benefits Act. Mine operators pay these benefits when possible, and the Black Lung Disability Trust Fund (BLDTF) pays the benefits when a miner's former employer does not or cannot assume liability. OIG's primary concern is that the current annual income of the BLDTF (primarily from an excise tax on coal) is not sufficient to cover annual benefit obligations, to meet administrative costs, and to service past debt. According to DOL's Agency Financial Report, as of September 30, 2020, the BLDTF was carrying close to a \$6 billion deficit balance, which is projected to grow to nearly \$15 billion (in constant dollars) by September 30, 2045.

The U.S. Energy Information Administration projects that coal production will generally decline through 2050, a downturn that has already resulted in several coal mine operators filing for bankruptcy. In some instances, the BLDTF will be responsible for benefit payments previously made by mine operators no longer able to cover their federal black lung liabilities.

In February 2020, the GAO issued a report concluding that operator bankruptcies have placed a financial strain on the fund and that DOL's insufficient oversight of coal mine operator self-insurance arrangements exposed the BLDTF to financial risk. Later that month, OWCP published a news release announcing reforms to the self-insurance process for coal mine operators to better protect the BLDTF.² It stated, "[i]n part, the assessment involves reviewing actuarial estimates of the operators' liabilities and setting security amounts based on those liabilities and the operators' risk of default" (see Table 1).

The excise tax that funds the BLDTF is levied on domestic sales of coal mined in the United States (coal exports and lignite are not subject to this tax). From January 1 through December 31, 2019, the tax rates were reduced to the rates originally set when the trust fund was established in 1978: \$0.50 per ton of underground-mined coal or \$0.25 per ton of surface-mined coal. Even though this rate reverted to higher, pre-2019 levels effective January 1, 2020, the temporary tax rate reduction plus the reduction in coal production will result in decreased cash inflows to the BLDTF.

² <http://www.dol.gov/newsroom/releases/owcp/owcp20200224>.

Significant Concerns

TABLE 1: SELF-INSURED COAL MINE OPERATOR BANKRUPTCIES AFFECTING THE BLDTF, FILED FROM 2014 THROUGH 2016

Coal Operator	Amount of Collateral at the Time of Bankruptcy	Estimated Transfer of Benefit Responsibility to the BLDTF	Estimated Number of Beneficiaries for Whom Liability Has Been Transferred to the BLDTF
Alpha Natural Resources	\$12.0 million	\$494 million	1,839
James River Coal	\$0.4 million	\$141 million	490
Patriot Coal	\$15.0 million	\$230 million	993
Total	\$27.4 million	\$865 million	3,322

The Congressional Research Service reported in 2019 that “the decline in the excise tax rates will likely put additional financial strain on a trust fund that already borrows from the general fund to meet obligations.”³ Moreover, the tax rate will once again revert to the lower, 2019 levels beginning in January 2022, putting further strain on the BLDTF.

Securing and Protecting Information Management Systems

We remain concerned about the Department’s ability to safeguard its data and information systems. While the Department is implementing a new IT governance model, we continue to report deficiencies in its efforts and ability to identify vulnerabilities, to protect information systems and data, and to recover from security incidents. The most recent deficiencies we identified were in four of the five information security functional areas as defined by the National Institute of Standards and Technology Cybersecurity Framework. These deficiencies continue to hinder the Department from identifying security weaknesses; protecting its systems and data; and detecting, responding to, and recovering from incidents. For example, DOL has not:

- implemented effective strategies and programs to identify system security vulnerabilities and ensure that appropriate actions are being taken.
- provided adequate oversight of its information systems, including those that are either owned or operated by contractors or other federal entities on behalf of DOL; or
- accurately identified its information system inventory, as well as its hardware and software asset inventory.

The Department’s agencies rely on IT systems to obtain and create vast amounts of information and data in carrying out their missions. Included in these data are the personally identifiable information and personal health information of the public and of federal employees. Securing these data is a concern because DOL’s data integrity is constantly at risk from external and internal threats, and we continue to identify deficiencies in the Department’s efforts to protect its information systems. In addition, we determined that the Department has not adequately planned or implemented the technology tools required to manage and

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

Significant Concerns

monitor IT security. Moreover, DOL changed its work and IT landscape to significantly expand telework operations for its employees as well as to identify alternate methods for securing data that were previously required to remain on-site for security reasons.

As the Department is moving its information systems to a shared services model and expanding its use of cloud and third-party providers for its information infrastructure and services, we continue to identify deficiencies in the Department's oversight of information systems managed by DOL's program agencies and systems operated by a third-party on behalf of the Department. As the Department continues this transition, we are concerned with the Department's ability to provide the oversight and to retain the specialized knowledge and expertise required to protect and manage its systems, including the contracted systems.

Since this issue was first identified in 2011, the Department has been unable to implement an effective asset management system. The Department maintains a significant number of desktops, laptops, tablets, and mobile devices for its employees. In addition, the Department maintains servers, routers, storage devices, and other IT hardware. The Department indicated it implemented an enterprise asset management system in FY 2020 and is in the process of ensuring data quality. However, the Department needs to provide evidence of such implementation, and more work needs to be done to effectively track and protect its assets through their life cycle. Without effective asset inventory processes, the Department is unable to account for and secure its data and equipment.

These deficiencies represent ongoing risks to the confidentiality, integrity, and availability of DOL's

information systems, which are necessary to support the Department's mission. Our concern is whether DOL can implement the necessary strategies and tools to provide sufficient capability and effective security for the Department's data and information systems as well as to support the execution of its mission. Finally, we continue to be concerned that the position of the Chief Information Officer does not report directly to the agency head. Realigning the organization to create a direct reporting relationship would provide the position with greater independence and authority to implement and maintain an effective information security program.

Improving the Job Corps' Procurement Process

Job Corps spends about \$1 billion on goods and services annually for approximately 120 centers nationwide and is currently transitioning center operations from cost reimbursement to fixed-price contracts. The Department believes this transition will lower government risk, reduce the administrative burden, generate more pre-award efficiencies, and encourage more participants to compete for contracts. Increased competition among contractors should lead to better contractor performance with fewer staffing shortages and improved services, including those for centers' safety and security.

Prior OIG work in this area found that Job Corps' procurement processes did not ensure the best value for taxpayers. As the Department moves to fixed-price contracting, the Department must continue to ensure that its contract requirements are well-developed, that contract competition is fair, that contractor payments align with performance metrics and related outcomes, and that sound post-award oversight is used to quickly ameliorate deficiencies and poor performance.

A decorative curved band in a lighter shade of blue, arching across the top of the slide.

Worker and Retiree Benefit Programs

Unemployment Insurance Programs

Enacted more than 80 years ago as a federal–state partnership, the UI program is the Department’s largest income-maintenance program. This multibillion-dollar program provides unemployment benefits to eligible workers who become unemployed through no fault of their own. Although the program’s framework is determined by federal law, the benefits for individuals depend on state law and, generally, state funding of benefits that are administered by state workforce agencies (SWAs) in jurisdictions covering the 50 states, the District of Columbia, and U.S. territories, under the oversight of DOL’s Employment and Training Administration (ETA). The federal government pays the program’s administrative expenses.

DOL-OIG Oversight of the Unemployment Insurance Program

Background

As the federal agency with primary oversight of DOL, the OIG remains committed to meeting the challenges created by the COVID-19 pandemic and assisting DOL and Congress in improving the efficiency and integrity of the UI program. Strengthening the UI program to prevent improper payments, including fraud, and to detect and recover improper payments that have been made, is key to ensuring unemployed workers expeditiously receive much needed benefits, while safeguarding tax dollars directed toward that goal.

The UI program is a joint federal-state program that acts as an initial economic safety net when individuals lose their jobs through no fault of their own. Each SWA:

- administers a separate UI program under its laws, but follows uniform guidelines established by federal law;
- establishes requirements for eligibility, benefit amounts, and the length of time that benefits can be paid; and
- manages the personnel and system resources to administer their respective programs.

UI benefits are generally funded by state employer taxes with administrative costs funded by the federal government. Extensions and expansions of coverage and benefits, such as those provided by the CARES Act and subsequent legislation, are also normally funded by the federal government. DOL’s ETA is the federal agency responsible for providing program direction and oversight. The OIG conducts [independent oversight](#) of the UI program through audits to strengthen the integrity and efficiency of the program and criminal investigations to detect and combat large-scale fraud.

DOL-OIG UI Oversight Work

In April 2020, we published our [Pandemic Response Oversight Plan](#) detailing how the OIG would conduct its oversight, with a significant focus on the UI program. We structured the work

Worker and Retiree Benefit Programs

for completion in four phases. During Phase 1, we examined past audits related to the American Recovery and Reinvestment Act of 2009, and the Disaster Unemployment Assistance program, and assessed comparable lessons learned as they were applicable to the UI program. As a result, in late April 2020, we issued an [Advisory Report](#) outlining our initial concerns regarding the implementation of the UI program provisions under the CARES Act. The report summarized dozens of OIG recommendations to implement corrective action in these areas.

Since then, we have issued several other reports and alerts involving the UI program. For example, our assessment of DOL's CARES Act implementation plan resulted in an [Alert Memorandum](#) in May 2020, describing our concerns regarding claimant self-certification in the Pandemic Unemployment Assistance (PUA) program. In our view, reliance on such self-certifications rendered the PUA program highly vulnerable to improper payments and fraud. The OIG's alert memorandum informed recent COVID-19 legislation, which included provisions to improve SWAs' abilities to ensure proper claimant eligibility and to mitigate fraud.

In June 2020, the OIG provided a [member briefing](#) and a [statement for the record](#) to Congress highlighting challenges DOL and SWAs face in administering and overseeing the UI program. As the OIG reported, the unprecedented infusion of federal funds into the UI program gave individuals and organized criminal groups a high-value target to exploit. That, combined with easily attainable stolen PII and continuing UI program weaknesses identified by the OIG over the last several years, allowed criminals to defraud the system.



Indeed, following the passage of the CARES Act, fraud against the UI program exploded. Working with our federal and state partners, we have been able to identify billions in potential UI fraud nationwide. The OIG has opened more than 15,000 new investigative matters involving UI fraud since the crisis began, up from an average of 100 UI fraud matters pre-pandemic.

In response to the extraordinary increase in oversight demands, the OIG hired additional criminal investigators; increased the caseload of investigators already on-board; deployed federal and contract staff to review DOL and SWAs' efforts; and strengthened our data analytics program. In addition, we took several other actions to augment our efforts, including the following:

- initiated the development of a [National UI Fraud Task Force](#), alongside the U.S. Department of Justice (DOJ);
- collaborated with DOJ on the strategic assignment of 12 term-appointed Assistant United States Attorneys assigned solely to prosecute UI fraud;
- established a multi-disciplinary Pandemic Rapid Response Team within the OIG;
- appointed a national UI fraud coordinator to manage our national investigative response to UI fraud;

Worker and Retiree Benefit Programs

- appointed seven regional UI fraud coordinators to partner with the SWAs and federal, state and local law enforcement on UI fraud matters in their geographic areas of responsibility;
- leveraged resources from the Council of the Inspectors General on Integrity and Efficiency, Pandemic Response Accountability Committee;
- collaborated with States' Auditors to help develop their audit strategies for the CARES Act UI programs; and
- implemented an extensive outreach and education program targeted to SWAs, the Department, financial institutions and their associations, law enforcement agencies, and the public to inform and raise awareness regarding fraud trends, best practices, red flags, and more.

Our efforts to date have directly resulted in the identification and recovery of more than \$150 million in fraud involving the UI program. We have also assisted in the identification and recovery of more than \$565 million in fraudulent UI benefits. In addition, the OIG identified more than \$5.4 billion of potentially fraudulent UI benefits paid to individuals with Social Security numbers filed in multiple states, to individuals with Social Security numbers of deceased persons and federal inmates, and to individuals with Social Security numbers used to file for UI claims with suspicious email accounts. In an [Alert Memorandum](#) issued in February 2021, the OIG notified DOL of these high risk areas for potentially fraudulent claims and recommended DOL take corrective actions.

Since the start of the pandemic, more than 140 individuals have been charged and arrested for federal offenses related to UI fraud. In one recent

OIG case, [U.S. v. Leelynn Danielle Chytka](#), in the Western District of Virginia, a defendant pleaded guilty for her role in a scheme that fraudulently stole more than \$499,000 in UI benefits using the identities of individuals ineligible for UI, including a number of prisoners.

DOL's Progress

While concerns persist within the UI program, DOL has instituted efforts to focus on program integrity when implementing the CARES Act and other pandemic-related UI programs. These efforts include putting agreements in place with states to comply with all applicable requirements to receive funds, issuing operating guidance, and providing technical assistance to SWAs individually and through webinars. DOL has included requirements for SWAs to focus on program integrity in guidance related to pandemic related UI funds. In addition, DOL has reinforced the need for SWAs to actively partner with the OIG to address fraud in the UI program. Further, the UI Integrity Center, established by DOL through a grant and operated by the National Association of State Workforce Agencies (NASWA), has continued to develop the Integrity Data Hub (IDH) to serve as a secure portal for SWAs to cross-match public and private sources of data, including new tools that will help prevent improper payments. DOL is working with NASWA's Integrity Center to further enhance SWA participation in and use of NASWA's IDH through additional guidance and regular communication with SWAs.

Worker and Retiree Benefit Programs

DOL-OIG UI Recommendations

The OIG has made several recommendations to improve the efficiency and integrity of the UI program. Specifically, DOL needs to:

- facilitate the OIG's access to UI claim data for audit and investigative oversight purposes through the issuance of Unemployment Insurance Program Letters;
- further enhance SWA participation in and use of the IDH operated by NASWA;
- work with SWAs to ensure that sufficient staffing and system resources are in place to manage sudden increases in the number of UI claims and payments to meet the continued requirements of the CARES Act, and similar future legislation;
- incorporate the impact of UI improper payments related to temporary programs, such as those created by the CARES Act, into the traditionally estimated improper payment rate calculations;
- identify and implement strategies designed to reduce the UI improper payment rate, including sharing best practices identified among SWAs;
- ensure that SWAs are enforcing UI claimants' requirements to meet the conditions of UI eligibility, including: 1) being available for work; 2) actively seeking work; and 3) accepting suitable and safe work when offered;
- create a rapid response team consisting of federal and state officials capable of providing technical and other assistance to SWAs impacted by major disasters;
- establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to ineligible claimants, including UI benefits paid to: multi-state claimants, claimants who used Social Security

numbers of deceased individuals, potentially ineligible federal inmates, and claimants with suspicious email accounts; and

- work with Congress to establish legislation requiring SWAs to cross-match in high-risk areas, including the four areas identified in the February 2021 [Alert Memorandum](#).

In addition, Congress should consider legislative proposals included in prior budget requests and pass legislation to improve UI program integrity. These legislative proposals are consistent with previous OIG findings and recommendations to improve the UI program. The proposals include the following:

- allow the Secretary of Labor greater authority to require SWAs to implement UI corrective actions related to performance and integrity;
- require SWAs to use the NASWA's IDH and the State Information Data Exchange System;
- require SWAs to cross-match UI claims against the National Directory of New Hires;
- require SWAs to cross-match UI claims with the U.S. Social Security Administration's prisoner database and other repositories of prisoner information;
- allow SWAs to retain 5 percent of UI overpayment recoveries for program integrity purposes; and
- require SWAs to use UI penalty and interest collections solely for UI administration.

Finally, Congress should consider legislative action to allow DOL and the OIG to have direct access to UI claimant data and wage records for its oversight responsibilities. Real-time direct access to SWA UI claimant data and wage records systems would further enable the OIG to quickly identify large-scale fraud and expand its current efforts to share emerging fraud trends with state

Worker and Retiree Benefit Programs

workforce partners in order to strengthen the UI program and likely prevent fraud before it occurs. In addition, the data analytics based on the direct access would further enable our auditors to identify program weaknesses and recommend corrective action that will improve the timeliness of UI benefit payments and the integrity of the UI program. For more information, please refer to the Legislative Recommendations section of this report.

DOL-OIG Ongoing and Planned UI Work

The OIG's efforts to strengthen and protect the UI program continue. In addition to working with our law enforcement partners to combat fraud in the program, we will be issuing additional reports covering critical areas of concern and opportunities for program improvement. These will include reports on:

- the capability of SWAs' legacy IT systems to process UI benefit claims timely and accurately;
- the effectiveness of SWAs' controls to ensure UI benefit payments are timely and made to only eligible claimants;
- DOL and SWAs' efforts to prevent and detect overpayments;
- the impact of CARES Act and subsequent legislation provisions on nontraditional UI claimants;
- SWAs' use of pandemic legislation UI administrative funds and drawdowns; and
- the sufficiency of SWAs' staffing resources to support implementation of pandemic UI programs.

For more information about the OIG's work, please visit our [Pandemic Response Portal](#).

COVID-19: States Cite Vulnerabilities in Detecting Fraud While Complying with the CARES Act UI Program Self-Certification Requirement

The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 provides for up to 39 weeks of Pandemic Unemployment Assistance (PUA). To be eligible for benefits under PUA, applicants are required to self-certify that they are unemployed for reasons related to the COVID-19 pandemic, and they are advised against making fraudulent representations. As of July 8, 2020, disbursements for PUA benefits totaled nearly \$110 billion.

UI programs historically have among the highest improper payment rates of all federal programs, and the unprecedented volume of PUA claims, coupled with the short timeframe to implement the PUA program, increases the risk of improper payments, including those involving fraud. As a result, we conducted this audit to determine what steps states have reported taking to implement the PUA program and to deter and detect fraud related to applicants' self-certification. To meet this objective, we developed a survey to obtain information from the states on their implementation of the PUA program, the self-certification process, and the tools used to detect and deter fraud.

Officials in the 45 states that responded to the survey all reported that they had implemented the PUA program. However, 98 percent of the respondents reported implementation challenges, including a lack of resources to address the high volume of claims, incompatible legacy systems, and untimely and unclear guidance from ETA.

Worker and Retiree Benefit Programs

States acknowledged the PUA self-certification requirement as the top fraud vulnerability within the PUA program. Ninety-one percent of respondents reported using a variety of tools to detect and deter fraud, such as documentation of wages earned or income verification, predictive analytics, and cross-matching with other databases to verify eligibility (see Table 2). In addition, 89 percent of respondents said their state requires applicants to acknowledge that their self-certifications are subject to penalty of perjury.

TABLE 2: FRAUD MESSAGING BY STATES

Survey Question	Response and Associated Rate
1. Is the claimant advised that intentional misrepresentation in the self-certification process is fraud?	Yes: 100%
2. Is the claimant required to acknowledge that his/her self-certification is subject to penalty of perjury?	Yes: 89%
3. Does your state website provide clear messaging online that claimants may be subject to criminal prosecution if they are found to have committed fraud?	Yes: 91%

Source: OIG analysis of PUA survey results

A majority of states also reported stopping payment for claims when they suspect fraud, conducting investigations, and referring cases to DOL-OIG for investigation. In addition, some states said they report suspected fraud to state and local law enforcement. However, while most states appeared to be taking steps to detect and deter suspected fraudulent claims, many still said they faced resource and system challenges that lessened their ability to better detect and deter fraud.

We did not make any recommendations in this report.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2021/19-21-001-03-315.pdf>, Report No. 19-21-001-03-315 (October 21, 2020).

Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas

The OIG identified a concern during the audit of DOL's response to the UI program's expansion under the CARES Act. An examination, in collaboration with the OIG's Office of Investigations, identified more than \$5.4 billion of potentially fraudulent UI benefits paid to individuals who: 1) filed in multiple states, 2) used Social Security numbers of deceased persons, 3) were federal inmates, or 4) used suspicious email accounts to file for UI claims (see Table 3).

Worker and Retiree Benefit Programs

This alert memorandum captured only a subset of the potentially fraudulent UI activities from March 2020 through October 2020 and was the result of comprehensive data analysis. We expect the actual amount of potential fraud to be much larger. For example, in January 2021, California reported that it paid at least

TABLE 3: POTENTIAL FRAUDULENT BENEFIT PAYMENTS

Type of Potential Fraud	Amount
Multi-State Claimants	\$3,500 Million
Social Security Numbers of Deceased Persons	\$587 Million
Federal Inmates	\$98 Million
Suspicious Email Accounts	\$2,000 Million

Source: OIG analysis of claims filings

10 percent (\$11 billion) of its UI benefits to fraudulent claimants since the pandemic began and believed the amount could be as high as 27 percent (\$29 billion). The SWAs paid out a total of \$400 billion in calendar year 2020. If other SWAs have problems similar to those of California, potential fraud could easily range into the tens of billions of dollars.

ETA needs to take immediate action and increase its efforts to ensure that SWAs implement effective controls to mitigate fraud and improper payments. Without effective controls, the UI program is exposed to substantial risks, including the cost of improper payments to ineligible claimants. For example, NASWA's IDH is a secure, centralized platform to compare and analyze UI claims data through various cross-matches. IDH performs cross-matches, such as multi-state claims and comparisons with deceased persons' Social Security numbers and provides the match results to the affected SWA. According to ETA, SWA use of the IDH has increased during the pandemic. As of December 2020, 32 of the 54 SWAs had used or partially used the IDH. According to NASWA, the use of the IDH during the pandemic has helped to prevent more than \$178-million in improper

payments. However, SWAs are not required to use the IDH and 22-SWAs have opted to not use the IDH.

To address claims filed by federal inmates, who are potentially ineligible for UI benefits, ETA needs to determine how SWAs can cross-match federal prisoner UI data to prevent additional improper payments. In addition to cross-matching federal prisoners and UI data, ETA must assist SWAs to ensure they implement controls to cross-match state prisoner data to mitigate fraud.

To mitigate suspicious email fraud, ETA can require SWAs to request additional identity verification to file a UI claim that uses a suspicious email account. ETA could also prohibit claimants from using the particular account types used to commit fraud.

We made two recommendations to ETA to establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to ineligible claimants, including fraud in the four areas identified in the memorandum. ETA also needs to work with Congress to establish legislation requiring SWAs to cross-

Worker and Retiree Benefit Programs

match the high-risk areas identified in this alert memorandum.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=19-21-002-03-315&y=2021>, Report No. 19-21-002-03-315 (February 22, 2021).

Oklahoma Employment Security Commission Blocks More Than 1,800 Fraudulent UI Claims, Saving Tax Payers More Than \$6.5 Million

Between July 14, 2020, and October 15, 2020, the Oklahoma Employment Security Commission (OESC) blocked more than 1,800 fraudulent UI claims that were filed after the CARES Act became law. This action stopped more than \$6.5 million in UI benefits from reaching the hands of international criminals.

Following the enactment of the CARES Act, the U.S. Attorney's Office for the Northern District of Oklahoma created the Coronavirus Anti-Fraud Team. The team determined that a large number of the fraudulent UI claims used the stolen identities of Osage Nation employees, a federally recognized Native American government headquartered in Oklahoma. Investigative efforts determined UI claims had been filed through the Internet from several offshore locations including South Africa, Australia, London, Chile, Panama, and Toronto. Based on investigative findings, OESC stopped this large group of claims, blocked the IP addresses used to file the UI claims and began blocking other foreign IP addresses from accessing and filing UI claims with the OESC.

The investigation of the domestic access of the fraudulently obtained benefit funds is ongoing.

This is a joint investigation with OESC and the Osage Nation—Office of the Attorney General.

Pennsylvania Man Sentenced to Prison for UI and Tax Fraud Scheme

On October 29, 2020, Aaron Horton was sentenced to 75 months in prison and ordered to pay more than \$500,000 in restitution for his involvement in a UI and tax return fraud scheme. Horton, along with various indicted and unindicted co-conspirators, created false and fictitious businesses in order to use stolen PII to collect unemployment benefits and file false tax returns.

This is a joint investigation with the IRS Criminal Investigation Division (IRS-CI), U.S. Postal Inspection Service, Social Security Administration -OIG), and Treasury Inspector General for Tax Administration. *United States v. Aaron Horton* (E.D. Pennsylvania)

Man Sentenced for His Role in a Scheme to Defraud the Unemployment Systems in the States of Arizona and California

On March 18, 2021, Misael Jimenez-Castro pleaded guilty to one count of aggravated identity theft and was sentenced to 24 months of incarceration. After his period of confinement is complete, Jimenez-Castro must surrender to U.S. Immigration and Customs Enforcement for removal proceedings. As a condition of his plea

Worker and Retiree Benefit Programs

agreement, the government agreed to drop all remaining charges.

In July 2020, Jimenez-Castro arrived at the Miami International Airport aboard a flight from the Dominican Republic and proceeded through U.S. Customs. While Jimenez-Castro was undergoing screening for entry into the United States, Customs and Border Protection officers discovered a composition notebook and a cellular telephone containing PII within his backpack.

Jimenez-Castro admitted to OIG special agents that the composition notebook was his and that he used the stolen PII to file unemployment claims in the states of Arizona and California. An examination of his cellular telephone later revealed text messages containing a link to the unemployment web page for the state of Arizona. Jimenez-Castro was subsequently apprehended pursuant to a criminal complaint charging him with unlawfully possessing 15 or more access devices and aggravated identity theft while trying to enter the United States.

This is a joint investigation with Homeland Security Investigations. *United States v. Jimenez-Castro* (S.D. Florida)

Arkansas Women Sentenced in Unemployment Benefits Scheme

On January 13, 2021, Delanea Edwards was sentenced to three years of probation and ordered to pay more than \$21,000 in restitution to the states of Indiana, Massachusetts, and Texas for her involvement in an unemployment benefits conspiracy. From June 2012 through August 2017, Edwards, along with 18 other charged individuals, conspired with Mark “Big Head” King to create multiple fictitious employers to allow Edwards

and the other conspirators to obtain UI benefits. Through the scheme, the group defrauded 16 states of more than \$500,000.

United States v. Delanea Edwards (E.D. Arkansas)



UI debit cards seized during a search of King's residence.

Michigan Man Pleads Guilty to UI Fraud

In March 2021, Dwayne Cochran of Detroit pleaded guilty to one count of wire fraud and one count of aggravated identity theft.

Cochran submitted fraudulent UI claims through the Internet using unauthorized PII in order to obtain benefits from the Michigan Unemployment Insurance Agency. Cochran engaged in a scheme to file 223 fraudulent claims, resulting in a loss to the State of Michigan of more than \$188,000.

United States v. Dwayne Cochran (E.D. Michigan)

Worker and Retiree Benefit Programs

Southern California Man Pleads Guilty to Fraudulently Obtaining More Than \$500,000 in COVID-19 Unemployment Assistance

In February 2021, Bonifacio Jastilana Marinas pleaded guilty to a federal criminal charge for fraudulently obtaining more than \$500,000 in COVID-19-related unemployment benefits in the names of foreign nationals he falsely claimed were local real estate agents hit hard financially by the pandemic.

Marinas admitted to filing approximately 85 UI claims with the California Employment Development Department in which he falsely asserted that the named claimants were self-employed real estate agents in Los Angeles County and their jobs were adversely impacted by the COVID-19 pandemic.

In actuality, the named claimants resided in Saipan or the Philippines, were not registered as real estate agents in Los Angeles County, had no employment history in California, and were not eligible for the benefits Marinas claimed.

Marinas listed his own residence as the mailing address for each of the named claimants. As a result, the debit cards used to distribute the unemployment benefits were mailed to Marinas, who then used them to withdraw the fraudulently obtained funds.

This investigation was jointly worked with U.S. Secret Service, U.S. Postal Inspection Service

and the California Employment Development Department.

USA v. Marinas (C.D. California)

Miami Resident Pleads Guilty to Aggravated Identity Theft and Mail Fraud for His Role in a Scheme to Defraud Multiple State UI Programs

In March 2021, Joel Bellegarde pleaded guilty to one count of mail fraud, one count of aggravated identity theft, and one count of use of unauthorized access devices.

Bellegarde used stolen identities to fraudulently submit claims and collect UI benefits from Oklahoma. This CARES Act UI fraud was one of several fraudulent schemes perpetrated by Bellegarde. Bellegarde also used stolen identities to file fraudulent applications for various lines of credit and to gain access to victims' retirement savings accounts, successfully completing account takeovers. During a search of Bellegarde's apartment, OIG and FBI agents seized bulk cash, cell phones, computers, lists of PII, multiple credit cards from various financial institutions, and counterfeit checks.

This is a joint investigation with the FBI. *United States v. Joel Bellegarde* (S.D. Florida)

Worker and Retiree Benefit Programs

Two California Men Plead Guilty to Texas UI Fraud Scheme

In March 2021, Ricardo Parno and Carlos Lopez Gomez each entered a guilty plea to a one count information, charging each of them with theft of government funds.

From November 2020 through January 2021, Parno and Lopez-Gomez traveled from California to Texas and found addresses that could be used to receive mail and benefits associated with fraudulent UI claims. Parno used a fake Utah driver's license along with a fraudulent insurance card to open at least 33 mailboxes at 24 different retail locations throughout the Dallas–Fort Worth metroplex. Parno applied for, paid for, and opened these mailboxes under alias. Stolen identities were used to file fraudulent UI claims with the Texas Workforce Commission.

This was a joint investigation with the U.S. Postal Inspection Service and the Texas Workforce Commission. *United States v. Ricardo Parno, United States v. Carlos Lopez Gomez* (N.D. Texas)



Mailbox keys in plain view following a probable-cause traffic stop of a vehicle operated by Parno and Lopez-Gomez

Worker and Retiree Benefit Programs

Bronx Man Arrested for Alleged \$1.4 Million COVID-19 UI Fraud

On March 16, 2021, Elvin German was arrested and charged with wire fraud and aggravated identity theft in connection with a COVID-19 unemployment benefit scheme that resulted in the loss of more than \$1.4 million from the New York State Department of Labor (NYS DOL).

From May 2020 through March 2021, German allegedly engaged in a scheme to obtain COVID-19 unemployment benefits by fraudulently filing and verifying applications using the names and Social Security numbers of more than 250 people. The NYS DOL was alerted to the suspicious activity based on metadata associated with the applications, which were either submitted and/or verified on a weekly basis from the same internet protocol (“IP”) address. Additionally, the applications had the same security questions and responses, including that the applicant’s first pet was named Benji. After identifying the residence assigned to the IP address, OIG and U.S. Secret Service agents conducted a joint search of the residence. During the search, items linked to German were located including, approximately \$7,000 in cash, a computer loaded with the NYS DOL unemployment benefits web page, and the PII of four individuals open in an adjacent computer file and, consistent with the security question used in the fraudulent applications, a dog wearing a collar inscribed with the name “Benji.”



Photo of “Benji” the dog and his dog tag

This is a joint investigation with the U.S. Secret Service. *United States v. Elvin German* (S.D. New York)

Office of Workers' Compensation Programs

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

FECA is the largest of the programs and provides workers' compensation coverage to millions of federal, postal, and other employees for work-related injuries and illnesses. Benefits include wage loss benefits, medical benefits, vocational rehabilitation benefits, and survivors' benefits for covered employees' employment-related deaths.

Dallas Resident Sentenced for Receiving Illegal Kickbacks Related to a Federal Health Care Program

In October 2020, Terry Holley was sentenced to 12 months in prison and ordered to pay more than \$190,000 in restitution for his role in a kickback scheme involving the DOL's Office of Workers' Compensation Programs.

In September 2019, Holley, an employee at a durable medical equipment supplier, was charged by information with one count of receipt of illegal remuneration. From around August 2014 to around September 2017, Holley received cash from a corporation in exchange for providing PII of federal employees covered under the Federal Employees' Compensation Act.

This is a joint investigation with the U.S. Postal Service–OIG, U.S. Department of Veterans Affairs–OIG, and U.S. Department of Homeland Security–OIG. *United States v. Terry Holley* (N.D. Texas)

Employee Benefit Plans

The Department's EBSA is responsible for protecting the security of retirement, health, and other private-sector employer-sponsored benefit plans for America's workers and retirees, and their families. EBSA is charged with protecting about 154 million workers, retirees, and family members who are covered by nearly 722,000 private retirement plans, 2.5 million health plans, and similar numbers of other welfare benefit plans that together hold estimated assets of \$10.7 trillion..

Two Georgia Men Sentenced in Large-Scale Money Laundering Conspiracy Involving Stolen Pension Funds

On January 12, 2021, Prince Okai was sentenced to a term of 57 months in prison followed by three years of supervised release. On December 16, 2020, Obinna Nwosu was sentenced to a term of 37 months in prison followed by three years of supervised release. Both men had pleaded guilty to conspiracy to commit money laundering.

Nwosu and Okai were charged in the same money laundering conspiracy with 21 other individuals. The laundered funds originated from the targeting of Employee Retirement Income Security Act (ERISA) covered retirement accounts, business e-mail compromise schemes, and online romance schemes.

Nwosu was ordered to pay more than \$1 million in restitution. In addition, the U.S. Attorney's Office for the Northern District of Georgia submitted an order and judgment of forfeiture seeking a personal judgment against Nwosu, in the amount of \$979,612.51 requiring Nwosu to forfeit all assets, amounting to nearly \$1 million, to the U.S. government. Okai was ordered to pay \$4,950,586.54 in restitution. In addition, the U.S. Attorney's Office for the Northern District

of Georgia submitted an Order and Judgment of Forfeiture seeking a personal judgment against Okai, requiring that Okai forfeit all assets, amounting to \$3.5 million, to the U.S. government.

This investigation, Operation Five Fingers, is being conducted under the auspices of the Organized Crime Drug Enforcement Task Force (OCDETF) program—the keystone drug, money laundering, and transnational organized crime enforcement program of the Department of Justice, along with the support of the International Organized Crime Intelligence and Operations Center (IOC-2). DOL-OIG is a member agency of both OCDETF and IOC-2.

This was a joint investigation with the FBI, Homeland Security Investigations, U.S. Secret Service, and DOL-EBSA. *United States v. Obinna Nwosu* (N.D. Georgia), *United States v. Prince Okai* (N.D. Georgia)

Former CFO Sentenced for Embezzling More Than \$1 Million from Employee-Owned Company

On October 22, 2020, Carrie N. Harris was sentenced to 41 months in prison for committing wire fraud, and 24 months in prison for aggravated identity theft and ordered to pay more than \$1 million in restitution for embezzling from her

Worker and Retiree Benefit Programs

employer to pay for her personal expenses. Harris was also debarred for 13 years by DOL's EBSA. Harris will be prohibited from serving any employee benefit plan as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee or representative in any capacity.

As the CFO and Treasurer, Harris was responsible for the company's finances, payroll, bank accounts, payable books and records, and payroll taxes. Harris, however, did not have check signing authority. Harris possessed and used the signature of the company's president on company checks used to pay for her and her husband's personal expenses. Between December 2008 and June 2013, Harris caused more than 100 company checks to be issued in amounts ranging from approximately \$4,500 to approximately \$17,000, each of which was used to make payments for charges incurred on her personal credit cards, her husband's credit cards, and her home equity line of credit. Harris concealed her conduct by creating false entries in the company's general ledger to appear as company expenses.

This was a joint investigation with the FBI, and EBSA. *United States v. Carrie N. Harris* (N.D. Georgia)

11 Defendants Sentenced to 70+ Years in Forest Park Healthcare Fraud

The \$200 million scheme was designed to induce doctors to steer lucrative patients - particularly those with high-reimbursing, out-of-network private insurance – to the now defunct hospital. Most of the kickbacks, which totaled more than \$40 million, were disguised as consulting fees or

"marketing money" doled out as a percentage of surgeries each doctor referred to Forest Park.

Instead of billing patients for out-of-network co-payments, instituted by insurers to de-incentivize the high costs associated with out-of-network treatment, Forest Park allegedly assured patients they would pay in-network prices. Because they knew insurers wouldn't tolerate such practices, they concealed the patient discounts and wrote off the difference as uncollected "bad debt."

Alan Andrew Beauchamp, the hospital manager, was sentenced to 63 months in prison, 2 years of supervised release, and a joint and several restitution of nearly \$83 million for one count of conspiracy to pay health care bribes and one count of commercial bribery under the Travel Act.

Jackson Jacob, owner of the shell companies through which some of the bribes were routed, was sentenced to 96 months in prison, 2 years supervised release, and restitution of more than \$400,000 for one count of conspiracy and three counts of paying kickbacks.

Israel Ortiz, the founder of Kortmed, a company that fills out pre-authorization for workers compensation patients, was sentenced to 12 months and 1 day in prison, 3 years supervised release, and restitution of more than \$110,000 (paid in full) for conspiracy to pay and receive healthcare kickbacks.

Dr. Mrugeshkumar Shah, a pain management doctor, was found guilty on four of four counts, including conspiracy, two counts of paying kickbacks, and one count of commercial bribery.

Employee Benefit Plans

He was sentenced to 42 months in prison, and restitution of more than \$40,000.

Dr. Douglas Won, a spinal surgeon, was sentenced to 60 months in prison, 2 years supervised release, and restitution of more than \$27 million for one count of conspiracy to pay and receive healthcare kickbacks.

Dr. Michael Rimlawi, a spinal surgeon who partnered with Won, was sentenced to 90 months in prison, 3 years supervised release, and restitution of nearly \$30 million for one count of conspiracy to pay and receive healthcare kickbacks and two counts of receiving kickbacks.

Dr. Wade Neal Barker, a bariatric surgeon who co-founded Forest Park Medical in 2008, was sentenced to 60 months in prison, 2 years supervised release, and joint and several restitution of nearly \$83 million, for one count of conspiracy to pay health care bribes and one count of paying illegal remuneration in violation of the Travel Act.

Wilton Burt, Forest Park's managing partner, was sentenced to 150 months in prison, 2 years supervised release, and joint and several restitution of nearly \$83 million for one count of conspiracy to pay and receive health care bribes, one count of paying kickbacks, four counts of commercial bribery in violation of the Travel Act, and one count of money laundering.

Dr. Shawn Henry, a spinal surgeon who invested in Forest Park Medical, was sentenced to 90 months in prison, 2 years supervised release, and restitution of more than \$6 million for one count of conspiracy to pay and receive health care bribes,

one count of commercial bribery in violation of the Travel Act, and one count of money laundering.

Iris Forrest, a nurse who recruited and pre-authorized workers' compensation requests, was sentenced to 36 months in prison, 2 years supervised release, and restitution of more than \$100,000 for one count of conspiracy to pay and receive health care bribes and one count of paying kickbacks.

This was a joint investigation with EBSA, the FBI, IRS-CI, the Office of Personnel Management–OIG, and the Defense Criminal Investigative Service. *United States v. Beauchamp et al.* (N.D. Texas)



A decorative graphic consisting of two curved, overlapping bands. The top band is a medium gray, and the bottom band is a darker gray, both curving from the left side towards the right.

Worker Safety, Health, and Workplace Rights

Occupational Safety and Health Administration

The mission of OSHA is to ensure that employers provide every worker in America safe and healthy working conditions. OSHA pursues this mission by setting and enforcing workplace safety and health standards; investigating whistleblower complaints; providing training, outreach, and education; and encouraging continuous improvement in workplace safety and health.

COVID-19: Increased Worksite Complaints and Reduced OSHA Inspections Leave U.S. Workers' Safety at Increased Risk

The COVID-19 pandemic has raised specific concerns about the health and safety of workers and about the measures OSHA has taken to ensure that employers are mitigating employees' risk of exposure to the virus at workplaces. Due to the pandemic, OSHA has received a surge of complaints in a matter of months. OSHA has garnered the attention of Congress, labor unions, and the media with requests to act swiftly on behalf of the 146 million workers at more than 10 million worksites nationwide whom OSHA is responsible for protecting.

We conducted this audit to determine what plans and guidance OSHA developed to address challenges created by COVID-19 and to what extent these challenges have affected OSHA's ability to protect the safety of workers and its workforce. We found that OSHA has taken a series of actions to address its challenges and has issued guidance in response to the pandemic. However, increased complaints, reduced inspections, the fact that most inspections are not

being conducted onsite increase the safety risk for employees.

Since the start of the pandemic, OSHA has received an influx of complaints. In order to protect the health and safety of its inspectors, OSHA has reduced the number of inspections assigned to each inspector, particularly those performed onsite. Compared with a similar period in 2019, OSHA received 15 percent more complaints in 2020, but performed 50 percent fewer inspections (see Figure 1). As a result, there is an increased risk that OSHA is not providing the level of protection that workers need at various job sites. During the pandemic, OSHA issued 295 violations for 176 COVID-19-related inspections while State Plans⁴ issued 1,679 violations for 756 COVID-19-related inspections.

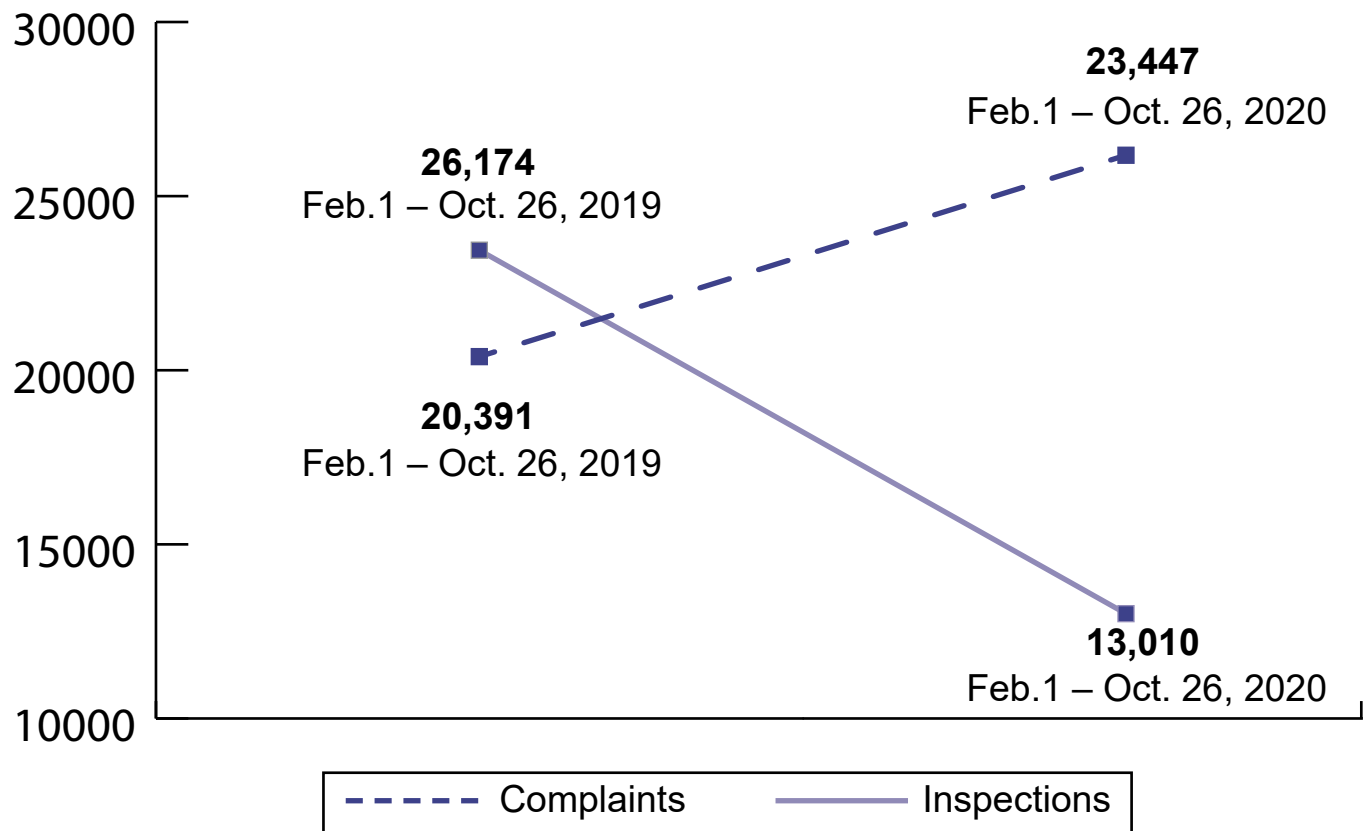
With most OSHA inspections done remotely during the pandemic, workplace hazards may go unidentified and unabated longer, leaving employees vulnerable. OSHA's on-site presence during inspections has historically resulted in timely mitigation efforts for at least a portion of the hazards identified.

While OSHA has issued several guidance documents to enhance safety provisions during

⁴ State Plans are OSHA-approved workplace safety and health programs operated by individual states or U.S. territories.

Worker Safety, Health, and Workplace Rights

Figure 1. Comparison of Complaints and Inspections Between 2019 and 2020



Source: OSHA complaint inspection data (unaudited) provided by OSHA

the pandemic, guidance is not enforceable in the same way as rules or standards, and OSHA has not issued an emergency temporary standard during the pandemic for airborne infectious diseases that may better protect employees' health and safety at worksites.

We made four recommendations to OSHA regarding on-site inspection strategies, remote inspection guidance, and an emergency temporary standard for infectious diseases. OSHA agreed with all of our recommendations.

For more information, go to <http://www.oig.dol.gov/public/reports/oa/2021/19-21-003-10-105.pdf>, Report No. 19-21-003-10-105 (February 25, 2021).

Region IX Whistleblower Protection Program Complaints Were Not Complete or Timely

On July 6, 2018, then Secretary of Labor Alexander Acosta received a referral from the U.S. Office of Special Counsel (OSC) that described allegations against OSHA's Whistleblower Protection Program (WPP), which investigates complaints of employer retaliation when employees report violations of law by their employers. OSC's referral referenced a whistleblower, an investigator for OSHA from 2010 to 2015, who alleged that OSHA's Region IX had breakdowns in processing the employer retaliation complaints it received, which, in turn, resulted in widespread failure to protect complainants. OSC's referral also included concerns about ongoing WPP issues raised in previous GAO and OIG audits. This report is in response to Secretary Acosta's request to review OSC's referral⁵ and it serves to answer the overarching question: Did the whistleblower's disclosures reveal violations of law, rule, or regulation, and gross mismanagement?

We found no evidence of misconduct, nor evidence of any other issue that would rise to the level of "violations of law, rule, or regulation, and gross mismanagement." As evidence to support disclosures to OSC, the whistleblower provided us with five general allegations against WPP and a list of 15 WPP complaints with 72 specific allegations of wrongdoing related to the complaint investigations. We tested the complaint investigations and allegations from the whistleblower, plus Region IX's investigation of another 60 complaints randomly selected

from October 2010 through September 2018. We interviewed current and former Region IX whistleblower investigators and managers, officials from OSHA's national office, Solicitor of Labor attorneys from the San Francisco Regional Office, and whistleblower complainants. We carried out other procedures in order to answer the five questions from OSC and the allegations from the whistleblower.

However, we found problems with the completeness and timeliness of whistleblower complaint investigations, and the results were worse than those reported by the OIG in its 2010 and 2015 audits. For the 75 whistleblower complaint investigations tested, we found that 96 percent did not meet all essential elements for an investigation, and 88 percent exceeded statutory time frames for an investigation (30, 60, or 90 days) by an average of 634 days. These results could be attributed partly to average caseload counts in OSHA's Region IX that were approximately double the average caseload counts nationwide.

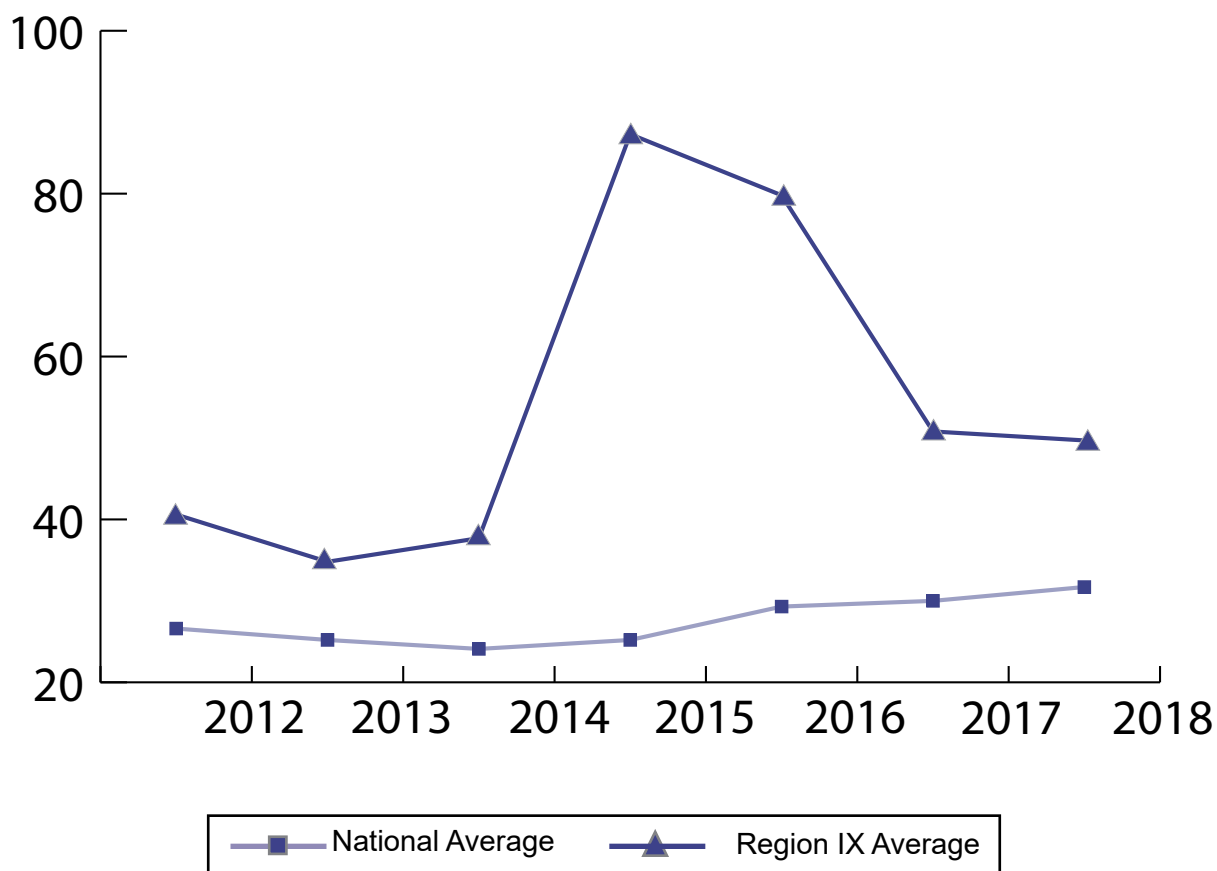
More needs to be done to address the quality and timeliness of whistleblower complaint investigations. Both Region IX and OSHA's Directorate of Whistleblower Protection Programs took steps to address high caseloads, but, in FY 2018, the average caseload in Region IX was still 57 percent higher than the national average (see Figure 2).

OSHA's database lacked a tracking system with case management features to ensure that investigators completed the essential steps. The database did not flag periods of inactivity in an investigation to prompt investigators to proceed with the next step and to maintain contact with the complainant and respondent. Case files also did

⁵ The public record on OSC's referral and related documents can be found at: <https://osc.gov/PublicFiles> under OSC File No. DI-15-1950.

Worker Safety, Health, and Workplace Rights

Figure 2. Average Open Caseload per Investigator



Source: OSHA data on caseloads

not contain evidence that supervisors checked to ensure investigators completed the essential steps before reaching their findings. Last, OSHA did not establish goals to complete investigations within the 30-, 60-, or 90-day time frames established by statutes.

We made four recommendations to the Principal Deputy Assistant Secretary for Occupational Safety and Health regarding case management, monitoring, and development of guidance. The Principal Deputy Assistant Secretary agreed with the report recommendations and stated that strengthening the WPP continues to be one of OSHA's top priorities.

For more information, go to <http://www.oig.dol.gov/public/reports/oa/2021/02-21-001-10-105.pdf>, Report No. 02-21-001-10-105 (November 23, 2020).

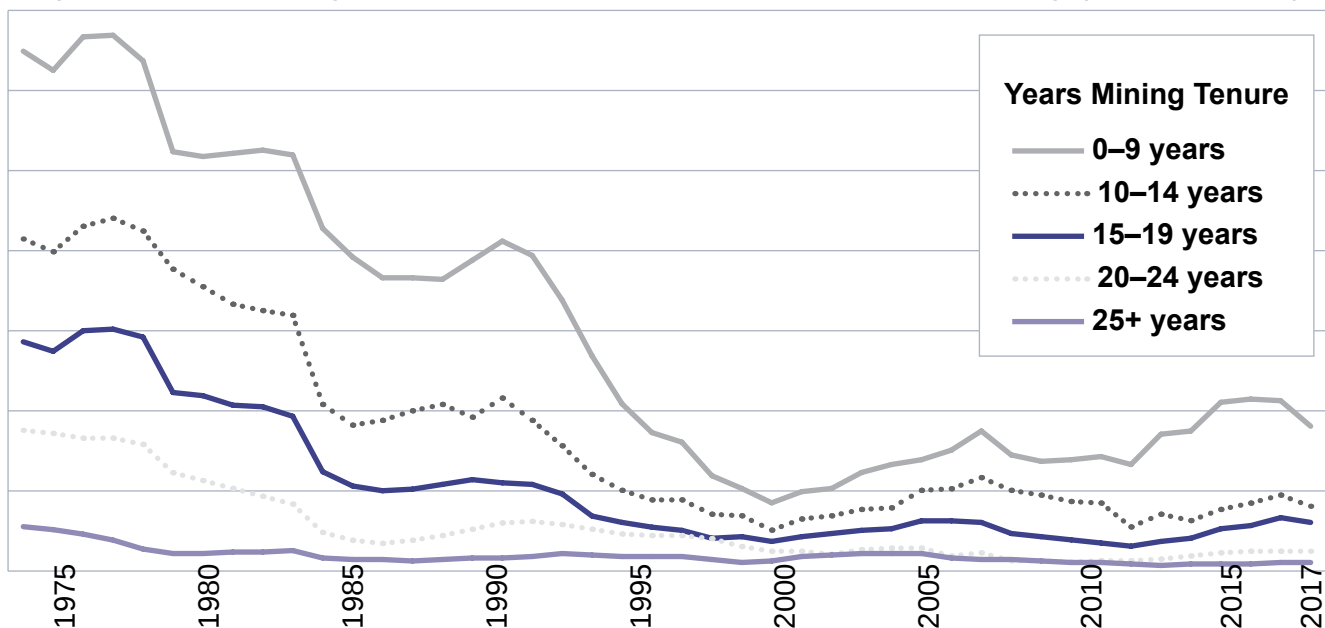
Mine Safety and Health Administration

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

MSHA Needs to Improve Efforts to Protect Coal Miners from Respirable Crystalline Silica

The Federal Mine Safety and Health Act of 1977 (Mine Act) requires the Mine Safety and Health Administration (MSHA) to protect miners from exposure to toxic materials or harmful agents. However, over the past four decades, various stakeholders have raised concerns about exposure to respirable crystalline silica (silica), a carcinogen and a contributing cause of black lung disease, in coal mines. In fact, after two decades of decline, the number of U.S. coal miners with black lung disease has been rising since the 2000s. More than three times as many coal miners were identified as having black lung disease from 2010 to 2014 as compared with 1995 to 1999 (see Figure 3). The evidence indicates silica may be responsible for this increase. We conducted this audit to determine whether MSHA has sufficiently protected coal miners from exposure to respirable crystalline silica.

Figure 3: Percentage of Examined Coal Miners with Black Lung (1970–2017*)



Source: National Institute for Occupational Safety and Health (NIOSH) provided Coal Workers' Health Surveillance Program data⁶.

⁶ NIOSH did not start collecting data on surface coal miners until 2014. However, this data was not included in the above graph because it only represents 5-year moving averages. For example, the data point for 1974 is the average of 1970, 1971, 1972, 1973, and 1974 data.

Worker Safety, Health, and Workplace Rights

We determined that MSHA has not sufficiently protected coal miners from exposure to respirable crystalline silica. The Mine Act requires MSHA to set standards based on the best available evidence. MSHA's current silica exposure limit, however, is out of date. Despite a significant body of evidence showing that a lower silica exposure limit would be a major factor in preventing coal workers' deaths and illnesses caused by silica exposure, MSHA has not changed its legal silica exposure limit in more than 50 years. Moreover, MSHA has spent the past two decades in rulemaking⁷ without any changes to its silica exposure limit.

Further, because MSHA has not established a separate standard for silica limits in coal mines, MSHA cannot cite and fine mine operators for excess silica exposure alone. Instead, MSHA's exposure limit for silica is tied to its exposure limit for respirable coal mine dust. Thus, violating MSHA's silica limit alone does not result in a citation or fine to deter future violations. As a result, workers in coal mines with silica levels above recommended limits continue to be at risk of developing life-threatening health problems. A separate standard for silica is needed so that MSHA can issue citations and monetary penalties for violating its silica limit to better protect miners from this toxic mineral.

Finally, MSHA's silica sampling protocols may be too infrequent to be sufficiently protective. MSHA is required by the Mine Act to inspect underground coal mines quarterly and surface mines

⁷As early as 2009, MSHA recognized in its regulatory agenda that its standards were outdated and may not protect miners from developing silicosis. To lower MSHA's silica exposure limit standard would require rulemaking, the process for developing and issuing rules (rules are also referred to as "regulations" or standards").

semiannually. MSHA has only sampled mines for silica levels only during these periodic inspections. However, silica levels fluctuate frequently. Changes in geology and movement of personnel within mines mean that miners' exposure to silica may change on a daily, if not hourly, basis. According to federal standards for internal control, management should obtain data on a timely basis so that they can be used for effective monitoring.

We made three recommendations to the Assistant Secretary for Mine Safety and Health to address these three issues. The Assistant Secretary did not fully agree with our recommendations, but indicated MSHA will take corrective actions to address them.

For more information, go to <http://www.oig.dol.gov/public/reports/oa/2021/05-21-001-06-001.pdf>, Report No. 05-21-001-06-001 (November 12, 2020).

MSHA Can Improve How Violations Are Issued, Terminated, Modified, and Vacated

One of MSHA's essential roles is to ensure the safety of miners by conducting periodic mine inspections. The Mine Act gives MSHA the authority to issue notices, safeguards, citations, and orders ("violations" is the blanket term used by MSHA for all of these) to mine operators who do not comply with health and safety standards or the Mine Act. The process for issuance and remediation of violations should be bound by clear guidance, appropriate internal controls, and a strong monitoring system to ensure the process meets its goals. Incorrectly written violations or untimely verification by MSHA inspectors that operators abated hazards by the due dates can

Worker Safety, Health, and Workplace Rights

result in miners' unnecessary continued exposure to hazards.

We performed an audit to determine whether MSHA properly managed the process established to issue, terminate, modify, and vacate violations. We found that MSHA did not properly manage this process, resulting in the identification of significant weaknesses that jeopardized MSHA's mission to maintain miner safety.

MSHA did not timely verify whether operators had abated hazards. For more than 215,000 violations out of the 706,000 we reviewed, MSHA had not verified that operators corrected hazards until after the required due date. Not verifying that operators timely abated hazards unnecessarily jeopardized miner safety.

Furthermore, violation abatement due dates were excessively long and varied widely, and extensions were unjustified. These lengthy hazard abatement periods can expose miners to hazards longer than necessary and affect penalty assessments for operators.

We also found that thousands of violations written by MSHA inspectors did not comply with the Mine Act and MSHA Handbook requirements. Despite MSHA's previous efforts to implement internal controls, controls meant to maintain compliance were missing or not working as intended. This lack of controls resulted in thousands of issued and modified violations that did not comply with Handbook requirements and with the Mine Act. These types of violation errors can lead to court challenges and inaccurate penalty assessments, as well as jeopardize miner safety.

MSHA guidance was also insufficient in certain instances. Specifically, MSHA had not issued

sufficient guidance on timely recording of violations in the agency's Centralized Application System or guidance involving issuing multiple safeguards at a single mine. The insufficient guidance affected MSHA's ability to terminate violations and could lead to incorrect violation types, duplicate violations, and avoidance of penalties.

We made 10 recommendations to the Assistant Secretary for Mine Safety and Health to address the control weaknesses through training, guidance, establishing new controls, revising existing controls, and monitoring. MSHA generally agreed with all of our recommendations.

For more information, go to <http://www.oig.dol.gov/public/reports/oa/2021/05-21-002-06-001.pdf>, Report No. 05-21-002-06-001 (March 31, 2021).

Wage and Hour Programs

The Wage and Hour Division (WHD) enforces federal minimum wage, overtime pay, recordkeeping, and child labor requirements of the Fair Labor Standards Act (FLSA). WHD also enforces the Migrant and Seasonal Agricultural Worker Protection Act, the Employee Polygraph Protection Act, the Family and Medical Leave Act, the wage garnishment provisions of the Consumer Credit Protection Act, and a number of employment standards and worker protections as provided in several immigration related statutes. Additionally, WHD administers and enforces the prevailing wage requirements of the Davis-Bacon and Related Acts, the Service Contract Act, and other statutes applicable to federal contracts for construction and for the provision of goods and services. WHD also administers and enforces the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act under the recently enacted Families First Coronavirus Response Act (FFCRA), which was effective from April 1, 2020, to December 1, 2020.

DOL Did Not Demonstrate It Followed a Sound Process in Promulgating the 2017 Tip Rule Notice of Proposed Rulemaking

On December 5, 2017, DOL published a Notice of Proposed Rulemaking (NPRM) to rescind portions of its 2011 tip regulations under the Fair Labor Standards Act (FLSA) because DOL was concerned that it had incorrectly construed the statute in promulgating the tip credit regulations. The 2017 NPRM proposed removing the regulations' limitation on employers' ability to pool tips received by employees, and thereby allow employers to allocate tips into a tip pool shared with employees who do not customarily receive tips, such as dishwashers and cooks, or to simply retain the tips.

Although the 2017 NPRM included a qualitative analysis of potential cost-related benefits and transfers, multiple news sources reported that DOL had conducted an economic analysis that was not included in the final NPRM, raising questions about the soundness of DOL's

rulemaking process. Thus, we conducted a review to determine whether DOL had followed a sound process in promulgating the 2017 NPRM. We determined DOL did not demonstrate that it had followed a sound process in promulgating the 2017 NPRM and did not fully adhere to regulatory guidance.

In the initial phase of the rulemaking process, a DOL senior official expressed the opinion that regulatory action was unnecessary and the courts should be the arbiters. However, the Department of Justice's Office of the Solicitor General expressed the belief that rulemaking action was necessary. Based on this latter opinion, DOL proceeded with the NPRM. Members of DOL's NPRM workgroup and senior leadership told us they had felt "pressured" to take regulatory action and were told not to document the decisions they received from management.

DOL analyzed various cost estimates of transferring tips from employees who typically receive tips to those who do not or to employers. DOL made several revisions, but it ultimately

Worker Safety, Health, and Workplace Rights

excluded the transfer analysis from the published 2017 NPRM. DOL did not demonstrate what was lacking that made these analyses insufficient to predict what employers would do under the proposed rule. DOL also did not provide criteria in support of its rationale for familiarization costs (i.e., the cost of getting a business establishment familiar with a rule), and DOL did not include in the published NPRM an assessment of the effect the rule would have on families.

Furthermore, DOL did not identify to the public the substantive changes it made between the draft NPRM submitted to the Office of Information and Regulatory Affairs, under the Office of Management and Budget (OMB), and the 2017 NPRM published in the *Federal Register*. DOL told us that its practice is not to identify substantive changes for any of its rulemaking to the public. This practice prevented the public from meaningfully participating in DOL's rulemaking process and responding to substantive changes that might affect workers, families, and employers. DOL lacked transparency because it did not identify these substantive changes.

We made five recommendations to the Administrator for the Wage and Hour Division, in conjunction with the Assistant Secretary for Policy, to improve DOL's rulemaking process. The recommendations include developing policies and procedures to document rationale and supporting evidence for use in making key decisions in the development of economic regulatory analysis and for use when DOL determines that the prescribed regulatory guidance does not apply.

For more information, go to <http://www.oig.dol.gov/public/reports/oa/2021/17-21-001-15-001.pdf>, Report No. 17-21-001-15-001 (December 11, 2020).

The background features a solid dark blue color. In the upper portion, there are two curved, overlapping bands. The top band is a medium grey, and the band below it is a slightly darker shade of grey, both curving from the left side towards the right.

Employment and Training Programs

Employment and Training Administration Programs

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

ETA Needs to Improve Its Disaster National Dislocated Worker Program

Prior OIG audits have raised concerns about ETA grant investments not achieving performance goals and about ETA's need to provide better oversight of its disaster grants. In the aftermath of 2017 hurricanes Harvey, Irma, and Maria, and the 2017 wildfires in California (see Figure 4), Congress passed the Bipartisan Budget Act of 2018. The act provided \$100 million in additional funding for cleanup and restoration and for career and supportive services for people affected by these disasters. California, Florida, and Puerto Rico were approved for up to \$83 million (combined) of the \$100 million appropriation for hurricane and wildfire cleanup and evacuee assistance. We conducted an audit to investigate whether ETA properly administered its Disaster National Dislocated Worker Grants (DWG) program under the Bipartisan Budget Act of 2018.

We found that ETA needs to improve the administration of its DWG program under the Bipartisan Budget Act of 2018. ETA did not establish time lines for disaster relief and provided minimal oversight of its state grantees, and subrecipients did not follow requirements for the use of funds and verification of participant eligibility when they self-certified.

Figure 4. 2017 Whittier Fire in California



Source: Santa Ynez Valley Star, July 9, 2017 – (unaudited)

Furthermore, state grantees performed limited monitoring of their subrecipients.

ETA also did not ensure that grantees helped local areas to restore communities in a timely manner or that out-of-work participants received expeditious disaster relief assistance. Some grantee subrecipients took up to approximately 6 months to begin cleanup services and up to approximately 13 months for some evacuee assistance to begin after the disaster declarations.

Further, ETA grantees did not maximize the number of participants who obtained employment as intended by the grants. As of December 31, 2019, grantees had underperformed on all of their

Employment and Training Programs

performance goals. In addition, the grantees had significantly underperformed on enrolling participants in training and returning them to full-time employment, as intended by some of the grants. Overall, grantees provided training services to only about one-third of participants and returned only 39 percent of unemployed participants back to full-time employment. Finally, ETA did not ensure that disaster relief funds were used efficiently and effectively. About \$4.5 million in grantee obligations and costs either were not necessary for disaster relief or were not supported by adequate documentation. In addition, there were incomplete recovery efforts because grantees did not allocate funds to local areas most in need of disaster relief services.

We made six recommendations to ETA regarding timeliness, eligibility, and allowable costs. ETA generally agreed with our recommendations and stated it has already taken corrective actions on the issues identified.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2021/02-21-002-03-391.pdf>, Report No. 02-21-002-03-391 (January 29, 2021).



Job Corps

The Job Corps program provides education, training, and support services to more than 30,000 disadvantaged, at-risk youths, ages 16–24, at more than 120 Job Corps centers nationwide, both residential and nonresidential. The goal of the nearly \$1.7 billion program is to offer an intensive intervention to members of this targeted population as a means to help them learn vocational skills, earn a high school diploma or general equivalency diploma, and find and keep a good job.

Job Corps Should Improve Its Pre-admission Evaluation Process

Admitting applicants to the Job Corps program without sufficiently evaluating their ability to fit within the program can result in program disruptions and safety issues. The Job Corps program currently provides academic and career skills training to nearly 30,000 low-income, disadvantaged youth at more than 120 centers nationwide. Previous OIG audits and our preliminary audit work identified issues with Job Corps center student safety. Specifically, insufficient suitability evaluations of incoming students could lead to program disruptions, as well as unsafe learning environments. We conducted a performance audit to determine whether Job Corps sufficiently evaluated the suitability of incoming students.

We found that Job Corps did not sufficiently evaluate the suitability of incoming students. The Workforce Innovation and Opportunity Act requires Job Corps to assess the suitability, or “fit,” of applicants for the program. However, Job Corps’ admissions screening process does not allow admissions counselors to sufficiently inquire about an applicant’s history to help them determine whether applicants are ready for the Job Corps program. A large portion of center directors surveyed said they had observed an

increase in the number of separations due to mental health and substance abuse issues, and two-thirds of center directors reported an increase in the number of violent incidents they associated with mental health issues (see Figure 5).

Job Corps management has been aware of such issues, but it has not taken action in response. For example, in 2015, Job Corps convened a working group to explore the possibility of pre-enrollment drug testing of Job Corps applicants. However, the working group subsequently disbanded without any action taken. In addition, Job Corps rolled out a system wide applicant readiness tool in the summer of 2019, but we found that few admissions counselors were aware of it.

As a result, applicants who were not properly assessed during the admissions process have caused classroom disruptions and safety issues, as well as strained the resources of unprepared Job Corps centers.

Given how essential it is to determine whether an applicant is suitable for the program, Job Corps must take action to develop a more robust pre-enrollment suitability assessment apparatus to identify applicants who might impact the safety of centers and cause program disruptions, and to identify strategies for assisting those students with their challenges. We made four recommendations

Employment and Training Programs

Figure 5. Mental Health and Substance Abuse Issues at Job Corps Centers, 2019



70 percent of center directors reported increases in disruptions related to students with mental health issues and 49 percent reported increases for substance abuse issues



61 percent of center directors reported increases in the number of violent incidents due to students with mental health issues and 32 percent reported increases for substance abuse issues



Center directors and health and wellness managers reported observing a significant increase in the number of separations due to substance abuse and mental health issues

to the Assistant Secretary for Employment and Training to address this issue. ETA generally agreed with our recommendations.

For more information, go to <http://www.oig.dol.gov/public/reports/oa/2021/05-21-001-03-370.pdf>, Report No. 05-21-001-03-370 (March 25, 2021).

Foreign Labor Certification Programs

ETA administers a number of FLC programs that allow U.S. employers to employ foreign workers to meet domestic worker shortages, PERM, H-1B, H-2A, and H-2B. The PERM program allows an employer to hire foreign nationals to work in the U.S. on a permanent basis, while the H-1B, H-2A, and H-2B programs are for temporary employment in the U.S. The H-1B program allows employers to hire foreign workers on a temporary basis in specialty occupations or as fashion models. The H-2A program allows employers to hire foreign workers for temporary agricultural jobs, in contrast to the H-2B program which is for temporary non-agricultural jobs. ETA ensures the admission of foreign workers into the U.S. on a PERM, H-2A, or H-2B visa will not adversely affect job opportunities, wages, and working conditions of U.S. workers. The OIG also investigates labor trafficking cases that involve fraud against FLC programs.

Overview of Vulnerabilities and Challenges in Foreign Labor Certification Programs

In 2003, the OIG issued a “white paper⁸” identifying vulnerabilities in four foreign labor certification programs—permanent (PERM), H-1B, H-2A, and H-2B—managed in part by DOL. Subsequent OIG and GAO audits and investigations have confirmed that many vulnerabilities still exist. The OIG’s November 2020 report presents both the continuing vulnerabilities that were noted in our 2003 report and the vulnerabilities identified since, according to the three key phases of foreign labor certification: the pre-filing, application filing, and post adjudication phases.

The PERM program’s vulnerabilities include an outdated regulation requiring employers to advertise in the local Sunday newspaper as a

⁸ Department of Labor. 2003. *Overview and Assessment of Vulnerabilities in DOL’s Alien Labor Certification Programs*. Report No. 06-03-007-03-321. Washington, DC: Office of Inspector General. <https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=06-03-007-03-321&y=2003>.

primary recruiting announcement. In addition, the PERM program’s application phase was changed in 2005 so that employers do not have to submit any documentation with their application. This lack of documentation means, for example, that ETA cannot make an informed decision as to whether able, available, qualified, and willing U.S. workers were available for the job opportunities. Further, as previously reported, DOL has no post adjudication review and enforcement authority to validate the integrity of employers’ attestations, and thus employers have the ability to not comply with the qualifying criteria or the conditions of employment.

The H1-B program’s vulnerabilities include the inability of ETA to assess in the application phase whether the applicant possesses the required qualifications (previously reported). It is ETA’s responsibility to ensure the application is complete and free from obvious inaccuracies while WHD investigates and determines whether employers have misrepresented or failed to comply with

Employment and Training Programs

program requirements as well as with employment laws.

As long as an H-1B application is complete and free of obvious errors or inaccuracies, ETA is required to approve the application (previously reported). In recent years, WHD H-1B-related investigations have been initiated based on only two of the four methods set forth in the statute: receipt by WHD of a complaint or receipt of credible information from a reliable source that an applicant has failed to meet application conditions. One of the other two methods, in which the Secretary personally certifies an investigation of the employer, has never been used, and the other—a random investigation of a previous willful violator—has not been used in many years. Finally, even for a major violation, we found WHD cannot initiate an investigation if the alleged violation comes to WHD’s attention more than 12 months from the date of the alleged violation.

H-2A program vulnerabilities identified included the fact that ETA did not evaluate the effectiveness of the SeasonalJobs.dol.gov website in reaching a greater population of U.S. workers and ETA’s lack of documentation in support of employer attestations made during the application process. As ETA does not maximize its audit resources to validate the integrity of employers’ attestations, employers have the opportunity not to comply with the conditions of employment. Finally, WHD’s lack of subpoena authority hinders WHD in obtaining documents in a timely manner in order to debar employers.

The H-2B’s program vulnerabilities include the same ones attributed to the H-2A program above, such as ETA’s failure to evaluate the effectiveness of the SeasonalJobs.dol.gov website, ETA not reviewing supporting documentation, ETA’s lack

of processes to measure program efficiency, and WHD’s lack of subpoena authority. Further, ETA did not process H-2B applications within 30 days of the employer’s date of need, as previously reported. Finally, the H-2B program remains highly susceptible to fraud. OIG agents have cited foreign recruiters charging foreign workers for the purchase of H-2B visas and transportation to the United States. For example, a recruiting agency submitted false employment based petitions to DOL and other agencies in order to obtain work visas for foreign workers. An agent within the company unlawfully charged foreign workers \$500 to \$4,000 to purchase fraudulent visas.

For more information, go to <http://www.oig.dol.gov/public/reports/oa/2021/06-21-001-03-321.pdf>, Report No. 06-21-001-03-321 (November 13, 2020).

California Business Owner Sentenced for Role in Exploiting Immigrant Farmworkers

In February 2021, Ricardo Mendoza Oseguera, the owner of Discoteca Mi Pueblito, a check cashing business in Santa Paula, California, was sentenced to 12 months in prison for his role in operating an unlicensed money transmitting business that enabled a farm labor contractor and H-2A recruiter to exploit H2-A workers. The H-2A program is managed under the Office of Foreign Labor Certification for DOL. In addition to provisions designed to protect domestic workers, the H-2A program has rules designed to protect foreign workers from exploitation. Oseguera and his co-conspirator engaged in an immigration fraud scheme that illegally charged Mexican nationals thousands of dollars to obtain H-2A

Employment and Training Programs

work visas and additional charges for expenses once they arrived in the United States, all of which were prohibited fees.

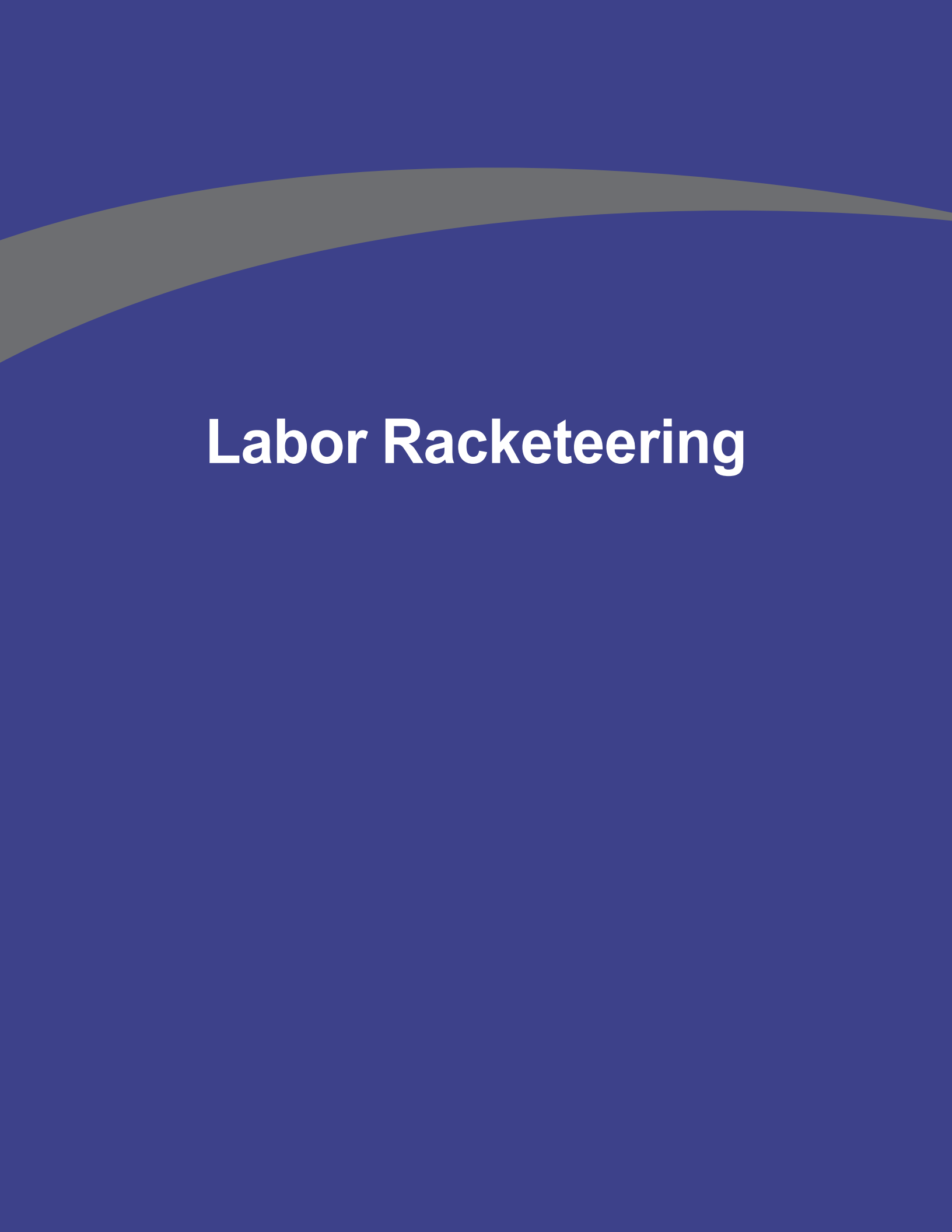
This was a joint investigation with Homeland Security Investigations and the U.S. Department of State, Diplomatic Security Service. *USA v. Vasquez et al.* (C.D. California)

Owner of IT Services Company Pleads Guilty to Paying Kickbacks

On March 5, 2021, Lakshmikanth Sripuram pleaded guilty to a wire fraud conspiracy in connection with a scheme to defraud New York State. Sripuram is the president of PIntegra, LLC, a company that employs temporary foreign workers. Sripuram paid kickbacks to a New York State employee and conspired to create bogus experience and education credentials for PIntegra employees contracted to New York State.

In January 2015, the Office of the New York State Comptroller entered into a contract with a consortium of three companies to identify and hire computer programmers for a project. Between February 2015 and October 2016, Sripuram and his co-conspirator ensured that programmers from PIntegra were hired by falsifying information regarding their experience and work histories, and by providing them with interview questions ahead of their interviews at OSC. PIntegra received approximately \$870,000 from the Office of the New York State Comptroller for its programmers' pay. Sripuram kept a percentage of the programmers' pay and then paid a kickback to the New York State employee.

This was a joint investigation with the Office of the New York State Comptroller, Homeland Security Investigations, and the U. S. Postal Inspection Service. *United States v. Lakshmikanth R. Sripuram* (N.D. New York)



Labor Racketeering

Labor Racketeering

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

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

Our investigations continue to identify fraudulent payments from employers to union representatives in order to gain favorable labor agreements for the employer. Our investigations have also identified complex financial and investment schemes used to defraud union affiliated benefit plans, resulting in millions of dollars in losses to plan participants.

Fiat Chrysler Automobiles Pleads Guilty and Pays \$30 Million Fine

On March 1, 2021, Fiat Chrysler Automobiles (FCA) US LLC pleaded guilty to conspiring to violate the Labor Management Relations Act by making illegal payments to officers of the International Union, United Automobile, Aerospace, and Agricultural Implement Workers (UAW). Under the terms of the plea agreement, FCA has agreed to pay a fine of \$30 million and be subject to federal oversight.

FCA admitted the company had conspired with other entities and individuals to violate the Taft-Hartley Act from 2009-2016 by making more than \$3.5 million in illegal payments to officers of the UAW. The illegal payments to UAW officials took various forms, including extravagant meals, rounds of golf, lavish parties for the UAW International Executive Board, an Italian-made shotgun, clothing, designer shoes, and other

personal items. The illegal payments were passed through the UAW-Chrysler Skill Development & Training Program, which was supposed to provide training and health and safety protections for FCA workers. Under the terms of the agreement, FCA agreed to pay a fine of \$30 million and serve probation for three years, during which time, an independent compliance monitor selected by the government will oversee the company's adherence to federal labor laws.

This is a joint investigation with the U.S. Department of Labor, Office of Labor Management Standards, the IRS, IRS-CI, and the FBI. *United States of America v. FCA US LLC* (E.D. Michigan)

Former Union President Sentenced to 12 Years in Prison in California for Embezzlement

John Romero, the former United Industrial and Service Workers of America union president and health plan trustee, was sentenced to 144 months in federal prison for embezzling nearly \$800,000 from the union's health plan trust fund. Money paid into the union health plan was supposed to be used exclusively for health care benefits of its participants. Instead, Romero stole the union's health funds for the benefit of himself and his immediate family.

Romero accomplished the scheme by appointing a sham trustee who had no prior experience with unions. He also actively misled the third-party administrators of the health plan into making improper payments from the trust fund. From 2008 to 2014, Romero embezzled health plan funds to pay for personal legal fees, payments on rental properties, and salary payments to family members who never worked for the health plan. He also used plan funds to pay off a \$25,000 loan on his son's sports car.

This was a joint investigation with the Office of Labor Management Standards and EBSA. *United States v. Romero, et al.* (C.D. California)

California Woman Pleads Guilty to Her Role in Defrauding Union Health Plan

On March 3, 2021, Marina Sarkisyan, former office manager for R&R Medspa, pleaded guilty to a federal criminal charge as a result of a scheme she engaged in with others to submit fraudulent claims to health insurance companies including the International Longshore and Warehouse

Union, Pacific Maritime Association Benefit Plan. The fraudulent proceeds from the scheme were used to provide patients with "free" cosmetic procedures.

Sarkisyan and her co-conspirators induced patients to visit R&R Medspa clinics to receive free cosmetic procedures, including facials, laser hair removal, and Botox injections, that were not covered by insurance. The conspirators obtained the insurance information from the patients and fraudulently billed insurance companies for unnecessary medical services or for services that were not rendered. Using the fraudulent proceeds from the insurance companies, Sarkisyan and other conspirators calculated a "credit" that patients could use to receive "free" or discounted cosmetic procedures. During the course of the conspiracy, Sarkisyan and her conspirators submitted at least \$17 million in claims to the insurance companies, which paid approximately \$7 million on those claims.

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



The background features a solid dark blue color. In the upper portion, there are two curved, overlapping bands. The top band is a medium grey, and the band below it is a slightly darker shade of grey. Both bands curve from the left side towards the right, tapering off as they go.

Departmental Management

Departmental Management

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

FY 2020 FISMA DOL Information Security Report: Progress Needed to Improve Risk Management and Continuous Monitoring of Information Security Controls

DOL spends approximately \$666 million annually on its information technology assets that support the programs needed to fulfill DOL's mission. Because information technology plays an integral role in providing the services and operations needed to fulfill DOL's mission, it is imperative that DOL maintain a strong information security program to protect these assets. Ineffective information security programs increase the risk of unavailable service, security breaches, and unreliable information. Under the Federal Information Security Modernization Act of 2014 (FISMA), inspectors general are required to perform annual independent evaluations of their agencies' information security programs and practices. The Office of Management and Budget (OMB) and the Department of Homeland Security annually issue FISMA guidance, based on the National Institute of Standards and Technology's Cybersecurity Framework, which includes the metrics OIGs should use to evaluate agencies' information security programs.

For the FY 2020 evaluation, we contracted with an independent public accounting firm to conduct an audit of DOL's information security program. The firm based its determinations in part on tests of a selection of DOL's entity-wide and system-specific

security controls across 20 DOL information systems.

The information security program's scores showed some improvements from FY 2019, which may be the result of DOL adopting and implementing new tools to address the issues previously identified. However, based on the issues identified, we remain concerned about the continued improvements needed in the Office of the Chief Information Officer's (OCIO) oversight and accountability over the Department's information security control environment.

The firm reported 18 findings for DOL's information security program in four of the five Cybersecurity Framework's functions. As a result of the issues identified, DOL's information security program was rated as not effective for FY 2020. To be considered an effective information security program, a majority of the Cybersecurity Framework's functions are required to be implemented at a level identified as "Managed and Measurable." DOL's program did not achieve the Managed and Measurable level in three of the five cybersecurity functions: Identify, Detect, and Recover. In addition, for the Protect function, DOL's program received a Managed and Measurable rating, but additional progress is needed in three of its domains: Configuration Management, Identity and Access Management, and Data Protection and Privacy.

Departmental Management

We made 25 recommendations to improve DOL's information security program, including establishing performance metrics. Management generally concurred with the findings and recommendations identified and described in our report. OCIO stated it has addressed or has developed plans to address all recommendations.

For more information, go to <http://www.oig.dol.gov/public/reports/oa/2021/23-21-001-07-725.pdf>, Report No. 23-21-001-07-725 (December 22, 2020).

Review of the Department of Labor's Compliance in Implementing the Requirements of Executive Order 13950

On September 22, 2020, President Donald Trump issued Executive Order (EO) 13950, "Combating Race and Sex Stereotyping."⁹ EO 13950 prohibited the federal government from promoting race or sex stereotyping in the federal workforce and uniformed services and from using contracting and grant funds for any of these purposes.

The EO required agency inspectors general to assess their agencies' compliance with the EO annually and to report the results by December 31 each year, to OMB. Thus, the OIG conducted a review in 2020 to assess whether DOL met the requirements of EO 13950.

We found DOL had met all 10 requirements of EO 13950 as of December 21, 2020. The requirements included two specifically applicable

⁹ EO 13950 was rescinded on January 20, 2021, as part of the new EO 13985, titled "Advancing Racial Equity and Support for Underserved Communities through the Federal Government."

to DOL's Office of Federal Contract Compliance Programs and eight applicable to all federal agencies.

We did not make any recommendations related to the results of the assessments presented in this report.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=17-21-002-50-598&y=2021>, Report No. 17-21-002-50-598 (December 29, 2020).

FY 2020 Independent Auditors' Report on the DOL Financial Statements

OIG contracted with an independent public accounting firm to audit DOL's annual financial statements, which comprise the consolidated financial statements and the sustainability financial statements. DOL received an unmodified opinion on its FY 2020 financial statements, meaning DOL presented financial statements fairly in all material respects and in conformity with U.S. generally accepted accounting principles.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-21-004-13-001&y=2021>, Report No. 22-21-004-13-001 (November 16, 2020).

Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements for the Year Ended September 30, 2020

In a separate Management Advisory Comments report, the independent public accounting firm provided additional information to DOL

Departmental Management

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

For more information, go to <https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-21-005-13-001&y=2021>, Report No. 22-21-005-13-001 (December 18, 2020).

Special Report Relating to the Federal Employees' Compensation Act Special Benefit Fund

The OIG contracted with an independent public accounting firm to audit the Federal Employees' Compensation Act (FECA) Special Benefit Fund's Schedule of Actuarial Liability, Net Intra-governmental Accounts Receivable, and Benefit Expense Fund as of and for the year ended September 30, 2020. The firm issued an unmodified opinion, meaning the schedule was presented fairly in all material respects and in conformity with U.S. generally accepted accounting principles. The firm also performed certain tests of controls and compliance with laws and regulations related to the fund, which disclosed a deficiency that we have reported every year since 2017 pertaining to internal controls over claims examiners' review of FECA claims. The firm also performed agreed-upon

procedures and identified differences between the actuarial liability and the benefit expense.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-21-001-04-431&y=2021>, Report No. 22-21-001-04-431 (October 30, 2020).

Longshore and Harbor Workers' Compensation Act Special Fund Financial Statements and Inspector General's Report

The OIG audited the financial statements of the Longshore and Harbor Workers' Compensation Act Special Fund as of September 30, 2019. The OIG issued an unmodified opinion, meaning the financial statements were presented fairly in all material respects and in conformity with U.S. generally accepted accounting principles. The OIG also performed certain tests of controls and a test for compliance with laws and regulations related to the fund, which did not identify any deficiencies.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-21-002-04-432&y=2021>, Report No. 22-21-002-04-432 (November 13, 2020).

District of Columbia Workmen's Compensation Act Special Fund Financial Statements and Inspector General's Report

The OIG audited the financial statements of the District of Columbia Workmen's Compensation Act Special Fund as of September 30, 2019. The OIG issued an unmodified opinion, meaning the financial statements were presented fairly in all material respects and in conformity with U.S.

Departmental Management

generally accepted accounting principles. The OIG also performed certain tests of controls and a test for compliance with laws and regulations related to the fund, which did not identify any deficiencies.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=22-21-003-04-432&y=2021>, Report No. 22-21-003-04-432 (November 13, 2020).

Single Audits

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

Change in OIG Processes to Streamline Timeliness of Agency Management Decisions and Refocus the OIG on Its Own Oversight Responsibilities

Uniform Guidance¹⁰ requires federal awarding agencies to issue a management decision for findings that relate to the agencies' awards to non-federal entities. The federal awarding agencies are required to issue the decision within 6 months of when the audit report was accepted by the Federal Audit Clearinghouse (FAC). Since 2004, the OIG has assisted DOL agencies with these requirements by reviewing and providing single audit reports from the FAC, an effort that the OIG was not required to do. Effective October 1, 2020, the OIG is no longer assisting DOL agencies in this manner. The change allows for a more streamlined process, enabling agencies to issue management decisions without any OIG review imposed delays, while the OIG focuses its efforts on meeting single audit oversight responsibilities.

Under Uniform Guidance, cognizant federal agencies must oversee the implementation of single audit requirements. DOL is currently cognizant for six entities, and the OIG periodically performs quality control reviews (QCRs) of the entities' single audits. During this reporting period, we conducted one QCR on the Single Audit of the New Mexico Workforce Solutions Department for the year ended June 30, 2018. Based on our review of the audit documentation related to DOL-funded programs, we determined that Moss Adams LLP's audit work was acceptable and met the requirements of applicable standards including generally accepted government auditing standards, generally accepted auditing standards, and Uniform Guidance.

¹⁰ Uniform Guidance refers to 2 C.F.R. Part 200, OMB's "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

Employee Integrity Investigations

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

Substantiated

Director of Human Resources Misused Government Equipment for Personal Gain

The OIG received an allegation that the Director of Human Resources for ETA was misusing government equipment and their access to personally identifiable information for personal gain.

Our investigation substantiated that the Director misused their government issued equipment by operating multiple personal businesses using the government-issued laptop. In addition, the investigation substantiated that the official failed to notify the Department when a local police department seized their government-issued laptop and cell phone pursuant to the execution of a search warrant in an unrelated matter. The OIG also substantiated that the employee provided false and misleading information related to their personal businesses and loss of government equipment throughout the OIG investigation.

On August 8, 2020, we referred our findings to ETA for review. On January 14, 2021, the OIG was notified that the employee was terminated from federal employment.

Closed Investigations Not Disclosed to Public

- The OIG conducted an investigation as to whether a senior manager violated policy when they allowed an employee to continue working while on restricted duties. The OIG did not establish that a policy violation occurred. The investigation was closed without further action.
- The OIG received an allegation that a senior manager was running a personal business using government equipment during business hours. The OIG did not establish that the alleged activity occurred. The investigation was closed without further action.

The top of the slide features two curved, overlapping lines. The upper line is a medium gray, and the lower line is a darker gray, both curving from the left side towards the right.

OIG Whistleblower Activities

OIG Whistleblower Activities

Whistleblower Protection Coordinator

DOL employees, contractors, subcontractors, and grantees perform an important service by reporting evidence of wrongdoing, including misconduct, fraud, waste, and abuse in DOL programs. Whistleblowers should never be subjected to, or threatened with, retaliation for having engaged in a protected communication or protected activity. DOL-OIG plays a vital role in ensuring that DOL employees and employees of DOL grantees and contractors are informed of their rights and protections against retaliation for “blowing the whistle.” This work is done by the OIG Whistleblower Protection Coordinator (WPC) Program, which is housed in the OIG’s Office of Legal Services.

The WPC educates DOL employees and supervisors and employees of DOL grantees and contractors regarding their right to be free from retaliation as well as the avenues of redress that are available to them both to file a whistleblower complaint and to file a complaint of whistleblower retaliation. The WPC works with DOL to ensure that all DOL employees and supervisors receive required training related to whistleblower rights and the handling of whistleblowers.

The WPC also ensures that the OIG promptly and thoroughly reviews complaints, and that it is responding to whistleblowers in a timely fashion; and coordinates with the U.S. Office of Special Counsel (OSC) and other agencies on relevant matters.

Whistleblower Retaliation Investigations

The OIG can initiate its own investigations into allegations of improper or illegal retaliation brought by DOL employees or, on a discretionary basis, refer such allegations to OSC for review and investigation.

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

Whistleblower Investigations October 1, 2020 – March 31, 2021	
Pending DOL employee complaint investigations	2
Closed DOL employee complaint investigation because employee also filed with OSC	1
Grantee/contractor complaints opened	3
Grantee/contractor complaints closed after preliminary investigation because they did not fall under 41 U.S.C. § 4712	4
Pending grantee/contractor complaint investigations	4
Grantee/contractor complaint investigation closed and report sent to Secretary or his designee	1
Reports pending with the Secretary of Labor	3

The top of the page features two overlapping curved lines. The upper line is a light gray color, and the lower line is a slightly darker shade of gray. Both lines curve from the left side towards the right, creating a sense of motion or a stylized horizon.

Legislative Recommendations

Legislative Recommendations

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

Allow DOL and the OIG Access to UI Claimant Data and Wage Records

Congress should consider legislative action to allow DOL and the OIG to have direct access to SWA UI claimant data and wage records for our respective oversight responsibilities. The Department has opined that it lacks the authority to require SWAs to provide the OIG with access to UI claimant data and wage records unless the OIG is conducting an investigation into a particular instance of suspected UI fraud. The Department is unable to cite to any law enacted by Congress to support its opinion; and contrary to the Department's belief, the IG Act of 1978, as amended, authorizes the OIG's access to information related to the Department's programs, unless Congress enacts law that expressly refers to the OIG and limits the OIG's right of access.

This lack of direct and real-time access to data has severely hampered the OIG's ability to effectively oversee the UI program. In order to overcome this impediment and effectively oversee UI benefits provided in response to the COVID-19 pandemic, the OIG issued multiple IG subpoenas to all SWAs seeking UI claimant data. OIG data scientists then normalized and analyzed the

data to identify potential fraud and programmatic weaknesses.

The results of our efforts have shown that data analytics is a vital tool in performing our oversight function. The OIG's efforts resulted in the identification of billions in improper payments, with most attributable to potential fraud. The OIG was further able to recommend programmatic changes to put billions in federal funds to better use. Further, the OIG shared portions of our methodology with ETA to allow the Department and SWAs to stop fraud before it occurs. The use of IG subpoenas is time consuming and inefficient and it does not allow the OIG to identify fraud as it is occurring.

Real-time access to SWA UI claimant data and wage records systems would assist in the Department's programmatic oversight responsibilities to identify improper payments and weak controls. This access is also vital to the OIG's oversight responsibility and would enable the OIG to quickly identify and investigate large-scale fraud. It would also allow the OIG to expand our current efforts to share emerging fraud trends with ETA and SWAs in order to strengthen the UI program and likely prevent fraud before it occurs. In addition, conducting data analytics based on direct access would further enable our auditors to identify program weakness and recommend

Legislative Recommendations

corrective action that will improve the timeliness of UI benefit payments and the integrity of the UI program.

Enact the UI Integrity Legislative Proposals

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

The proposals include the following:

- require states to use the State Information Data Exchange System.
- require states to cross-match UI claims against the National Directory of New Hires (NDNH).
- allow the Secretary of Labor to require states to implement UI corrective actions related to performance and integrity.
- require states to cross-match UI claims with the Social Security Administration's prisoner database and other repositories of prisoner information.
- allow states to retain 5 percent of UI overpayment recoveries for program integrity use.
- require states to use UI penalty and interest collections solely for UI administration.

In addition to the above, the President's FY 2020 budget request included a new proposal to require states to access data sources available through

the National Association of State Workforce Agencies' Integrity Data Hub (IDH). The Integrity Data Hub contains a Suspicious Actor Repository that allows states to exchange data elements from known fraudulent UI claims as well as additional near real-time data sources to help states detect improper payments and fraud, including an identity verification tool to prevent fraudulent UI benefit claims. This proposal will require states to cross-match UI claims against the data sources available through IDH. The UI program's system-wide use of IDH will result in increased prevention, detection, and recovery of improper and fraudulent payments.

These legislative proposals are consistent with previous OIG findings and recommendations to address UI improper payments. In order to maintain UI program integrity, the OIG has recommended, as of February 2021, establishing legislation that requires SWAs to cross-match high-risk areas, including UI benefits paid to individuals with Social Security numbers filed in multiple states, belonging to deceased persons and federal inmates, or used to file for UI claims with suspicious email accounts.

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

If DOL is to have a meaningful role in the foreign labor certification (FLC) process for H-1B specialty occupations visas, 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, and to initiate its own H-1B investigations more broadly. Currently, the Department is statutorily required to certify an H-1B application unless it determines that the application is "incomplete or obviously inaccurate."

Legislative Recommendations

However, DOL may not initiate its own H-1B investigations based on reasons outside the four statutory criteria, unlike investigations into the H-2A and H 2B programs.

Our concern with the Department's limited ability to ensure the integrity of the certification process is heightened by the results of OIG analyses and investigations showing that the program is susceptible to significant fraud and abuse, particularly by employers and attorneys. For example, some staffing companies utilize the H-1B program without having scheduled jobs already lined up. Some employers and attorneys misrepresent their need for workers to DOL, then reassign the extra workers to other companies or require foreign workers to find their own work. There have also been instances where companies illegally generated profit by requiring foreign workers to pay fees and recurring payments to secure H-1B visas. Without statutory authority to ensure program integrity, the Department cannot verify employers' attestations to the H-1B certifications unless a complaint is filed. Such is unlikely, as foreign workers are generally reluctant to do so for fear of retaliation and losing their jobs.

Amend Pension Protection Laws

Legislative changes to the Employee Income Retirement Security Act of 1974 (ERISA) and criminal penalties for ERISA violations would enhance the protection of assets in pension plans. To this end, the OIG continues to recommend the following legislative actions:

- **Repeal ERISA's limited-scope audit exemption.** This exemption excludes pension plan assets invested in financial institutions, such as banks and savings and loan firms, from audits of employee benefit plans.

Notwithstanding recent changes to auditing standards that strengthen limited-scope audits, these audits prevent independent public accountants who are auditing pension plans from rendering an opinion on the plans' financial statements in accordance with professional auditing standards. These "no-opinion" audits offer no substantive assurance of asset integrity either to plan participants or to the Department.

- **Expand the authority of the Employee Benefits Security Administration (EBSA) to correct substandard benefit plan audits and ensure that auditors with poor records do not perform additional plan audits.** Changes should include providing EBSA with greater enforcement authority over registration, suspension, and debarment as well as the ability to levy civil penalties against employee benefit plan auditors. The ability to correct substandard audits and take action against auditors is essential, as benefit plan audits help protect participants and beneficiaries by ensuring the proper valuation of plan assets and computation of benefits.
- **Require direct reporting of ERISA violations to DOL.** Under current law, a pension plan auditor who finds a potential ERISA violation is responsible for reporting it to the plan administrator, but not directly to DOL. To ensure that improprieties are addressed, we recommend that plan administrators or auditors be required to report potential ERISA violations directly to DOL. This change would ensure the timely reporting of violations and would more actively involve auditors in safeguarding pension assets as

Legislative Recommendations

a first line of defense against the abuse of workers' pension plans.

- **Strengthen criminal penalties in U.S.C.**

Title 18. Three sections of U.S.C. Title 18 serve as the primary criminal enforcement tools for protecting pension plans covered by ERISA. Section 664 prohibits embezzlement or theft from employee pension and welfare plans; Section 1027 prohibits making false statements in documents required by ERISA; and Section 1954 prohibits giving or accepting bribes related to the operation of ERISA-covered plans. Sections 664 and 1027 subject violators to up to 5 years' imprisonment, while Section 1954 calls for up to 3 years' imprisonment for violators. The OIG recommends raising the maximum penalty up to 10 years for all three violations to correspond with the 10-year penalty imposed by Section 669 (for theft from health care benefit programs), which would serve as a greater deterrent and, consequently, further protect employee pension plans.

Improve the Integrity of the FECA Program

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

- Provide statutory access to the NDNH and Social Security wage records. Currently, the Department has no access to NDNH data and can access Social Security wage information only if the claimant gives it permission. Granting the Department routine access to these databases would aid in detecting fraud committed by individuals receiving FECA

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

- Establish a 3-day waiting period at the beginning of the claims process. FECA legislation provides for a 3-day waiting period, which is intended to discourage the filing of frivolous claims. As currently written, however, the legislation places the waiting period at the end of the 45-day continuation-of-pay period, thereby negating its purpose. Legislation passed in 2006 placed the waiting period for postal employees immediately after an employment-related injury. If the intent of the law is to ensure a true waiting period before an employee applies for benefits, then that period should likewise come immediately after an employment-related injury – for all federal workers, not exclusively postal employees. This proposal was included in the President's FY 2021 budget as part of the Office of Workers' Compensation Programs' (OWCP's) FECA reform.
- Allow the temporary suspension of questionable medical providers pending the outcome of an investigation. While FECA regulations allow OWCP to exclude a provider through administrative means, OWCP must give notice to the provider and afford the provider an opportunity for a hearing before DOL's Office of Administrative Law Judges. This process and the various procedures involved can be lengthy. Although the Department's suspension and debarment process is being successfully applied to FECA medical providers, legislative changes are necessary to enable DOL to immediately suspend all payments to providers who have been indicted for fraudulent billing practices. This proposal was included in the President's

Legislative Recommendations

FY 2021 budget as part of OWCP's FECA reform.

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

take other actions as necessary to protect miners' health and safety. Therefore, the OIG recommends a review of the existing "rescue and recovery work" language found in Section 103(j) and the "when present" language found in Section 103(k). Amending the language in those sections would ensure that the Secretary's authority is broad, clear, and not vulnerable to challenge.

Clarify MSHA's Authority to Issue Mine Closure Orders

The Mine Act charges the Secretary of Labor with protecting the lives and health of mine workers. To that end, the Mine Act contains provisions authorizing the Secretary to issue mine closure orders. Specifically, Section 103(j) states, "[i]n 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), "an authorized representative of the Secretary, when present, may issue such orders as he deems appropriate to ensure the safety of any person in the coal or other mine." The Federal Mine Safety and Health Review Commission has affirmed that the act places certain limitations on MSHA's authority. As a result, legislative action is needed to clarify this authority.

MSHA has long-standing and critically important authority to issue mine closure orders and



Appendices

Reporting Requirements Under the Following Acts

Inspector General Act of 1978

REPORTING REQUIREMENT		PAGE
Section 4(a)(2)	Recommendations on Existing and Proposed Legislation and Regulations relating to the programs and operations of DOL	68
Section 5(a)(1)	Description of Significant Problems, Abuses, and Deficiencies relating to the administration of programs and operations	ALL
Section 5(a)(2)	Description of Recommendations for Corrective Action with Respect to Significant Problems, Abuses, and Deficiencies	ALL
Section 5(a)(3)	Significant Recommendations from Previous Semiannual Reports on Which Corrective Action Has Not Been Completed	82
Section 5(a)(4)	Matters Referred to Prosecutive Authorities and the Prosecutions and Convictions Which Have Resulted	97
Section 5(a)(5) and Section 6(c)(2)	Summary of Each Report Made to the Head of DOL under Section 6(c)(2) (Information or assistance requested and unreasonably refused in the judgment of the Inspector General).	None to report
Section 5(a)(6)	List of Audit Reports, Inspection Reports, and Evaluation Reports Subdivided According to Subject Matter	79
Section 5(a)(7)	Summary of Particularly Significant Reports	ALL
Section 5(a)(8)	Statistical Tables Showing the Total Number of Audit Reports, Inspection Reports, and Evaluation Reports and the Total Dollar Value of Questioned Costs, Including Unsupported Costs, for Reports— (A);(D) for which no management decision had been made by the beginning or the end of the reporting period; (B) which were issued during the reporting period; and (C) for which a management decisions was made during the reporting period, including the dollar value of disallowed and not disallowed costs	78
Section 5(a)(9)	Statistical Tables on Management Decisions on Recommendations That Funds Be Put to Better Use (A);(D) for which no management decision had been made by the beginning or the end of the reporting period; (B) which were issued during the reporting period; and (C) for which a management decisions was made during the reporting period, including the dollar value of disallowed and not disallowed costs	77

Reporting Requirements Under the Following Acts, continued

Inspector General Act of 1978, continued

Section 5(a)(10)	Summary of Each Audit Report, Inspection Report, and Evaluation Report Issued Before the Commencement of the Reporting Period— (A) for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report; (B) for which no establishment comment was returned within 60 days of providing the report to the establishment; and (C) for which there are any outstanding unimplemented recommendations, including the aggregate potential cost savings of those recommendations	87 – 100
Section 5(a)(11)	Description and Explanation for Any Significant Revised Management Decision	None to report
Section 5(a)(12)	Information on Any Significant Management Decisions with Which the Inspector General Disagrees	None to report
Section 5(a)(13)	Information from the Federal Financial Improvement Act Section 804(b)—instances and reasons when an agency has not met intermediate target dates in remediation plan	None to report
Section 5(a)(14)	Peer Review Reporting (A) Results of any peer review conducted by another OIG; or (B) A statement identifying the date of the last peer review conducted	99
Section 5(a)(15)	Outstanding Peer Review Recommendations	None to report
Section 5(a)(16)	Peer Reviews Conducted by DOL-OIG and Recommendations Outstanding or Not Fully Implemented	None to report
Section 5(a)(17)	Statistical Tables on Investigative Findings Showing Total Number of— (A) reports issued (B) persons referred to DOJ for prosecution (C) persons referred to State and local prosecuting authorities (D) indictments and criminal informations that resulted from any prior referral to prosecuting authorities	97
Section 5(a)(18)	Metrics Used for Developing the Data for the Statistical Tables Under Section 5(a)(17)	97
Section 5(a)(19)	Summary of Investigations of Senior Government Employees Where Allegations of Misconduct Were Substantiated—including the facts, circumstances, status, disposition of the matter, and name of the official if made public by the Office	None to report
Section 5(a)(20)	Description of Whistleblower Retaliation Cases Including Information About the Official Found to Have Engaged in Retaliation and What, if any, Consequences that Establishment Imposed to Hold that Official Accountable	67

Reporting Requirements Under the Following Acts, continued

Inspector General Act of 1978, continued

Section 5(a)(21)	Summary of Instances of Attempted Departmental Interference with the Independence of the Office, including—with budget constraints and incidents where the establishment has: resisted or objected to oversight activities; or restricted or significantly delayed access to information	None to report
Section 5(a)(22)	(A) Descriptions of Inspections, Evaluations, Audits, and Investigations That Are Closed and Were Not Disclosed to the Public; and (B) Descriptions of Investigations Conducted By the Office Involving a Senior Government Employee that is Closed and Was Not Disclosed to the Public	59

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

Section 989C	Peer Review Reporting	99
--------------	-----------------------	----

Appendices

Funds Recommended for Better Use

Funds Put to a Better Use Agreed to by DOL*		
	Number of Reports	Dollar Value (\$ millions)
For which no management decision had been made as of the commencement of the reporting period	1	5.6
Issued during the reporting period	<u>1</u>	<u>5,409.0</u>
Subtotal	2	5,414.6
For which a management decision was made during the reporting period:		
• Dollar value of recommendations that were agreed to by management		5.6
• Dollar value of recommendations that were not agreed to by management		0.0
For which no management decision had been made as of the end of the reporting period	1	5,409.0
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	1	12.6
For which management or appeal decisions were made during the reporting period	<u>0</u>	<u>0</u>
Subtotal	1	12.6
For which a management decision was made during the reporting period:		
• Dollar value of recommendations that were actually completed	1	12.6
• Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed		0.0
For which no final action had been taken by the end of the period	0	0

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

Questioned Costs

Resolution Activity: Questioned Costs*		
	Number of Reports	Questioned Costs (\$ millions)
For which no management decision had been made as of the commencement of the reporting period (as adjusted)	18	5.3
Issued during the reporting period	<u>1</u>	<u>2.0</u>
Subtotal	19	7.3
For which a management decision was made during the reporting period:		
• Dollar value of disallowed costs		0.1
• Dollar value of costs not disallowed		0.0
For which no management decision had been made as of the end of the reporting period	1	2.0
For which no management decision had been made within six months of issuance	0	0.0

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)	58	11.8
For which management or appeal decisions were made during the reporting period	<u>0</u>	<u>0.0</u>
Subtotal	58	11.8
For which final action was taken during the reporting period:		
• Dollar value of disallowed costs that were recovered		1.4
• Dollar value of disallowed costs that were written off		0.0
• Dollar value of disallowed costs that entered appeal status		
For which no final action had been taken by the end of the reporting period	3	1.1 ¹

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

¹The balances at the commencement of the reporting period include Single Audit activities; however, Single Audit activities, with the exception of Quality Control Reviews conducted by OIG, are no longer included in the end of reporting period totals. This intentional change is the result of the OIG's change in approach to better focus its Single Audit oversight.

Appendices

Final Audit Reports Issued

Report Name	Number of Recommendations	Questioned Costs (\$)	Funds Put to Better Use (\$)
Employment and Training Administration			
COVID-19: States Cite Vulnerabilities in Detecting Fraud While Complying with the CARES Act UI Program Self-Certification Requirement; Report No. 19-21-001-03-315; 10/21/20	0	0	0
ETA Needs To Improve Its Disaster National Dislocated Worker Program; Report No. 02-21-002-03-391; 2/1/21	6	1,988,627	0
Alert Memorandum: ETA Needs to Ensure SWAs Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas; Report No. 19-21-002-03-315; 2/22/21	2	0	5,409,966,198
Job Corps Should Improve Its Pre-Admission Evaluation Process; Report No. 05-21-001-03-370; 03/25/21	4	0	0
Mine Safety and Health Administration			
MSHA Needs to Improve Efforts to Protect Coal Miners From Respirable Crystalline Silica; Report No. 05-21-001-06-001; 11/21/20	3	0	0
MSHA Can Improve How Violations are Issued, Terminated, Modified, and Vacated; Report No. 05-21-002-06-001; 03/31/21	10	0	0
Multi-Agency			
Overview of Vulnerabilities and Challenges in Foreign Labor Certification Programs; Report No. 06-21-001-03-321; 11/13/20	0	0	0
Office of the Assistant Secretary for Administration and Management			
DOL Did Not Demonstrate It Followed A Sound Process in Promulgating the 2017 Tip Rule Notice of Proposed Rulemaking; Report No. 17-21-001-15-001; 12/11/20	5	0	0
FY 2020 FISMA DOL Information Security Report: Progress Needed to Improve Risk Management and Continuous Monitoring Information Security Controls; Report No.23-21-001-07-725; 12/22/20	25	0	0
Office of the Chief Financial Officer			
FY 2020 Independent Auditors' Report on the DOL Financial Statements; Report No. 22-21-004-13-001; 11/16/20	6	0	0
Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements, For the Year Ended September 30, 2020; Report No. 22-21-005-13-001; 12/18/20	20	0	0
Occupational Safety and Health Administration			
Region IX Whistleblower Protection Program Complaints Were Not Complete or Timely; Report No. 02-21-001-10-105; 11/23/20;	4	0	0
COVID-19: Increased Worksite Complaints and Reduced OSHA Inspections Leave U.S. Workers' Safety at Increased Risk; Report No. 19-21-003-10-105; 02/25/21	4	0	0

Appendices

Final Audit Reports Issued, continued

Report Name	Number of Recommendations	Questioned Costs (\$)	Funds Put to Better Use (\$)
Office of Workers' Compensation Program			
Special Report on the Federal Employees' Compensation Act Special Benefit Fund; Report No. 22-21-001-04-431; 10/30/20	2	0	0
District of Columbia Workmen's Compensation Act Special Fund Financial Statements and Inspector General's Report; Report No. 22-21-003-04-432; 11/13/20	0	0	0
Longshore and Harbor Workers' Compensation Act Special Fund Financial Statement and Inspector General's Report; Report No. 22-21-002-04-432; 11/13/20	0	0	0
Total (16 Reports)			
Final Audit Report Total (16 Reports)	91	\$1,988,627	\$5,409,966,198

Appendices

Other Reports

Report Name	Number of Recommendations
Employment and Training Programs	
Workforce Innovation and Opportunity Act Programs	
Quality Control Review (QCR) for Single Audit of the State of New Mexico Workforce Solutions Department for the Fiscal Year Ended on June 30, 2018; Report No. 24-21-001-03-315; 12/16/20	0
Worker Benefit Programs	
Office of Federal Contract Compliance Programs	
Review of the Department of Labor's Compliance in Implementing the Requirements of Executive Order 13950; Report No. 17-21-002-50-598; 12/29/20	0
Other Report Total (2 Reports)	0

Appendices

Unresolved Audit Reports Over 6 Months Old

Agency	Report Name	Number of Recommendations	Questioned Costs (\$)
Agency Management Decision or Grant/Contracting Officer's Final Determination Did Not Resolve; OIG Negotiating with Agency			
ETA	ETA Violated the Bona Fide Needs Rule and the Antideficiency Act; Report No. 26-17-002-03-370; 09/21/17	1	0
ETA	Job Corps Should Do More to Prevent Cheating in High School Programs; Report No. 26-19-001-03-370; 09/25/19	4	0
ETA	COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under the CARES Act; Report No. 19-20-008-03-315; 08/07/20	2	0
MSHA	MSHA Needs to Provide Better Oversight of Emergency Response Plans; Report No. 05-17-002-06-001; 03/31/17	2	0
MSHA	MSHA Did Not Evaluate Whether Civil Monetary Penalties Effectively Deterred Unsafe Mine Operations; Report No 23-19-002-06-001; 08/16/19	1	0
OASAM	FISMA Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16	1	0
OCFO	DATA Act: DOL's Reported Data Generally, Met Quality Standards But Accuracy Issue Remain; Report No 03-20-001-13-001; 11/21/19	3	0
OCFO	DOL Needs To Do More To Secure Employees' Personally Identifiable Information in the Travel Management System; Report No. 23-20-003-13-001; 09/10/20	2	0
OFCCP	OFCCP Did Not Show It Adequately Enforced EEO Requirements on Federal Construction Contracts; Report No. 04-20-001-14-001; 03/27/20	1	0
OSHA	OSHA Procedures for Issuing Guidance Were Not Adequate and Mostly Not Followed; Report No. 02-19-001-10-105; 03/28/19	1	0
Agency Management Decision or Grant/Contracting Officer's Final Determination Not Issued By Close of Period			
	NONE		
Total Nonmonetary Recommendations and Questioned Costs		18	\$0

Agency	Report Name	Number of Recommendations	Funds Recommended for Better Use (\$)
Agency Management Decision or Grant/Contracting Officer's Final Determination Did Not Resolve; OIG Negotiating with Agency			
Total Funds Recommended for Better Use		0	\$0

Total Audit Exceptions and Funds Recommended for Better Use	18	\$0
Total Funds Recommended for Better Use	0	0
Total Audit Exceptions and Funds Recommended for Better Use	18	\$0

Corrective Actions Taken by the Department

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

COVID-19: OSHA Needs to Improve Its Handling of Whistleblower Complaints During the Pandemic; Report No. 19-20-010-10-105

OSHA's Whistleblower Protection Program enforces 25 whistleblower statutes. These statutes prohibit employers from retaliating against their employees for exercising their rights to report violations of various workplace safety, consumer product, environmental, financial reform, and securities laws. OSHA investigates complaints of discriminatory actions taken against employees who "blow the whistle" under any of these statutes.

The pandemic has raised concerns regarding the safety and health of the workforce, and the protections afforded to those who report potential workplace safety violations. News articles have depicted alleged employer retaliation against employees who reported potential workplace safety violations during COVID-19, including social distancing and personal protective equipment violations. Employees who believe they have been subject to retaliation may file a complaint with the Whistleblower Program. Whistleblower complaints have significantly increased during the pandemic, and at the same time, the Whistleblower Program's full-time equivalent employment (FTE) has decreased. Based on interviews with investigators and a regional supervisory investigator, no more than 20 open investigations at one time would be the optimal caseload per investigator. Depending on the region, the investigators reported that open investigations ranged from 15 to 40 in 2019, but 19 to 45 in 2020. As a result, the potential exists for an even greater delay in the average days to close an investigation. Amid this challenge, OSHA needs to improve its handling of whistleblower complaints during the COVID-19 pandemic.

In response to our audit, OSHA filled the five whistleblower positions with Alternative Dispute Resolution (ADR) Coordinators. According to OSHA, this program has proven to be an effective and viable alternative to the investigative process and an invaluable asset to OSHA's whistleblower protection program. OSHA also stated that filling these positions with ADR Coordinators will provide the greatest benefit to the agency.

Review of the Occupational Safety and Health Administration's Referral to and Reclamation of Debt from the U.S. Department of the Treasury; Report No. 22-20-006-10-001

OSHA is authorized to levy penalties against employers who violate OSHA safety regulations. These penalties serve as OSHA's primary means for motivating employers to prevent or correct hazards

Corrective Actions Taken by the Department, continued

voluntarily. Any penalties assessed by OSHA become delinquent 30 calendar days after the due date. Pursuant to the Debt Collection Improvement Act (DCIA) of 1996, OSHA must refer any debts over 180 days past due to Treasury's Fiscal Service for collection. We found OSHA had not been timely in referring delinquent debt for collection to Treasury's Fiscal Service. Moreover, we found OSHA did not accurately report to Treasury the status of its receivables and did not notify the area office to provide a status update and specify follow-up actions.

In response to our memorandum, OSHA developed and implemented several standard operating procedures to improve its debt collection process. It implemented periodic reporting between headquarters and regional offices to provide status updates and action to be taken on overdue cases. Further, it implemented procedures to enhance reporting to Treasury on the status of debt.

DOL Could Improve Exit Requirements and Participant Outcomes for the YouthBuild Program; Report No. 04-18-002-03-001

The YouthBuild program targets at-risk youth that are current or former high school dropouts, providing education, occupational skills training, and leadership development to youth in need. Our audit found that 1,155 of 18,750 participants who "successfully exited" the program had not secured an industry credential, had not earned a high school diploma or equivalency degree, nor had they obtained employment or enrolled in another educational program. We also questioned \$1.4 million in costs for participants that remained in the program longer than the legal limit of 2 years.

In response to our audit, DOL acknowledged that the definitions grantees had in place for a "successful" exit were subject to substantial variation. All Workforce Innovation and Opportunity Act (WIOA) authorized programs, including YouthBuild, are now required to use the same set of six performance indicators, as part of WIOA's goal of greater alignment of the workforce system. The YouthBuild program began using these new measures and fully discontinued the use of "successful" and "unsuccessful" exit by the end of 2020. Additionally, ETA recovered the disallowed costs related to the number of unallowable days of training.

COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under the CARES Act; Report No. 19-20-008-03-315

On March 27, 2020, Congress passed the Coronavirus Aid, Relief and Economic Security (CARES) Act. As of January 2, 2021, the CARES Act included approximately \$392 billion in funding to operate new or existing unemployment compensation programs, including a program designed to provide benefits to individuals who are not traditionally eligible for unemployment assistance. Our audit found that DOL's guidance did not sufficiently address the risks of fraud, waste, or abuse. In addition, although DOL

Corrective Actions Taken by the Department, continued

leveraged existing tools to combat fraud, it did not always ensure those tools were used effectively and it did not sufficiently address the assessment of CARES Act programs in its oversight plan.

In response to our audit, DOL engaged a contractor that identified states with best practices, compiled those best practices, and produced a webcast for the states. DOL also provided significant technical assistance to states, including an implementation checklist, and developed a suite of comprehensive monitoring tools to support reviews of states' operations and reporting activities. In September 2020, DOL regional offices began conducting monitoring and risk assessments, and issuing monitoring reports for each state.

Voluntary Protection Program: Controls Are Not Sufficient to Ensure Only Worksites with Exemplary Safety and Health Systems Remain in the Program; Report No. 02-14-201-10-105, and OSHA's Voluntary Protection Programs Require Better Information to Identify Participants with Contract-Worker Fatalities and Catastrophes; Report No. 02-17-202-10-105

OSHA has used its Voluntary Protection Program (VPP) to establish cooperative relationships with businesses and their workers to help prevent fatalities, injuries, and illnesses; and to officially recognize worksites with exemplary safety and health management systems. Once approved for VPP participation, a worksite is exempted from OSHA programmed inspections as long as it complies with program requirements and maintains exemplary systems.

OSHA did not have controls in place to sufficiently select, reevaluate, and monitor VPP participants to ensure their worksites maintained exemplary status. As a result, we found approximately 13 percent of VPP participants had injury and illness rates above industry averages or had been cited for violations of safety and health standards. Most of these participants were still allowed to remain in the program. In addition, OSHA's policy allowed participants with injury and illness rates above industry averages to potentially remain in the program for up to 6 years. Finally, OSHA did not have assurance that it received reports of all VPP contract-worker fatalities and catastrophes, because it did not have adequate information systems. Instead, OSHA relied on participants, workers, and contract-workers to report VPP fatalities and catastrophes. Regulations require all employers to report work-related fatalities and severe injuries to OSHA; however, contractors that report may not reveal their affiliation with a VPP participant.

In response to our audits, OSHA updated its VPP Policies and Procedures Manual. VPP participants are allowed to develop and implement a 2 year Rate Reduction Plan (RRP) when, for a given calendar year, their three-year average injury and illness rates go above their industry average rates published annually

Corrective Actions Taken by the Department, continued

by the Bureau of Labor Statistics (BLS). When the employers recognize their rate increase, they are obligated to develop and implement an RRP that will feasibly result in their rates being reduced a level lower than the published industry injury and illness rates for the most recent calendar year. The Policy and Procedures Manual has been amended to clarify when an RRP can and cannot be used for a participant whose 3-year average injury and illness rates increase above the BLS published injury and illness rates for their industry. Moreover, OSHA implemented a requirement for field offices to provide reports that include specific information for reporting fatalities and significant events at VPP sites. Finally, the updated VPP manual presents codes for OSHA's information system specifically developed to identify enforcement activities at VPP sites, including those for non-VPP contractors working at VPP sites. The requirement to report significant incidents now clearly includes all contractor employees at VPP sites.

COVID-19: WHD Needs to Closely Monitor the Pandemic Impact on Its Operations; Report No. 19-20-009-15-001

On March 18, 2020, Congress passed the FFCRA in response to the COVID-19 pandemic to ensure American workers would not be forced to choose between their paychecks and the public health measures needed to combat the virus. Even though WHD acted quickly after Congress passed the FFCRA by issuing guidance, training staff, and conducting oversight, the agency continued to face challenges as it implemented and enforced the requirements of the FFCRA. Challenges WHD faced included conducting enforcement activities while maximizing telework, maintaining social distancing, and ensuring appropriate eligibility for FFCRA's emergency paid leave benefits. While WHD developed a COVID-19 specific addendum for its operating plan, it focused on past efforts and did not sufficiently address the agency's planned future actions, including how it intended to use the additional \$2.5 million it received in CARES Act funding to fulfill its obligations under the FFCRA.

In response to our audit, WHD took actions to develop a robust, flexible infrastructure for closely monitoring the FFCRA and FLSA programs, including system-wide impacts from the pandemic; leverage existing case management systems, which already tracks case backlogs; and administer and enforce FFCRA paid leave requirements based on the initial definition of health care provider in the relevant regulatory provision until the court vacated that definition. WHD also established performance measures in the FY 2020 WHD Operating Plan: COVID-19 Addendum that were baselined for the remainder of FY 2020 and monitored moving forward. WHD relied on a proven mix of data analytics, cross-functional teams, and continuous communication to ensure effective and efficient case management.

Unimplemented Recommendations

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

From October 1, 2011, through September 30, 2020, the OIG made 1,517 audit recommendations to the Department, of which 149 have not been fully implemented. These 149 recommendations include 92 recommendations resulting from audits issued since the end of FY 2018, and in many cases, the Department has corrective action plans in place.

RECOMMENDATIONS MADE PRIOR TO OCTOBER 1, 2020, NOT YET IMPLEMENTED

Fiscal Year	Total Number of Recommendations Made	Unimplemented Recommendations	
		Total Number	Monetary Impact (\$)
2011	319	7	
2012	213	3	
2013	195	2	
2014	128	1	
2015	163	7	48,404
2016	100	1	
2017	112	20	
2018	98	16	1,051,750
2019	84	37	
2020	105	55	5,660,468
Total	1,517	149	\$6,760,622

High-Priority Unimplemented Recommendations

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

Report Title; Report Number; Date Issued	Unimplemented Recommendations
Worker Safety	
MSHA Needs to Provide Better Oversight of Emergency Response Plans; Report No. 05-17-002-06-001; 03/31/17	Clarify mine operators' responsibilities for local coordination under the MINER Act, including coordination and communication among the operator, mine rescue teams, and local emergency response personnel, and familiarizing local rescue personnel with surface functions that may be required in the course of mine rescue work.
COVID-19: OSHA Needs to Improve Its Handling of Whistleblower Complaints During the Pandemic Report No. 19-20-010-10-105; 8/14/20	Continue to monitor and evaluate the Region II triage pilot and consider extending the triage process to all regions to expedite the screening of whistleblower complaints.
COVID-19: Increased Worksite Complaints and Reduced OSHA Inspections Leave U.S. Workers' Safety at Increased Risk; Report No. 19-21-003-10-105; 02/25/21	Improve OSHA's inspection strategy by prioritizing very high and high-risk employers for COVID-19 related onsite inspections as businesses reopen and increase operations in various localities across the United States. Ensure remote inspections are tracked retroactive to February 1, 2020. Compare remote inspections to onsite inspections, and at a minimum provide analysis that addresses their frequency and timeliness for identifying and abating worksite hazards. Analyze and determine whether establishing an infectious disease specific ETS is necessary to help control the spread of COVID-19 as employees return to worksites.
Employee Benefits	
EBSA Did Not Have the Ability to Protect the Estimated 79 Million Plan Participants in Self-Insured Health Plans from Improper Denials of Health Claims; Report No. 05-17-001-12-121; 11/18/16	Reduce or eliminate exemption thresholds for small plans.
OWCP's Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses; Report No. 03-12-001-04-431; 02/15/12	Develop effective procedures, including seeking legislative authority to conduct matches with SSA retirement records, to ensure that claimants who receive SSA retirement benefits are identified timely and their FECA benefits are adjusted accordingly.
OWCP Must Continue Strengthening Management of FECA Pharmaceuticals, Including Opioids; Report No. 03-19-002-04-431; 5/14/19	Ensure that the pharmacy benefits manager (PBM) implements a drug utilization review as specified in the contract. Ensure the PBM, when developing its formulary, considers all classes of drugs to determine if prior authorization or letters of medical necessity would be appropriate.
Unemployment Insurance Benefits	
DOL Did Not Comply with Improper Payments Elimination and Recovery Act for FY 2017; Report No. 03-18-002-13-001; 05/15/18	Maintain its current focus on increasing its technical assistance and funding to states to improve the improper payment reduction strategies to ensure compliance with the improper payments estimate rate threshold.

High-Priority Unimplemented Recommendations, continued

COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under the CARES Act Report No. 19-20-008-03-315; 08/07/20	Include CARES Act UI transactions in the Benefit Accuracy Measurement (BAM) or develop an alternative methodology to reliably estimate improper payments for those programs; and issue guidance directing states to provide access to state UI claimant data, in order to prevent and detect fraud.
Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud Report No. 19-20-002-03-315; 05/26/20	Seek additional guidance or clarification from Congress concerning whether a claimant is entitled to establish and continue to receive PUA payments without providing documentation at any point to support a weekly benefit amount (WBA) determination. Alternatively consider tools already available under the CARES Act such as those cited in § 2102(a)(3)(A)(i)(I)(kk) or § 2104(f)7 and change its guidance; or request legislative action to curtail improper or fraudulent PUA payments.
Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas; Report No. 19-21-002-03-315; 02/22/21	Establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to ineligible claimants, including the areas identified in the memorandum: UI benefits paid to multi-state claimants, claimants who used the social security numbers of deceased individuals, potentially ineligible federal inmates, and claimants with suspicious email accounts. Effective controls will help prevent similar or greater amounts of fraud and allow those funds to be put to better use. Work with Congress to establish legislation requiring SWAs to cross-match high-risk areas, including the four areas identified in the memo.
Departmental Management	
FISMA Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16	Realign the organizational structure as it relates to the CIO to address organizational independence issues.
FY 2019 FISMA DOL Information Security Report: Implementation of Security Tools Hindered by Insufficient Planning; Report No. 23-20-002-07-725; 12/23/19	Implement improvements in DOL's information security program for the following areas: Risk Management, Configuration Management, Identity and Access Management, Data Protection and Privacy, Information Security Continuous Monitoring, Incident Response, and Contingency Planning.
DATA Act: DOL's Reported Data Generally Met Quality Standards But Accuracy Issues Remain; Report No. 03-20-001-13-001; 11/21/19	Identify risks specific to DATA Act reporting and take appropriate action to ensure internal controls address the resulting areas of concern.
Stronger Controls Needed Over Web Application Security; Report No. 23-20-001-07-725; 11/14/19	Establish and maintain a comprehensive inventory of web applications, identifying which applications are public-facing and contain sensitive information. Review and update DOL Plan of Action and Milestones (POA&M) policy to ensure agency corrective actions and timeframes are implemented. Establish and verify the implementation of Department-wide policies and procedures specific to associated risks to web applications, securing web servers, and web application programming.

High-Priority Unimplemented Recommendations

DOL Needs to Do More to Secure Employees' Personally Identifiable Information in the Travel Management System Report No. 23-20-003-13-001; 09/10/20	Establish and implement procedures to ensure E2 is managed in compliance with contractual security requirements and DOL computer security policies for contracted information systems; and establish and implement procedures to ensure E2 account management practices enforce DOL's security policies. These procedures must include application of the principle of least privilege when creating, monitoring, and deactivating E2 user accounts.
FY 2020 Independent Auditors' Report on the DOL Financial Statements; Report No. 22-21-004-13-001; 11/16/20	Formally document the level of precision used in the reviews to ensure that the review occurs at an appropriately precise level to identify errors within model functionality and data input, which would allow the reviewer to identify material errors in the estimates. Maintain documentation of the reviews performed to assess the reasonableness of the underlying data, assumptions, and formulas used in the models that is sufficiently detailed to evidence the specific items reviewed, analysis performed, and conclusions reached. Provide additional training to the reviewers of the estimates to reinforce established policies and procedures, as necessary. Amend policies and procedures to provide specific steps to be performed during the reviews and the documentation requirements, which should include the specific items reviewed, analyses performed, and conclusions reached.
FY 2020 FISMA DOL Information Security Report: Progress Needed to Improve Risk Management and Continuous Monitoring Information Security Controls; Report No. 23-21-001-07-725; 12/22/20	Provide training to responsible personnel over the third-party continuous monitoring review checklist. Enforce DOL policies and procedures regarding separation of duties so developers do not possess the ability to migrate changes to production. Enforce DOL security baseline policies with DOL's Cloud Service Providers (CSPs) and develop a security configuration checklist for the CSPs. Develop sufficiently defined quantitative and qualitative metrics that provide meaningful indications of security status and trend analysis at all risk management tiers. Review, revise as necessary, finalize, and implement their revised Software Development Life Cycle Manual. Implement a process for approving deviations from established configuration settings.
Job Corps Safety	
COVID-19: ETA Should Continue To Closely Monitor Impact on Job Corps Program Report No. 19-20-007-03-370; 07/28/20	Prior to reopening campuses, Job Corps should ensure all centers have proper controls in place to adhere to federal, state, local and other guidelines – from physical distancing to having ample disinfectant, cleaning and PPE supplies; and Job Corps should ensure centers provide needed resources to address the learning needs of all students, including students who require reasonable accommodations, hands-on-instruction, and special equipment to learn.

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

Report Name	Number of Recommendations	Funds Put to Better Use (\$)
Employment and Training Administration		
ETA Should Do More to Assist Vulnerable States Prepare for Disaster Unemployment Assistance Program Implementation; Report No. 04 20 002-03-315; 09/29/20 Establish policies, procedures and controls to ensure states provide DUA staff annual training and have required written state DUA policies and procedures in place.	1	5,564,769
Total	1	\$5,564,769

Summary of Reports with Unimplemented Recommendations with Other Monetary Impact

Report Name	Number of Recommendations	Funds Put to Better Use (\$)
Employment and Training Administration		
Job Corps Could Not Demonstrate Beneficial Job Training Outcomes; Report No. 04-18-001-03-370; 03/30/18 We recommend the Employment and Training Administration determine and assess liquidated damages to contractors that misreported data based on invalid placements.	1	51,750
Total	1	\$51,750

Appendices

Reports with Unimplemented Recommendations for Management Improvement or Disallowed Costs Owed

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

Report Name	Number of Unimplemented Recommendations	Disallowed Costs Owed (\$)
Office of the Chief Financial Officer		
The Department Needs to Take Action to Improve the Quality of its Data Act Submissions Report; Report No. 03-18-001-13-001; 01/19/18	2	0
DOL Did Not Comply With Improper Payments Elimination and Recovery Act for FY 2017; Report No. 03-18-002-13-001; 05/15/18	1	0
DATA Act: DOL's Reported Data Generally Met Quality Standards But Accuracy Issues Remain; Report No. 03-20-001-13-001; 11/21/19	3	0
Management Advisory Comments Identified In An Audit of the Consolidated Financial Statements For The Year Ended September 30, 2019; Report No. 22-20-005-13-001; 12/19/19	6	0
DOL Needs To Do More To Secure Employees' Personally Identifiable Information in the Travel Management System; Report No. 23-20-003-13-001; 09/10/20	2	0
Employee Benefits Security Administration		
Limited-Scope Audits Provide Inadequate Protections to Retirement Plan Participants; Report No. 05-14-005-12-121; 09/30/14	1	0
EBSA Did Not Have the Ability to Protect the Estimated 79 Million Plan Participants in Self-Insured Health Plans from Improper Denials of Health Claims; Report No. 05-17-001-12-121; 11/18/16	1	0
Employment and Training Administration		
Job Corps Oversight of Center Performance Needs Improvement; Report No. 26-12-006-03-370; 09/28/12	1	0
Job Corps Needs to Improve Enforcement and Oversight of Student Disciplinary Policies; Report No. 26-15-001-03-370; 02/27/15	1	48,404
Investigative Advisory Report—Weaknesses Contributing to Fraud in the Unemployment Insurance Program; Report No. 50-15-001-03-315; 07/24/15	6	0
Program Specific Performance Measures Are Needed to Better Evaluate the Effectiveness of the Reemployment Services and Eligibility Assessment Program; Report No. 04-17-002-03-315; 09/26/17	3	0
ETA Violated the Bona Fide Needs Rule and the Antideficiency Act; Report No. 26-17-002-03-370; 09/21/17	2	0

Reports with Unimplemented Recommendations, continued

Report Name	Number of Unimplemented Recommendations	Disallowed Costs Owed (\$)
Trade Adjustment Assistance Community College Career Training Grants: ETA Spent \$1.5 Billion and Met Its Stated Capacity Development Goals, but Is Challenged to Determine if the Investment Improved Employment Outcomes; Report No. 02-18-201-03-330; 07/26/18	3	1,000,000
Experience Works, Inc. Misused More than \$4 Million in SCSEP Grant Funds; Report No. 26-18-002-03-360; 09/28/18	1	0
Job Corps Should Do More to Prevent Cheating in High School Programs; Report No. 26-19-001-03-370; 09/25/19	5	0
ETA Had No Reasonable Assurance That \$183 Million in H-1B TST Grant Funds Helped Participants Get H-1B Jobs; Report No. 06-19-001-03-391; 09/27/19	1	0
Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud; Report No. 19-20-002-03-315; 05/26/20	1	0
COVID-19: ETA Should Continue to Closely Monitor Impact on Job Corps Program; Report No. 19-20-007-03-370; 07/28/20	2	0
COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under The CARES Act; Report No. 19-20-008-03-315; 08/07/20	2	0
ETA Should Do More to Assist Vulnerable States Prepare for Disaster Unemployment Assistance Program Implementation; Report No. 04-20-002-03-315; 09/29/20	2	95,699
DOL Needs to Improve Debarment Processes to Ensure Foreign Labor Program Violators are Held Accountable; Report No. 06-20-001-03-321; 09/30/20	1	0
ETA Could Not Demonstrate that Credentials Improved WIOA Participants' Employment Outcome; Report No. 03-20-002-03-391; 09/30/20	2	0
Office of Workers' Compensation Programs		
OWCP's Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses; Report No. 03-12-001-04-431; 02/15/12	1	0
Audit of Federal Employees' Compensation Act, Durable Medical Equipment Payments; Report No. 03-12-002-04-431; 03/26/12	1	0
Interim Report on Audit of Pharmaceutical Management in DOL Benefit Programs-OWCP Needs Better Controls over Compounded Prescription Drugs; Report No. 03-17-001-04-431; 05/23/17	8	0
Special Report Relating to the Federal Employees' Compensation Act Special Benefit Fund—September 30, 2018; Report No. 22-19-003-04-431; 11/02/18	1	0
OWCP Must Continue Strengthening Management of FECA Pharmaceuticals, Including Opioids; Report No. 03-19-002-04-431; 05/14/19	2	0
Alert Memorandum: Vulnerability in OWCP FECA Bill Pay Processing System; Report No. 50-20-001-04-430; 05/07/20	1	0

Appendices

Reports with Unimplemented Recommendations, continued

Report Name	Number of Unimplemented Recommendations	Disallowed Costs Owed (\$)
COVID-19: OWCP Should Continue to Closely Monitor Impact on Claims Processing; Report No. 19-20-004-04-001; 07/06/20	4	0
Mine Safety and Health Administration		
MSHA Can Improve Its Section 110 Special Investigations Process; Report No. 05-13-008-06-001; 09/30/13	2	0
MSHA Needs to Provide Better Oversight of Emergency Response Plans; Report No. 05-17-002-06-001; 03/31/2017	6	0
MSHA Did Not Evaluate Whether Civil Monetary Penalties Effectively Deterred Unsafe Mine Operations; Report No. 23-19-002-06-001; 08/16/19	2	0
MSHA Needs to Better Manage its Pre-Assessment Conferencing Program; Report No. 05-19-001-06-001; 09/23/19	9	0
COVID-19: MSHA Faces Multiple Challenges in Responding to the Pandemic; Report No. 19-20-006-06-001; 07/24/20	1	0
Office of the Assistant Secretary for Administration and Management		
The Department Could Do More to Strengthen Controls over Its Personal Identity Verification System; Report No. 04-11-001-07-001; 03/31/11	1	0
Ineffective Accounting for Sensitive Information Technology Hardware and Software Assets Places DOL at Significant Risk; Report No. 23-11-001-07-001; 03/31/11	6	0
FISMA Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16	1	0
FY 2017 FISMA DOL Information Security Report; Report No. 23-18-001-07-725; 12/29/17	4	0
FY18 FISMA DOL Information Security Report; Report No. 23-19-001-07-725; 03/13/19	5	0
Alert Memorandum: Security Vulnerability Relating to DOL Information Security Property; Report No. 50-19-002-07-725; 06/17/19	2	0
Stronger Controls Needed over Web Application Security; Report No. 23-20-001-07-725; 11/14/19	3	0
FY 2019 FISMA DOL Information Security Report: Implementation of Security Tools Hindered by Insufficient Planning; Report No. 23-20-002-07-725; 12/23/19	13	0
DOL Could Improve Areas of Physical Security To Help Effectively Safeguard Employees; Report No. 17-20-001-07-01; 05/21/20	3	0
Office of Federal Contract Compliance Programs		
OFCCP Did Not Show It Adequately Enforced EEO Requirements on Federal Construction Contracts; Report No. 04-20-001-14-001; 03/27/20	1	0

Appendices

Reports with Unimplemented Recommendations, continued

Report Name	Number of Unimplemented Recommendations	Disallowed Costs Owed (\$)
Office of the Secretary		
DOL Needs to Do More to Implement the Geospatial Data Act of 2018; Report No. 23-20-004-01-001; 09/30/20	1	0
Occupational Safety and Health Administration		
OSHA Needs to Improve the Guidance for Its Fatality and Severe Injury Reporting Program to Better Protect Workers; Report No. 02-18-203-10-105; 09/13/18	4	0
OSHA Procedures For Issuing Guidance Were Not Adequate and Mostly Not Followed; Report No. 02-19-001-10-105; 03/28/19	4	0
Review of the Occupational Safety and Health Administration's Referral to and Reclamation of Debt from the U.S. Department of the Treasury; Report No. 22-20-006-10-001; 03/16/20	1	0
COVID-19: OSHA Needs to Improve Its Handling of Whistleblower Complaints During the Pandemic; Report No. 19-20-010-10-105; 08/14/20	2	0
Wage and Hour Division		
Better Strategies Are Needed to Improve the Timeliness and Accuracy of Davis-Bacon Act Prevailing Wage Rates; Report No. 04-19-001-04-420; 03/29/19	6	0
DOL Needs to Improve Debarment Processes to Ensure Foreign Labor Program Violators are Held Accountable; Report No. 06-20-001-03-321; 09/30/20	3	0
Totals	147	\$1,144,103

Appendices

Investigative Statistics

	Division Totals	Total
Investigative Reports Issued / Cases Closed (includes investigative reports issued, case closing reports, and matters referred for possible civil and/or administrative action):		64
Program Fraud	50	
Labor Racketeering	14	
Cases Opened:		269
Program Fraud	254	
Labor Racketeering	15	
Cases Referred for Prosecution (each case is measured as a singular statistic and may include more than one person or business entity):		208
Program Fraud	198	
Labor Racketeering	10	
Cases Referred for Administrative/Civil Action (each case is measured as a singular statistic and may include more than one person or business entity):		54
Program Fraud	49	
Labor Racketeering	5	
Persons Referred to the Department of Justice for Criminal Prosecution (includes the number of individuals and business entities referred for prosecution):		221
Program Fraud	212	
Labor Racketeering	9	
Persons Referred to State and Local Prosecuting Authorities for Criminal Prosecution (includes the number of individuals and business entities referred for prosecution):		30
Program Fraud	30	
Labor Racketeering	0	
Indictments and Criminal Informations That Resulted from Any Prior Referral to Prosecuting Authorities (includes sealed and unsealed indictments):		195
Program Fraud	173	
Labor Racketeering	22	
Indictments (includes sealed and unsealed indictments):		195
Program Fraud	173	
Labor Racketeering	22	
Convictions:		81
Program Fraud	61	
Labor Racketeering	20	
Statutory Debarments:		6
Program Fraud	5	
Labor Racketeering	1	
Recoveries, Cost-Efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions:		\$208,932,088
Program Fraud	\$173,609,167	
Labor Racketeering	\$35,322,921	

Investigative Statistics, continued

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):	71,319,024
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):	86,333,384
Restitutions/Forfeitures (the dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations):	48,462,236
Fines/Penalties (the dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations):	1,139,236
Civil Monetary Actions (the dollar amount/value of forfeitures, settlements, damages, judgments, court costs, and other penalties resulting from OIG criminal investigations):	1,677,209
Total:	\$208,932,088

Peer Review Reporting

The following meets the requirement under Section 5(1)(14)(A)–(B) of the Inspector General Act (as amended) and Section 989C of the Dodd–Frank Wall Street Reform and Consumer Protection Act (P.L. 111–203) that the Inspectors General include their peer review results as an appendix to each semiannual report. Federal audit functions can receive a rating of “pass,” “pass with deficiencies,” or “fail.”

DOL-OIG Assisted in Peer Review of the United States Postal Service (USPS)–OIG Inspection and Evaluation Function

DOL-OIG assisted the Department of Homeland Security–OIG with a peer review of the system of quality control for USPS-OIG’s inspection and evaluation function for the period ending in June 2020. The peer review report issued by the Department of Homeland Security–OIG on November 17, 2020, resulted in an opinion that USPS-OIG had suitably designed its system of quality control and provided reasonable assurance that USPS-OIG conformed to the seven professional standards for the conduct of inspections and evaluations. The peer review made no recommendations.

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, 2020, through March 31, 2021, the OIG Hotline received a total of 2,882 contacts. Of these, 2,860 were referred for further review and/or action.

Complaints Received (by method reported):	
Telephone	19
E-mail/Internet	2,858
Mail	5
Fax	0
Walk-in	0
Total	2,882¹
Contacts Received (by source):	
Complaints from Individuals or Nongovernmental Organizations	2,030
Complaints/Inquiries from Congress	1
Referrals from U.S. Government Accountability Office	2
Complaints from Other DOL Agencies	1
Complaints from Other (non-DOL) Government Agencies	848
Total	2,882
Disposition of Complaints:	
Referred to OIG Components for Further Review and/or Action	2,828
Referred to DOL Program Management for Further Review and/or Action	29
Referred to Non-DOL Agencies/Organizations	3
No Referral Required / Informational Contact	22
Total	2,882

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

¹ During this reporting period the OIG Hotline received approximately 28,500 complaints that are awaiting processing. The majority of these complaints are referrals from the National Center for Disaster Fraud. Almost all of these referrals are complaints that involve concerns regarding COVID-19-related unemployment benefits.

Fiscal Year 2021 Audit Workplan

Bureau of Labor Statistics (BLS)

Discretionary Audit

BLS Survey Response Rate – In Progress. BLS is the principal federal agency responsible for measuring labor market activity, working conditions, and price changes in the nation's economy. The President, Congress, federal policymakers, public institutions, and private citizens use the economic information developed by BLS to guide and support decision-making. According to a 2013 study by the National Research Council, "for many household surveys in the United States, response rates have been steadily declining for at least the past two decades." It is vital for BLS to incorporate new methodologies and technology into its data collection process to ensure expected response rates and reduced respondent burden. A decline in response rates could increase data collection costs and affect data quality, which may result in unreliable economic information developed by BLS. This audit will focus on how efficiently and effectively BLS is able to obtain data necessary to produce the economic information it is required to produce, and if there are other sources to obtain the necessary data.

Bureau of International Labor Affairs (ILAB)

Mandatory Audit

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

Employment and Training Administration (ETA)

Discretionary Audits

Apprenticeship Program

The Industry-Recognized Apprenticeship Program (IRAP) Audit – In Progress. IRAP was established to highlight high quality apprenticeships where individuals obtain workplace relevant training and advanced skills that result in an industry recognized credential. ETA disclosed that Training and Employment Services funds had been expended inappropriately on activities for IRAP. This audit will determine the actions ETA took to identify, correct, and prevent inappropriate expenditures of funds in the future.

OIG FY 2021 Audit Workplan

ETA Contract and Grant Programs

COVID-19: ETA's Administration of DWGs – In Progress. The Coronavirus Aid, Relief and Economic Security (CARES) Act provided \$345 million for DWGs to prevent, prepare for, and respond to the COVID 19 pandemic. These grants are intended to help Americans get back to work and can also be used for contact tracing and coronavirus-related cleaning as businesses and schools continue to re-open. Flexibility is essential for DWG funds so that they can be used where they are most needed, which is determined at the state and local level. The audit focuses on the extent ETA properly administered the DWG program.

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

Job Corps

COVID-19: Job Corps Response to COVID-19– Phase 2 – In Progress. Resuming operations at more than 120 center campuses during the COVID-19 pandemic presents a number of challenges to the Job Corps program, such as implementing physical distancing for more than 30,000 students returning to classrooms, common areas, and dorms; obtaining sufficient supplies of personal protective equipment (e.g., facemasks, face shields, gloves), disinfectants, and cleaning products; and transporting students to centers. This audit will assess Job Corps' efforts to comply with various local, state, and federal guidelines to keep students and staff safe when reopening center campuses.

UI Program

COVID-19: Audit of DOL and States Implementation of the CARES Act UI Provisions – Completed. Between March and July 2020, more than 56 million new claims for UI were filed. This is an average of 2.7 million new weekly claims, and more than 10 times the average of the 218,000 new weekly claims for the weeks leading up to the onset of the COVID-19 pandemic. With the huge increase in traditional UI claims and the implementation challenges associated with the new CARES Act programs, states' resources have been stretched beyond their limits and the risk of fraud and increased improper payments have been significantly heightened. Our audit focuses on the initial period of benefits from March 27, 2020, to July 31, 2020. This will include an assessment of ETA's oversight and states' implementation of key provisions of the CARES Act to ensure UI benefit recipients initially and continually met program eligibility requirements, eligible individuals were paid timely, and improper payments were detected, recovered, and reported.

Unemployment Insurance, Work Search Requirements – In Progress. Since 2016, the leading cause of UI improper payments has been payments to claimants who failed to meet the work search

OIG FY 2021 Audit Workplan

requirements of the UI program. The Department estimated that between April 1, 2017, and March 31, 2018, states overpaid more than \$1.4 billion in UI benefits to recipients who did not meet state work search requirements. This ongoing audit assesses the accuracy of reported levels of noncompliance with work search requirements and, makes recommendations for possible approaches to improve compliance and reduce improper payments.

COVID-19: Audit of DOL and States Implementation of the CARES Act UI Provisions– Phase 2 – In Progress. The COVID-19 pandemic presented both new and familiar challenges for DOL and states as they implement the CARES Act UI provisions. This audit will provide an after-the-fact review of the CARES Act UI provisions with respect to: implementation, both at the federal and state level; oversight; lessons learned; and how DOL’s response to the pandemic affected normal operations.

Effectiveness of UI Program Integrity Efforts– In Progress. ETA’s UI program works in partnership with states to provide timely the critical funds needed by unemployed citizens. ETA annually reports performance data and results related to fraud and the misuse of protections afforded by the UI program. Over the years, ETA has implemented various program integrity and fraud reduction initiatives; however, these initiatives offer only a partial solution to improving the integrity of the program. This audit will focus on ETA’s role in managing the integrity of the UI program, including working with states and partners to identify and share best practices and data to reduce fraud.

COVID-19: Implementation and Oversight of the COVID-19 Emergency Transfers for Administration of the Unemployment Compensation Program. The Families First Coronavirus Act provided \$1 billion to DOL to provide emergency administration grants to state unemployment insurance (UI) agencies for the administration of their unemployment compensation programs. Administrative resources are critical to delivering an effective UI program that is relied upon by millions of American taxpayer, especially now during the pandemic. Funds provided through these emergency administrative grants may only be used for the administration of the UI program and are not available for the payment of UI funds. This audit will focus on the Department’s monitoring of the emergency administration grants and whether these funds were accurately tracked and reported, at both the state and federal level.

Mine Safety and Health Administration (MSHA)

Discretionary Audits

MSHA Violations – Completed. From 2013 through September 2019, MSHA inspectors issued more than 736,000 citations and orders to mines for violations of health and safety laws and regulations. During the same period, MSHA modified or canceled (“vacated”) more than 12,300 of those citations and orders. Incorrectly modifying or vacating citations and orders increases the risk that miners remain exposed to

OIG FY 2021 Audit Workplan

hazards. This ongoing audit focuses on whether MSHA appropriately wrote, terminated, modified, or vacated citations and orders.

Integrity of Dust Sampling. Miners are exposed to harmful substances in their work environment daily. MSHA samples for and control many of these substances, including airborne toxins such as coal dust and respirable crystalline silica. Since 1990, at least 150 mine operators, agents, and contractors have pleaded or been found guilty of submitting fraudulent dust samples used to regulate airborne toxins in mines (e.g., silica and coal dust). This audit will assess MSHA's efforts to address sample manipulation.

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

Occupational Safety and Health Administration (OSHA)

Discretionary Audits

COVID-19: OSHA's Guidance Related to Safety of Its Inspectors – Completed. The COVID-19 pandemic has presented new challenges for OSHA in its mission to ensure safe and healthful working conditions for its Certified Safety and Health Officials (CSHOs) whose job is to inspect workplaces. The COVID-19 pandemic has resulted in a significant reduction in inspections and an increase in complaints. During the pandemic, to prevent the spread of COVID-19, CSHOs switched from on-site inspections to mostly remote inspections via telephone and video conference, or electronically by email. The audit focuses on the extent of OSHA's enforcement guidance for protecting CSHOs' health and safety, as well as the effectiveness of completing on-site, remote, or Rapid Response Investigation (RRI) activities during a pandemic.

OSHA Protecting Workers from Exposure to Respirable Silica – In Progress. OSHA has a duty to create and enforce rules, known as "standards" or "regulations," to help protect 121 million Americans at 9 million worksites. After 13 years of research and development, OSHA published an amendment to its existing standards for Occupational Exposure to Respirable Crystalline Silica. OSHA estimates that about 2.3 million people in the U.S. are exposed to silica at work. This audit is assessing the extent to which OSHA has protected workers from exposure to Respirable Crystalline Silica with the publishing of the amended standard.

COVID-19: OSHA's Guidance Related to Safety of Employees – In Progress. Since the beginning of the COVID 19 pandemic in March 2020, OSHA has experienced a significant reduction in the number of inspections and an increase in the number of non-formal complaint investigations. In July 2020, OSHA was named in a lawsuit by meatpacking employees who said OSHA was failing to do its job properly. OSHA

believed its existing regulations and updated pandemic guidelines were sufficient to keep workers safe. This audit will focus on the impact of the COVID-19 pandemic on OSHA operations, including the number and types of inspections to safeguard workers, and OSHA's future plans to ensure safe and healthy working conditions during pandemics.

COVID-19: OSHA Inspection Collaboration Audit – In Progress. While many industries suffered the impact of COVID-19 outbreaks during the pandemic, healthcare and meatpacking workers have had some of the highest rates of COVID-19 infections. Although OSHA performs inspections of worker safety, the U.S. Department of Health and Human Services (HHS) and the U.S. Department of Agriculture (USDA) have federal inspectors on site to ensure patient care and product quality. However, according to HHS and USDA OIG officials, the inspectors do not report employee safety and health issues to OSHA. This audit will focus on OSHA's efforts to promote collaboration with other federal agencies that have on-site inspectors about potential workplace safety and health violations, especially during the pandemic.

COVID-19: Use of Complainant Interviews in OSHA Complaint Inspections– In Progress. OSHA conducts approximately 9,000 complaint inspections annually and issues citations in 24 percent of those inspections. Inspectors are not required to interview complainants at any point during the inspection process, which could result in OSHA having little interaction with complainants and witnesses during complaint inspections. This audit will focus on OSHA's use of complainant and witness testimony during a complaint inspection to ensure the complaint or referral was addressed adequately.

Enforcement of Severe OSHA Violators. There were 654 egregious workplace safety violators in 2019. OSHA's Severe Violators Enforcement Program requires that it expand its enforcement efforts and increase the number of inspections on these employers. In 2009, an OIG audit found for 97 percent of sampled employers, OSHA did not identify all egregious employers and did not perform sufficient inspections and related enforcement. This audit will follow up on the OIG's 2009 report to assess whether OSHA made changes to improve enforcement activities related to employers who demonstrated indifference to their workplace safety responsibilities.

OSHA's Process for Initiating Lookback Reviews. OSHA uses lookback reviews to determine whether standards should be maintained, rescinded or modified, with the goal of making standards more effective or less burdensome. Since 2001, OSHA has issued 15 standards but has only conducted 8 lookback reviews, with the most recent occurring over 10 years ago. This audit will include examining OSHA's ammonium nitrate standard that is almost 50 years old and the Process Safety Management Standard that is almost

OIG FY 2021 Audit Workplan

30 years old. The audit will focus on OSHA's process for initiating lookback reviews to ensure that the standards are effective in reducing safety and health hazards in the workplace.

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

Mandatory Audit

Federal Information Security Management Act (FISMA) Audit – Annual – In Progress. In performing its various missions, DOL collects and processes sensitive information through approximately 73 major information systems. FISMA recognizes the significant risks involved with information technology and its important role in fulfilling agency missions. As such, FISMA sets a framework for securing all federal government systems by developing security standards and methods for measuring the effectiveness of those security standards. This audit will focus on the status of the DOL Information Security Program in implementing an effective framework to secure DOL information systems.

OASAM

Discretionary Audits

Effectiveness of DOL's Information Technology Governance – In Progress. DOL spends approximately \$666 million annually on a portfolio of information technology assets that support the operation and management of its programs, but has a history of undertaking IT projects that missed deadlines, went over budget, or did not meet the needs of stakeholders. In addition, DOL's information security program has been found to contain deficiencies in critical high-risk areas and security. These issues can be attributed partially to the DOL Chief Information Officer's (CIO) lack of authority and uncertain reporting structure, who had not been elevated to an adequate level to carry out required duties, as cited for many years in previous OIG audits. In 2018, Executive Order 13833 required federal CIOs to report directly to their agency heads. This audit is focusing on DOL's implementation of an IT governance framework, including the authority and independence of the CIO and DOL's compliance with Executive Order 13833.

Working Capital Fund – Cancelled. The Department's working capital fund is intended to provide increased efficiencies in how the Department funds and offers shared services, such as payroll, telecommunications, accounting, mail, and publications. The money for DOL's working capital fund comes annually from the Department's component agencies that utilize the shared services and amounted to more than \$400 million in FY 2020. This ongoing audit is determining if Working Capital Fund activities were appropriate, and if costs were supported and properly allocated to DOL agencies.

IT System Modernization Review across the Department. IT modernization across the Department is critical to preventing security breaches, excessive costs, missed deadlines, and low-quality IT products and services. DOL has struggled to modernize IT systems, largely allocating resources to maintaining older technologies, rather than to adopting modern technologies. This can result in greater security deficiencies

OIG FY 2021 Audit Workplan

in high risks areas. Our audit will focus on the CIO's management of IT modernization efforts across the Department, to include software integration, legacy systems, and shared services.

Office of the Chief Financial Officer

Mandatory Audits

DOL Consolidated Financial Statements Audit – Annual– In Progress. We will determine if DOL's consolidated financial statements present fairly, in all material respects, the financial position of DOL as of September 30, 2021. We will consider DOL's internal controls over financial reporting and test DOL's compliance with applicable laws, regulations, contracts, and grant agreements that have a direct and material effect on the consolidated financial statements.

Review of DOL's Improper Payment Reporting in the Annual Financial Report – Annual – In Progress. In FY 2019, the UI program and FECA reported outlays of \$26.9 billion and \$3.0 billion respectively, with an estimated improper payment rate of 10.61 percent and 2.44 percent, respectively. Based on the Department's risk assessments, the UI and FECA programs continue to be considered the most susceptible to improper payments of all DOL programs. This audit will determine if DOL complied with the Payment Integrity Information Act of 2019, which required DOL to: 1) conduct a program-specific risk assessment for each required program or activity; 2) publish and meet annual reduction targets for each program assessed to be at risk for improper payments; and 3) report information on its efforts to reduce improper payments.

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

Office of Federal Contract Compliance Programs

Mandatory Audit

Combatting Race and Sex Stereotyping – Completed. Executive Order (EO) 13950 prohibits the Federal Government from promoting race or sex stereotyping or scapegoating in the Federal workforce, and states that contracting and grant funds shall not be used for these purposes. The EO further states that Federal agencies, contractors, and grant recipients should foster environments devoid of hostility and should be trained to create inclusive workplaces. The Federal Government is, and must always be, committed to the fair and equal treatment of all individuals before the law. This review will determine

OIG FY 2021 Audit Workplan

DOL's compliance with EO 13950 to ensure that Federal agencies, including DOL, maintain an inclusive workplace free of race or sex stereotyping or scapegoating.

Office of Workers' Compensation Programs (OWCP)

Mandatory Audits

Report Relating to the Federal Employees' Compensation Act (FECA) Special Benefit Fund

– Annual– In Progress. We will determine whether: 1) the Schedule of Actuarial Liability, Net Intra-Governmental Accounts Receivable, and Benefit Expense was fairly presented for the year ending September 30, 2021; and 2) internal controls over financial reporting related to the Schedule were in compliance with laws and regulations that could have a direct and material effect on the Schedule.

Longshore and Harbor Workers' Compensation Act (LHWCA) Special Fund – Annual – In Progress.

We will determine if DOL's LHWCA Special Fund financial statements presented fairly, in all material respects, the financial position of the LHWCA Special Funds as of September 30, 2020.

District of Columbia Workmen's Compensation Act (DCCA) Special Fund Financial Statement

Audits – Annual – In Progress. We will determine if DOL's DCCA Special Fund financial statements presented fairly, in all material respects, the financial position of the DCCA Special Funds as of September 30, 2020.

FECA Statement on Standards for Attestation Engagements No. 18 – Annual– In Progress.

We will determine if DOL's Integrated Federal Employees' Compensation System transaction processing for application and general controls, as described in the report, were fairly presented, suitably designed, and effectively operating for the period October 1, 2020, through June 30, 2021.

OWCP

Discretionary Audits

COVID-19: FECA Oversight – In Progress. OWCP administers FECA, which provides workers' compensation coverage to approximately 2.6 million federal and postal workers around the world for employment-related injuries and occupational diseases. This audit is focusing on implementation of OWCP's initial plan to manage COVID 19 related claims in the FECA program. Specifically, we are assessing if the COVID-19 pandemic has impacted OWCP's ability to meet established performance standards for processing and adjudicating FECA claims, and the extent to which OWCP's response to the pandemic has impacted its management of opioid claims.

Energy Employees' Home Healthcare Costs – In Progress. Home healthcare costs in the Energy Employee Occupational Illness Compensation program have risen from \$100 million in FY 2010 to \$616 million in FY 2019. The Department has expressed concern regarding the potential for providers to exploit home healthcare benefits through unauthorized or unnecessary billings. This audit is assessing: 1) the

OIG FY 2021 Audit Workplan

policies and controls in place to prevent questionable billings and address improper payments; and 2) the potential for fraud, waste, and abuse in home healthcare.

COVID-19: FECA High Risk Employment. In response to the COVID 19 pandemic, OWCP created new procedures to specifically address COVID-19 claims received from federal workers engaged in high risk employment. This audit will focus on an after-the-fact review of OWCP's administration and oversight of COVID 19 claims in the FECA program, which had received over 5,000 COVID claims as of late August 2020. Given the influx of claims resulting from the pandemic, this audit will determine if high risk employment related to COVID-19 was appropriately designated and supported, and if COVID-19 claims filed by workers in high risk employment were properly identified and adjudicated.

Energy Employees' Claims Processing. Since the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) was enacted in October 2000, OWCP has paid more than \$17 billion in compensation and medical benefits to claimants under the Act. The OIG has received numerous complaints concerning delays and inconsistencies in processing claims, and questions about OWCP's rationale for denying claims. This audit will determine if OWCP processed energy employees' claims timely and consistently.

Managing Pharmaceutical Spending in FECA– In Progress. Recent OIG audit work found OWCP had not done enough to ensure it paid the best price for prescription drugs. Specifically, the audits noted OWCP lacked a pharmacy benefits manager to help contain costs and had not determined if alternative drug pricing methodologies would be more competitive. This audit is focusing on identifying the major factors influencing pharmaceutical spending in the FECA program, including any impact from the COVID-19 pandemic, and determine if OWCP effectively manages pharmaceutical spending in the FECA program.

Reliability of Data from FECA's New Bill Pay Processing System – In Progress. In 2017, OWCP awarded a \$166M contract to deliver a Workers Compensation Medical Bill Process (WCMBP) system for the four OWCP workers' compensation programs, which pay over \$1 billion per year in medical benefits to claimants. On April 27, 2020, OWCP launched the new WCMBP system, which allows providers to bill for medical services rendered to claimants who have been approved for the four OWCP benefit programs. An effective bill pay processing system is essential to ensure appropriate, accurate, and timely payments, and must be able to provide reliable information to detect and prevent fraudulent billing practices. Paying for services that are untimely, medically unnecessary, duplicative, or ultimately not performed negatively impacts the integrity of the program. This audit will assess the WCMBP system's controls and determine if the new system collects, processes, maintains, and reports accurate and complete data.

Wage and Hour Division (WHD)

Discretionary Audits

COVID-19: WHD's Implementation of COVID-19 Guidance and Oversight – Phase 2 – In Progress. We previously reported on challenges WHD faced as it implements and enforces the requirements of the Families First Coronavirus Response Act (FFCRA), such as conducting enforcement activities while maximizing telework, ensuring appropriate eligibility for FFCRA's emergency paid leave benefits, and

OIG FY 2021 Audit Workplan

addressing future actions related to its COVID-19 response. This audit is expanding upon our work and focusing on WHD's implementation of its FFCRA administration and enforcement activities.

COVID-19: WHD's Implementation of COVID-19 Guidance and Oversight – Phase 3. The COVID-19 pandemic has presented new challenges for WHD as it implemented and enforced the requirements of the FFCRA and continued its other enforcement activities. This audit will focus on an after-the-fact review of WHD's administration and oversight, lessons learned, and how WHD's response to the pandemic affected normal operations.

Multi-Agency

Mandatory Audits

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

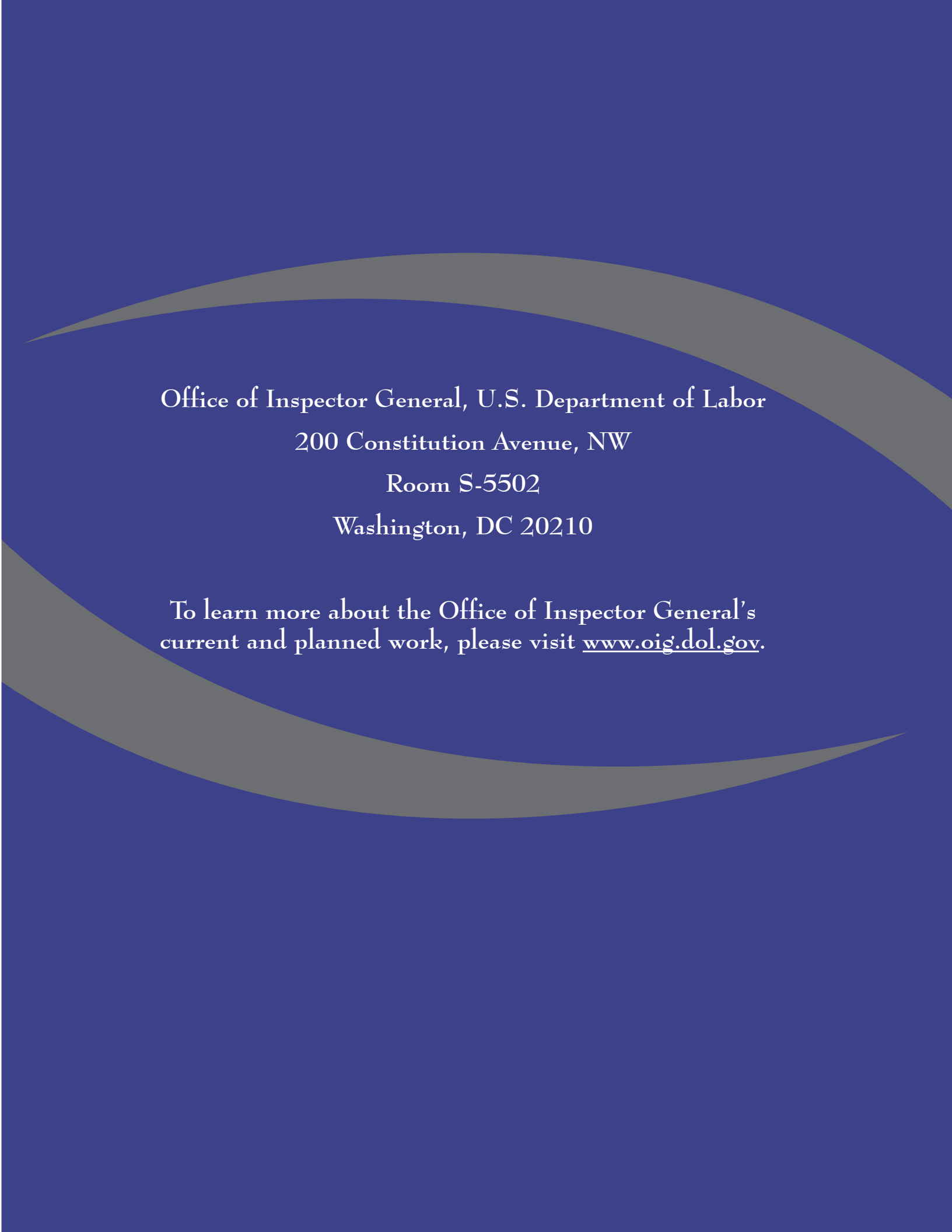
Single Audit Compliance, Quality Control Reviews of Single Audit Reports – Annual – In Progress. We will determine if selected independent auditors complied with the requirements of the Single Audit Act and if there is a need for any follow-up work.

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

Multi-Agency

Discretionary Audits

Enterprise Risk Management. OMB Circular A-123 requires agencies to implement an Enterprise Risk Management (ERM) process. Agencies' ERM efforts are to be coordinated with the Government Performance and Results Modernization Act of 2010's strategic planning and review process, and the internal control process required by the Federal Managers' Financial Integrity Act and GAO's Green Book. We will determine whether management has implemented an effective ERM process that identifies, assesses, responds, and reports on risks.



Office of Inspector General, U.S. Department of Labor
200 Constitution Avenue, NW
Room S-5502
Washington, DC 20210

To learn more about the Office of Inspector General's
current and planned work, please visit www.oig.dol.gov.

Office of Inspector General
United States Department of Labor

Report Fraud, Waste, and Abuse

Contact the Hotline

202.693.6999 800.347.3756

Fax: 202.693.7020

www.oig.dol.gov



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