



# FEDERAL EMPLOYEES' COMPENSATION ACT

Internal Control  
Weaknesses Limit  
Effective Case  
Management and  
Program Oversight

# Office of Inspector General U.S. Government Accountability Office Report Highlights

September 30, 2014

## FEDERAL EMPLOYEES' COMPENSATION ACT

### Internal Control Weaknesses Limit Effective Case Management and Program Oversight

#### Objective

This report addresses the extent to which GAO has effectively managed its FECA program to ensure that it pays only valid claims for continuation of benefits, and that employees are returned to work when able.

#### What OIG Found

GAO has not effectively managed its FECA program to ensure that it pays only valid claims for continuation of benefits, and employees are returned to work when able. Information documenting eligibility of employees receiving benefits is generally outdated and not maintained. In addition, efforts to identify employees for reemployment and pursue options to return them to suitable work are limited. Third-party cases are not monitored to minimize GAO's workers' compensation program costs. Furthermore, policy intended to prevent, identify, and report potential fraud for investigation lacks specific fraud-prevention controls and is outdated.

#### What OIG Recommends

OIG recommends that the Comptroller General direct the Chief Human Capital Officer to immediately develop and implement: operational procedures that include specific case documentation procedures to be followed by HCO case management specialists; clearly defined procedures that establish a framework and delineate responsibilities within GAO for identifying candidates for reemployment and developing reemployment strategies that foster improved return-to-work outcomes; and policy and procedures addressing the responsibilities of GAO employees and management in identifying and reporting potential third-party liability claims. To help reduce the risk of and identify potential fraud within GAO's program, OIG recommends establishing specific workers' compensation fraud-prevention controls. In addition, OIG recommends updating the existing workers' compensation policy to reflect current GAO policy requiring all GAO officers and employees to promptly notify the GAO OIG concerning the possible existence of FECA program fraud, waste, and abuse. GAO agreed with OIG's recommendations and stated that the agency intended to act on them. However, GAO disagreed with some of the characterizations in the draft report.



September 30, 2014

**Memorandum For:** Gene L. Dodaro  
Comptroller General of the United States

**From:** Adam R. Trzeciak  
Inspector General

**Subject:** Transmittal of Office of Inspector General (OIG) Audit Report

Attached for your information is our final report, *Federal Employee's Compensation Act: Internal Control Weaknesses Limit Effective Case Management and Program Oversight* (OIG-14-2). The audit objective was to evaluate the extent to which GAO has effectively managed its FECA program to ensure that it pays only valid claims for continuation of benefits and that employees are returned to work when able.

The report contains five recommendations aimed at improving the workers' compensation program at GAO. GAO agreed with our recommendations, but disagreed with some of the characterizations in the draft report. The agency also provided technical comments that we incorporated, as appropriate. Management comments are included in Appendix III of our report. Actions taken in response to our recommendations are expected to be reported to our office within 60 days.

We are sending copies of this report to the other members of GAO's Executive Committee, GAO's Audit Advisory Committee, and other managers with workers' compensation program responsibilities. The report is also available on the GAO website at <http://www.gao.gov/about/workforce/ig.html>.

If you have questions about this report, please contact me at (202) 512-5748 or [trzeciaka@gao.gov](mailto:trzeciaka@gao.gov).

Attachment

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### **Abbreviations**

CHCO	Chief Human Capital Officer
DOL	Department of Labor
FECA	Federal Employees' Compensation Act
HCO	Human Capital Office
iFECS	Integrated Federal Employees' Compensation System
OGC	Office of the General Counsel
OIG	Office of Inspector General
OWCP	Office of Workers' Compensation Programs
POWER	Protecting Our Workers and Ensuring Reemployment
SSA	Social Security Administration

## Introduction

The Federal Employees' Compensation Act (FECA)<sup>1</sup> is a workers' compensation program that provides compensation to federal employees who are injured or become ill, and to the survivors of workers who die, in the performance of their jobs. Compensation for lost wages and medical benefits represents a significant financial exposure, i.e., a program responsibility that may legally commit GAO or create the expectation for future federal spending by GAO. To minimize costs and prevent potential fraud, controls must be in place and properly designed to ensure that agencies pay only valid claims for continuation of benefits, and that employees are returned to work when able.

## Objective, Scope, and Methodology

This report addresses the extent to which GAO has effectively managed its FECA program to ensure that it pays only valid claims for continuation of benefits and that employees are returned to work when able. To achieve our audit objective, we identified and reviewed applicable policies, procedures, laws, and regulations. We interviewed Human Capital Office (HCO) managers and staff who administer GAO's FECA program. In addition, we met with GAO's Chief Human Capital Officer (CHCO) and Deputy CHCO, the Director of Employee Relations and Benefits, and Office of the General Counsel (OGC), Legal Services attorneys to obtain their perspectives on GAO policies and procedures for workers' compensation case management and oversight.

We also reviewed GAO's Chargeback Billing List Detail for July 1, 2012 through September 30, 2013. The Chargeback Billing List is a statement containing the names of, and costs for, current and former GAO employees receiving FECA benefits: wage-loss compensation, medical benefits only, and death benefits. We identified 31 individuals receiving benefits and reviewed available case files for these individuals to determine whether they contained current information documenting their continuing eligibility for benefits and evidence of efforts to return employees to work, if applicable. We used GAO's *Standards for Internal Control in the Federal Government*,<sup>2</sup> GAO's workers' compensation policy,<sup>3</sup> and federal laws and regulations governing FECA to determine whether GAO has established effective internal controls for case management and oversight. We obtained and analyzed compensation and bill payment history electronic data from the Department of Labor's (DOL) Integrated Federal Employees' Compensation System (iFECS), from June 15, 1978 to December 14, 2013, for all 31 FECA recipients. To assess the accuracy of key data elements, we selected a simple random sample of compensation and bill payment transactions for the 31 FECA recipients that occurred between June 1, 2002 and December 14, 2013—the most current timeframes for which data were available at the time we initiated our audit. We determined the data were sufficiently reliable for the purposes of this report (see attachment I for further details).

We conducted this performance audit from September 2013 through September 2014 in accordance with generally accepted government auditing standards (GAGAS), except for the quality control and assurance standard requiring an external peer review of our audit

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<sup>1</sup>5 U.S.C. § 8101, *et seq.*

<sup>2</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

<sup>3</sup>GAO Order 2810.1: *Line-of-Duty Injury Benefits For Government Accountability Office Employees Under the Federal Employees' Compensation Act* (August 23, 2005).

organization every three years. This exception did not affect the planning or performance of our audit. The Office of Inspector General is scheduled for a peer review in fiscal year 2015. GAGAS requires that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## **Background**

### **The FECA Program and Benefits**

The Division of Federal Employees' Compensation in the Office of Workers' Compensation Programs (OWCP) within DOL administers the FECA program, which provides compensation benefits, medical benefits, and specified injury award payments to federal employees who suffer disabilities resulting from work-related injuries or diseases. After OWCP adjudicates and approves claims submitted by employees who are injured in the performance of their official duties, OWCP manages distribution of program benefits in the form of compensation for lost wages, schedule awards (i.e., other payments made for the loss of, or loss of use of, a body part or function), and medical benefits. OWCP provides these benefit payments from a compensation fund that federal departments and agencies pay into with operating appropriations.

An employee could be entitled to one or more of the following types of benefits:

**Medical benefits.** FECA pays for medical treatment for injuries or illnesses caused by work. The program makes payments for necessary medical services from the employee's choice of physician. Medical benefits may continue as long as the conditions from the work-related injury persist. Some cases involve injuries, for which the employee is entitled to medical treatment only ("medical benefits only" cases). In other cases, the illness or injury prevents the employee from working, so the employee may receive wage-loss compensation.

**Disability (wage-loss) compensation.** If an employee is unable to work due to a work-related illness or injury, FECA compensation covers a portion of the employee's pay.<sup>4</sup> This compensation benefit (in lieu of the employee's regular pay) is tax-free and continues to be paid as long as the disability persists, even after retirement age. The compensation benefits are capped at 75 percent of the monthly pay of the maximum rate of basic pay for GS-15, step 10. Compensation benefits are subject to an annual cost-of-living adjustment. Employees cannot receive wage-loss compensation payments at the same time they receive certain other federal disability or retirement benefits, or they must have benefits reduced to eliminate duplicate payments. For example, Social Security Administration (SSA) disability benefits are reduced if an individual is also receiving FECA payments.

**Death benefits.** Family members of an employee who is killed by a workplace injury or illness may receive recurring compensation payments to partially replace the worker's

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<sup>4</sup>If the employee is unable to work, the compensation benefit is equal to two-thirds of the injured employee's pay for single employees and three-fourths of the injured employee's pay for employees who are married or have dependents. If the employee can return to part-time, lighter-duty, or other work at a lower pay rate, the compensation benefit is two-thirds or three-fourths the difference between the salary for the light-duty position and the injured employee's regular duty position.

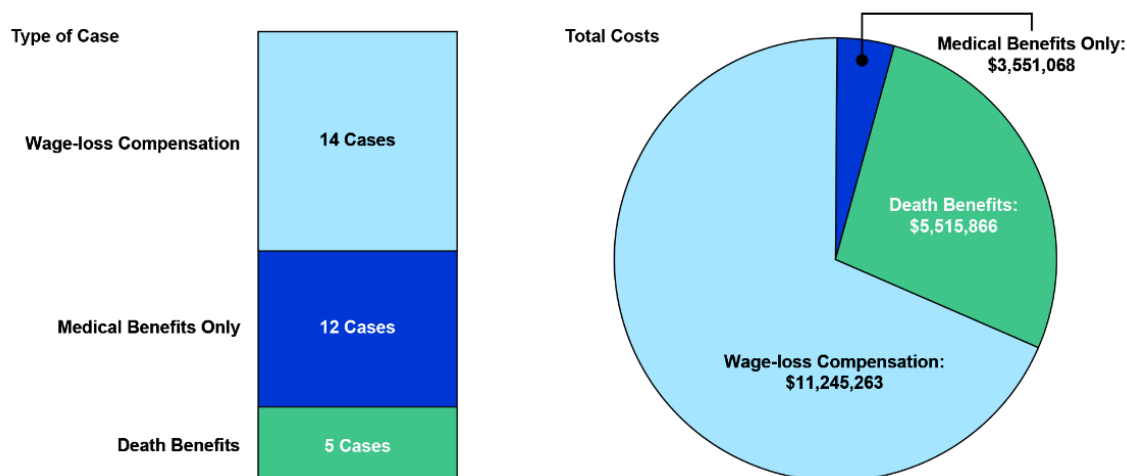


capacity to provide for the family. The amount and duration of such payments depend on the relationship and ages of the family members.<sup>5</sup>

#### GAO's Workers' Compensation Case Profile

Our review focused on 31 cases that appeared on GAO's Chargeback Billing List Detail during the period July 1, 2012 through September 30, 2013—the most current information available at the time we initiated our audit. These 31 cases ranged in age from less than one year to over 40 years. Our analysis of OWCP's iFECS electronic information, from June 15, 1978, to December 14, 2013, showed that GAO paid more than \$20.3 million in workers' compensation benefits to these 31 individuals—14 recipients of wage-loss compensation, 12 recipients of medical benefits only, and 5 recipients of death benefits. (See figure 1.)

**Figure 1: GAO's Workers' Compensation Case Profile, as of December 14, 2013**



Source: OIG analysis of GAO Chargeback Billing Reports and OWCP Integrated Federal Employees' Compensation System data.

GAO's total FECA costs for the past year were almost \$1.1 million.<sup>6</sup> GAO estimates that future actuarial liabilities for FECA compensation payments to those receiving benefits, as of September 30, 2013, would total an additional \$16.7 million (this amount does not

<sup>5</sup>For example, if the employee's spouse has no children, then the spouse is eligible for a monthly benefit equal to 50 percent of the employee's monthly wage at the time of death. If the employee's spouse has one or more children, then the spouse is eligible for a monthly benefit equal to 45 percent of the employee's monthly wage at the time of death and each minor child is eligible for a monthly benefit equal to 15 percent of the employee's monthly wage at the time of death, up to a maximum family benefit of 75 percent of the employee's monthly wage at the time of death.

<sup>6</sup>Workers' compensation costs are assigned to GAO annually at the end of the fiscal accounting period for the program, which runs from July to June. Each year, Labor furnishes GAO with a "chargeback report" which is a statement of payments made from the Employees' Compensation Fund that accounts for injuries to its employees. GAO's Chargeback Billing List Detail for fiscal account period, July 1, 2012 through June 30, 2013, showed that GAO paid over \$1.1 million in workers' compensation benefits. GAO includes these amounts in its budget requests to Congress. Sums appropriated are deposited into the fund. The Consolidated and Further Continuing Appropriations Act, 2013 § 1611 (a) authorizes GAO to deposit available balances of expired appropriations into the Employees' Compensation Fund. Pub. L. No. 113-6, §1611(a), 127 Stat. 198 (2013).

include any costs for workers added to the FECA rolls in future years).<sup>7</sup> For more information about the age and costs of each case in figure 1, see appendix II.

### Roles and Responsibilities for Managing GAO's FECA Program

OWCP has responsibility for adjudicating claims for benefits, however, GAO has financial and management responsibilities for its own FECA cases. For example, claims examiners at DOL are responsible for proactively managing cases for benefit recipients until they return to work, are found to be entitled to reduced compensation when they are determined to have a wage-earning capacity, or are determined to have no reemployment potential for an indefinite period of time.

On the other hand, Department of Labor Publication CA-810, *Injury Compensation for Federal Employees*, 2009 revision, encourages "active management of workers' compensation programs by agency personnel" to, among other things, contain costs. Program costs are borne by the agency, not OWCP. As such, GAO has a strong financial incentive to minimize expenses by ensuring both eligibility and suitable employment throughout the benefit eligibility period. This includes actions such as: maintaining documentation, monitoring medical information of, and staying in touch with, injured employees, identifying suitable jobs and returning employees to work as soon as possible.

According to GAO Order 2810.1, GAO's workers' compensation program is intended to provide case management and oversight services to

- ensure that employees receive complete and timely benefits,
- facilitate employees' recovery from work injuries,
- provide job opportunities that will return employees to work as soon as possible while accommodating their medical needs resulting from work related injuries, and
- prevent inappropriate benefits and unnecessary costs.

The order describes the authorities and establishes the policies, and roles and functions of GAO management officials for administering and managing GAO's workers' compensation program. The following officials and offices have roles with varying responsibilities in GAO's FECA program:

- The CHCO is the accountable official for GAO's program and is responsible for providing program oversight and ensuring agency-wide program effectiveness.
- HCO is responsible for the day-to-day administration of FECA in GAO.
- Unit heads are responsible for ensuring that supervisors, in conjunction with HCO case management specialists, monitor the medical status of injured employees and offer them medically appropriate limited or light work duties<sup>8</sup> during recovery.

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<sup>7</sup>GAO, *U.S. Government Accountability Office Performance and Accountability Report for Fiscal Year 2013*, [GAO-14-2SP](#) (Washington, D.C.: December 16, 2013).

<sup>8</sup>Limited duty assignments include duties from the injured employee's regular position that meet the employee's current work capabilities as identified by a physician. Light duty assignments include duties that are outside an employee's regular position, but that meet the employee's current work capabilities, as identified by a physician. Limited or light duty assignments may be performed for a full work shift or for shorter time periods.

- OGC is responsible for providing advisory services to HCO and to management officials to assist in effective case management, and legal opinions, where appropriate, to ensure that applicable laws regarding employee rights and responsibilities are observed.

### Management Challenges Associated with FECA Programs

In reports on the FECA program,<sup>9</sup> GAO reported that Labor and IGs from employing departments and agencies have consistently reported similar FECA program-management challenges, such as oversight, and have linked increased program costs to improper payments.<sup>10</sup> For example, GAO reported that a 2012 Labor IG report found that Labor did not always take timely action to terminate benefits when notified of FECA claimants' deaths and had not designed effective procedures to ensure that benefit payments were reduced for FECA claimants who were collecting SSA retirement benefits.<sup>11</sup> In another report, GAO stated that every year since 2004, Labor has indicated in its annual Performance and Accountability Report that adequately overseeing the FECA program is one of its chief management challenges. Labor cites verification of beneficiaries' eligibility as one of the oversight difficulties that it faces. Moreover, GAO reported that IGs from agencies that participate in FECA have reported that certain policies and procedures did not exist within their agencies, or when they did exist, these agencies did not always follow them. Most often these deficiencies were related to a lack of controls that would have enabled staff to verify beneficiaries' continued eligibility.<sup>12</sup>

In 1999, GAO OIG reported deficiencies in GAO's management of workers' compensation cases that added significantly to the agency's FECA program costs and increased its vulnerability to waste and abuse.<sup>13</sup> These deficiencies were related to a lack of certain controls, to include the lack of a policy for returning injured employees to work; limited case management and inadequate case documentation; and limited access to or use of legal, investigative, and medical expertise needed to protect GAO's interests. In our report, we outlined specific actions that supported proactive FECA case management such as

- maintaining a copy of OWCP's official files.
- developing a management information system (with appropriate privacy safeguards) that includes claims financial history, description of most recent diagnosis and determination of disability, expected recovery times and work limitations for the diagnosis, chronological record of efforts to find employment for persons whom OWCP does not consider totally disabled.

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<sup>9</sup>GAO, *Federal Employees' Compensation Act: Status of Previously Identified Management Challenges*, [GAO-12-508R](#) (Washington, D.C.: Mar. 21, 2012), and GAO, *Federal Employees' Compensation Act: Case Examples Illustrate Vulnerabilities That Could Result in Improper Payments or Overlapping Benefits*, [GAO-13-386](#) (Washington, D.C. Apr. 3, 2013).

<sup>10</sup>An improper payment is defined as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, payment for a good or service not received (except for such payments where authorized by law), and any payment that does not account for credit for applicable discounts. 31U.S.C. § 3321 note.

<sup>11</sup>[GAO-12-508R](#).

<sup>12</sup>[GAO-13-386](#).

<sup>13</sup>OIG, *Review of GAO's Management of Workers' Compensation Cases* (Washington, D.C.: June 21, 1999).

- involving OGC in reviewing employees' case histories and formulating strategies to address or avoid problems.
- obtaining access to physician and nurse consultants in selected cases to, among other things, examine employees to confirm diagnoses, assess work limitations, and assist in assessing the suitability of available employment opportunities or identifying other workplace accommodations, and helping GAO correspond with the employees' health care professionals to clarify treatment plans and assessments of work limitations.
- obtaining access to investigator resources and applying other information gathering techniques to corroborate selected employees' assertions of total disability.

We noted that a significant outcome of these changes would be a program much less vulnerable to waste and abuse.

### **Internal Control Weaknesses Limit Effective Workers' Compensation Case Management and Program Oversight**

GAO has not effectively managed its FECA program to ensure that it pays only valid claims for continuation of benefits and employees are returned to work when able. Information documenting eligibility of employees receiving benefits is generally outdated or not maintained. In addition, GAO's efforts to identify employees for re-employment and return them to suitable work are limited. Third-party liability cases are not monitored to minimize GAO's workers' compensation program costs. Furthermore, GAO's policy intended to prevent, identify, and report potential fraud for investigation lacks specific fraud-prevention controls and is outdated.

#### **Information Documenting Eligibility of Employees Receiving Benefits is Generally Outdated or Not Maintained**

##### **Most Medical Records Used to Monitor Eligibility are Outdated and Not Maintained**

To support payment of continuing compensation, federal regulations<sup>14</sup> state that medical evidence must be submitted whenever OWCP requests it but ordinarily not less than once a year.<sup>15</sup> OWCP guidelines for the frequency of case reviews vary by case status.<sup>16</sup> For example, for those employees with more serious conditions not likely to improve and for employees over the age of 65, OWCP may require less frequent documentation, but ordinarily not less than once every three years.<sup>17</sup> (See table 1.)

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<sup>14</sup>20 C.F.R. § 10.501(a)(1).

<sup>15</sup>According to the Department of Labor Injury Compensation for Federal Employees, Publication CA-810 (Revised 2009)—the handbook for federal agency personnel specialists, compensation specialists, and supervisors—compensation payments for total disability may continue as long as the medical evidence supports total disability. However, only rarely is an employee declared permanently and totally disabled. Department of Labor Publication CA-810 § 7-1 (A)(2).

<sup>16</sup>Every case file acquires a pay status code (or case status code) when it is created and retains such a status throughout its existence. Before the case is adjudicated, the pay status code reflects whether it has been reviewed, and afterwards it reflects whether and what benefits are being paid or are payable.

<sup>17</sup>20 C.F.R. § 10.501(a)(2).

**Table 1: Frequency of Medical Evidence Review by Case Status**

Frequency of Review	Case Status
Every year	Medical evidence indicates extended disability is anticipated. The employee is entitled to wage-loss compensation, capped at 75 percent of the monthly pay of the maximum rate of basic pay for GS-15, step 10.
Every 2 years	Medical evidence indicates some wage-earning capacity. The employee is entitled to wage-loss compensation at a reduced rate, reflecting a partial wage-earning capacity or actual earnings.
Every 3 years	Medical evidence indicates employee has no wage-earning capacity or re-employment potential for the indefinite future. The employee is entitled to wage-loss compensation for the indefinite future.

Source: OIG analysis of OWCP Procedural Manual.

GAO workers' compensation policy requires HCO to maintain sufficient up-to-date information on employees' medical conditions and rehabilitation efforts to document their progress in recovery and rehabilitation, and their potential to resume employment.<sup>18</sup> OWCP procedures call for this medical evidence to include, among other things, specific information regarding the employees' diagnosis, treatment plan, and prognosis for continued recovery. In addition, GAO's policy states that HCO will visit DOL's District Office at least twice a year to assure GAO's files are complete.

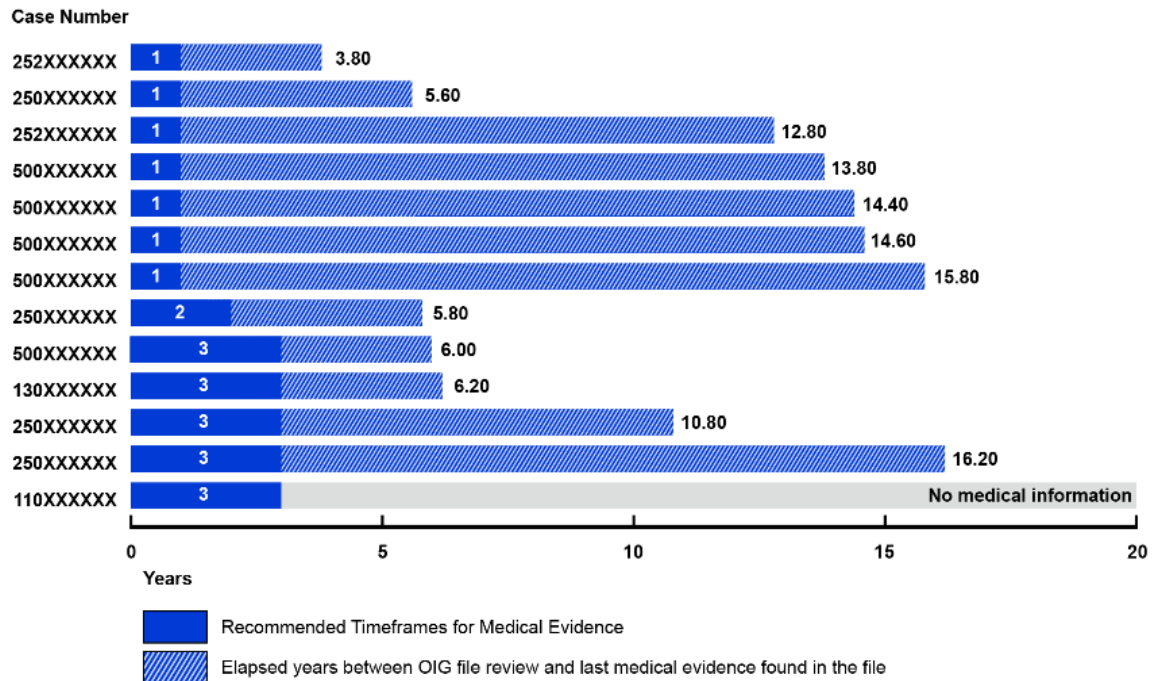
Our review of workers' compensation case files for GAO's 23 employees<sup>19</sup> receiving wage-loss compensation and medical benefits only showed, with few exceptions, no evidence of recent collection of medical information. In most wage-loss compensation files, the most recent medical information was 3 or more years old, as shown in figure 2.

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<sup>18</sup>GAO Order 2810.1.

<sup>19</sup>Although 26 employees were receiving wage-loss compensation and medical benefits only, HCO could not provide workers' compensation case files for 2 employees and 1 case file involved an employee whose case transferred to another federal agency.

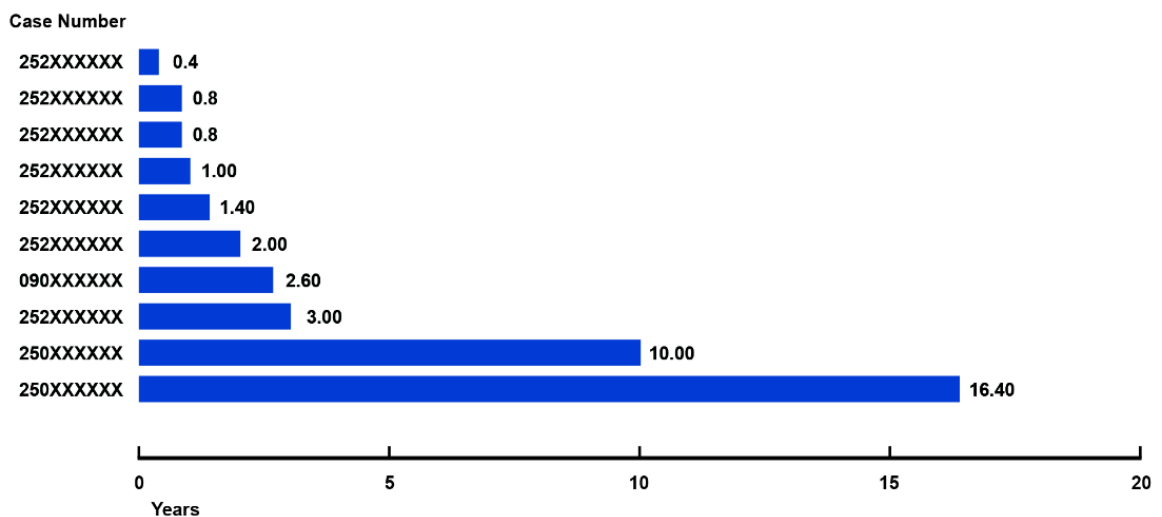
**Figure 2 Elapsed Years Between the OIG Review of GAO FECA Files and the Last Medical Evidence Found in Wage-Loss Compensation Case Files**



Source: OIG analysis of GAO FECA case files.

In medical benefits only case files, the most recent medical information for 4 cases was 1 year old or less, and between 1 and 16 years old in 6 cases, as shown in figure 3.

**Figure 3 Elapsed Years Between the OIG Review of GAO FECA Files and the Last Medical Evidence Found in Medical Benefits Only Case Files**



Source: OIG analysis of GAO FECA case files.

As of December 14, 2013, all 23 individuals continued to receive FECA compensation benefits, many without recent medical evidence to support their claims. If any individual's medical condition has improved, payments to that individual could be improper.

GAO has not established operational procedures or provided guidance on who is responsible for maintaining medical evidence; ensuring that the medical evidence includes the required information; determining timeframes for collecting and evaluating medical evidence; and following up if medical evidence is not received within specified timeframes. Without such procedures or guidance, GAO lacks assurances that the agency pays only valid claims, which increases the risks of improper payments and potential fraud.

Figure 4 illustrates a case where monitoring eligibility is hampered by the age of the medical evidence.

**Figure 4: Example of Outdated Medical Evidence Hampering GAO from Monitoring FECA Eligibility and Benefit Payments**

A GAO employee, who was 72 years old, as of December 14, 2013, separated from GAO service on disability retirement and filed a notice of occupational disease and claim for compensation in 1988. In 2008, HCO sent a letter to OWCP requesting the status of the employee's level of work capacity (e.g., information relevant to the return-to-work effort, especially work tolerance limitations) and requesting that an OWCP physician examine the employee. GAO's FECA case file does not contain any documentation of an OWCP response or HCO follow-up. The most recent medical report in the case file is more than 14 years old.

Without current medical information, it is difficult for GAO to monitor changes in the employee's condition that could affect his or her benefit payments, or continuing eligibility. The employee continued to receive more than \$4,000 a month in compensation benefits as of December 14, 2013. Between June 1, 2002, and December 14, 2013, the employee has received more than \$540,900 in compensation benefits and \$218,660 in medical expenses.

Source: GAO Workers' Compensation Case File and OIG analysis of OWCP's Integrated Federal Employees' Compensation System data.

Figure 5 illustrates another case where medical evidence was not maintained to monitor payment of continuing wage-loss compensation.

**Figure 5: Example of Medical Evidence That Was Not Maintained Preventing GAO from Monitoring FECA Eligibility and Benefit Payments**

An employee, who was 82 years old, as of December 14, 2013, sustained an injury 34 years ago and has been on GAO's disability rolls since then. In 1983, the employee separated from GAO service on disability retirement. GAO's FECA case file does not contain any medical documentation concerning the employee's accepted work-related condition or the nature and extent of the employee's continuing disability.

Without maintaining medical information in the file, it is difficult for GAO to monitor the employee's FECA eligibility and changes to the employee's condition that could affect the amount and type of his or her benefit payments. The employee continued to receive more than \$4,700 monthly in compensation benefits, as of December 14, 2013, and a total of more than \$640,000 in compensation payments between June 1, 2002, and December 14, 2013, even though, based on our review and analysis of OWCP bill pay history data, the employee had not incurred any medical expenses during this same time period. In September 2014, we determined that the employee had been deceased since April 2013. If GAO had been monitoring this case, it may have identified and prevented improper payments made to the deceased employee for 10 months.

Source: GAO Workers' Compensation Case File and OIG analysis of OWCP's Integrated Federal Employees' Compensation System data.

**Two Case Files were Missing**

GAO workers' compensation policy requires HCO to maintain case files documenting the history and status of all GAO employees receiving workers' compensation benefits. According to *Standards for Internal Control in the Federal Government*, all transactions, and other significant events need to be clearly documented, and the documentation should

be readily available. Further, the standards state that all documentation and records should be properly managed and maintained. Internal control helps GAO effectively manage and safeguard resources.

HCO could not provide workers' compensation case files for 2 employees—1 receiving wage-loss compensation payments and the other receiving medical benefits only. Between June 1, 2002, and December 14, 2013, these employees received more than \$614,000 in FECA benefits. Without readily available workers' compensation case files, it is difficult to determine if HCO has actively managed these cases, including ensuring that benefits are appropriate and costs are necessary.

### **One Case File Lacked Documentation to Prevent Improper Payments**

Federal law<sup>20</sup> states that the agency gaining an employee as a result of transfer of functions is required to pay the employee's FECA compensation benefits and other expenses. Our review of workers' compensation case files for GAO's employees receiving wage-loss compensation and medical benefits identified 1 employee whose position was transferred to another agency and who was still receiving payments (i.e., improperly paid by GAO) for medical and other expenses after 17 years. (See figure 6.)

**Figure 6: Documentation to Promptly Stop Improper Payments Was Not Maintained**

An employee who was injured while working at GAO in 1990 had his or her job function transferred to another federal agency in 1996 pursuant to legislative action. In 1999, the GAO IG notified GAO's Director of Personnel that the Office of the General Counsel—pursuing a matter we brought to its attention—found that the cost of FECA benefits should have been transferred from GAO to the other federal agency in 1996. Based on OIG records, in 2000, the Director sent two letters to Labor requesting that all of the former employee's FECA costs for fiscal year 1999 be transferred to the other federal agency and adjustments be made to GAO's chargeback report to reflect the overpayments in fiscal years 1997 and 1998, totaling \$84,000. There is no evidence in GAO's workers' compensation file regarding our notification to HCO or correspondence between HCO, Office of General Counsel, and OWCP about the improper payments.

As a result, GAO did not promptly stop FECA payments and continued to make them for over 17 years. In response to our current audit, HCO notified OWCP about GAO's continued improper payments. In 2014, OWCP transferred the former employee's case to the appropriate federal agency. Between June 1, 2002, and December 14, 2013, GAO improperly paid another \$23,000 in medical benefits, of which GAO recovered about \$845 – the cost billed to GAO between July 1, 2012 and June 30, 2013.

Source: GAO Workers' Compensation Case File and OIG analysis of OWCP's Integrated Federal Employees' Compensation System data.

### **Most Records to Confirm Death Benefit Coverage and Entitlement are Not Maintained**

GAO workers' compensation policy states that HCO maintains case files documenting the history and status of all GAO employees receiving workers' compensation benefits. *Standards for Internal Control in the Federal Government* emphasize that all transactions and other significant events need to be clearly documented, and all documentation and records should be properly managed and maintained.

Our review of the 5 death case files showed that most do not contain documents used to confirm death benefit coverage and entitlement. Out of the 5 case files,

<sup>20</sup>5 U.S.C. § 8147(b).



- None had evidence to demonstrate that HCO had obtained a notice of death and claim for compensation, which provides such basic information as the surviving spouse's name, date of birth, and social security number; nature of injury or occupational illness; and cause of death.
- None had evidence to demonstrate that HCO had obtained a marriage certificate which provides verification of the relationship to the deceased GAO employee and entitlement to benefits.
- Three had no evidence to demonstrate that HCO had obtained a copy of the employee's death certificate.
- Four had no evidence to demonstrate that HCO had obtained a claim for continuation of compensation. For the one case that included such evidence, the verification information was no longer current (more than 6 years old).

As of December 14, 2013, all 5 individuals' families continued to receive FECA compensation benefits without sufficient evidence to support their claims.

Figure 7 illustrates a case missing evidence to support a death benefit claim, preventing GAO from monitoring eligibility for those benefits.

**Figure 7: Case Example of Death Benefit Evidence That Was Not Maintained**

An employee who suffered a work-related illness more than 4 decades ago continued to receive wage-loss compensation until his or her death. OWCP determined the employee's death was covered under FECA and approved more than \$3,300 in monthly survivor benefits for the employee's dependent. GAO's FECA case file did not contain any information concerning the employee's death or his or her surviving dependent. According to OWCP compensation data, more than \$140,800 in recurring compensation payments has been paid since the employee's death, without evidence to support the initial or continuing claim for benefits.

According to GAO management officials, the documentation concerning the employee's death or his or her dependents would have no effect on the adjudication of the claim. A different case illustrates the importance of maintaining information concerning the employee's surviving beneficiary. We recently determined that the surviving dependent receiving death benefits was deceased for several months, but payments continued through September 2014. Although GAO plays no role in survivor benefit decisions, it can still provide evidence for OWCP to consider. If GAO had been monitoring this case, the improper payments to a deceased dependent may have been prevented.

Source: GAO Workers' Compensation Case File and OIG analysis of OWCP's Integrated Federal Employees' Compensation System data.

GAO has not established or implemented operating procedures and guidance for workers' compensation records management. Without such procedures and guidance, it would be difficult to ensure that valid death benefits are paid in accordance with FECA requirements.

### Recent HCO Actions

HCO has taken a number of actions to address some of the internal control weaknesses that limit effective workers' compensation case management and program oversight. For example, according to the HCO Director of Employee Relations and Benefits, HCO established a work log to track and monitor all OWCP cases; implemented a quarterly review comparing the cases listed on the chargeback report to the case files to ensure that readily available files are maintained; reviewed all cases to assess their current status and to determine what missing and additional documentation was required from DOL; and visited DOL to obtain missing file documentation for certain cases. In addition, HCO received approval for OWCP training for Benefit Specialists in December 2014. In April

2014, HCO hired a benefit specialist whose major duties include, among other things, administering GAO's workers' compensation program. On September 10, 2014, GAO's CHCO and Chief Information Officer signed a Memorandum of Understanding with DOL to use its electronic claims filing system, known as the Employees' Compensation Operations and Management Portal (ECOMP). ECOMP will enable GAO to electronically access information about its claimants, such as up-to-date medical information, that the office currently does not have ready access to in every case.

#### Efforts to Identify Employees for Re-employment and Pursue Options to Return Them to Suitable Work Are Limited

Injured workers who are medically able to return to work<sup>21</sup> (with or without accommodation) are expected to return to gainful employment when work is made available. Those who do not do so are no longer eligible for disability compensation under FECA. DOL, in collaboration with the Protecting Our Workers and Ensuring Reemployment (POWER) Return to Work Council,<sup>22</sup> identified strategies that federal agencies may use to increase the likelihood of an employee's return to work.<sup>23</sup> These include best practices such as:

- initial and follow-up contact with employees to identify restrictions for a modified work arrangement;
- contact with physicians to provide them with materials explaining the program and the availability of modified work positions; and
- communication within the agency among individuals with varying important roles in the success of a return-to-work program, such as upper-level managers, supervisors, human resources, disability program managers, and medical professionals.

The FECA regulations contemplate several available strategies to monitor an injured worker's progress toward returning to work. The regulations make explicit actions which agencies may undertake in monitoring FECA files. These actions should be exercised, when appropriate, because there are divergent incentives in returning injured employees to work.

#### **Contact with Treating Physicians to Determine Work Limitations is Infrequent**

Federal regulations<sup>24</sup> state the employer may monitor the employee's medical progress and duty status by obtaining periodic medical reports. To aid in returning an injured employee to suitable employment, the employer may also contact the employee's physician in writing concerning the work limitations imposed by the effects of the injury and

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<sup>21</sup>The term "return to work" as used in this report is not limited to returning to work at the employee's normal worksite or usual position, but may include returning to work at other locations and in other positions, including alternative employment in other federal agencies or the private sector.

<sup>22</sup>The POWER Return to Work Council is composed of select senior officials with oversight responsibilities for workers' compensation. Ad Hoc Council members include the Office of Personnel Management, the Office of Disability Employment Policy, the Occupational Safety and Health Administration, and the Computer/Electronic Accommodations Program.

<sup>23</sup>Department of Labor, *Best Practices in Return to Work for Federal Employees Who Sustain Workplace Injury or Illness: A Guide For Agencies*.

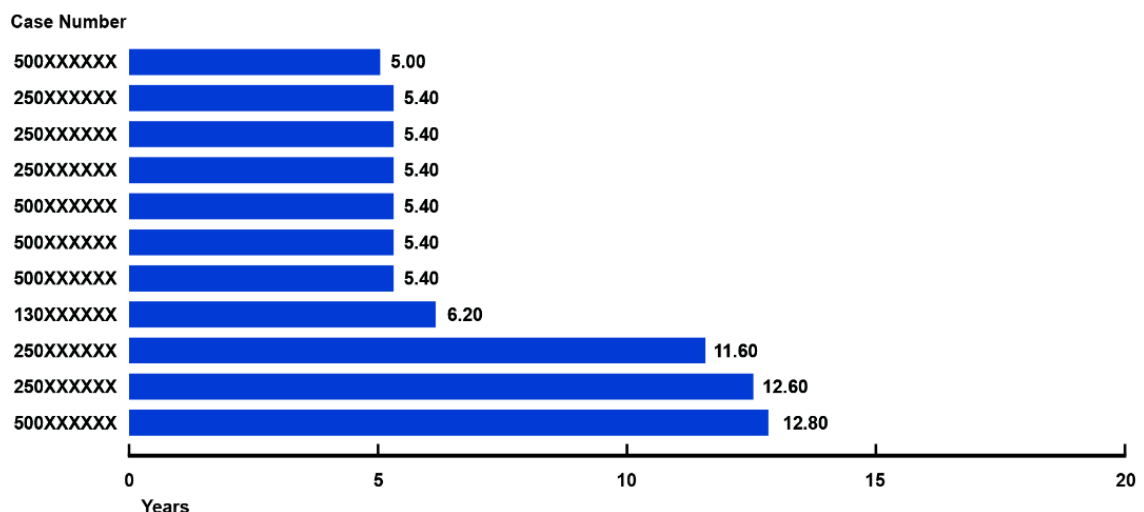
<sup>24</sup>20 CFR § 10.506.

possible job assignments. GAO's workers' compensation policy authorizes GAO to contact the employee's physician to help structure an assignment that accommodates the employee's limitations and restrictions, if any exist.<sup>25</sup>

In a report on return to work strategies, GAO reported that contact with medical service providers was among the key practices agencies had at their disposal to manage return-to-work programs for disabled employees.<sup>26</sup> In addition, GAO reported that this communication helps the physician understand a disabled employee's essential job functions when deciding whether to clear the employee to return to work.<sup>27</sup> GAO further noted that this communication also helps the physician understand any transitional work opportunities or other job accommodations that the employer would be willing to provide. Otherwise, according to GAO, the physician may not clear the employee to return to work until he or she can function at pre-disability levels.<sup>28</sup>

Our review of 13 workers' compensation case files for GAO's employees receiving wage-loss compensation identified 2 employees with no evidence in their files that GAO contacted their physicians to determine return to work potential. For the 11 cases that had evidence of physician contact, these contacts occurred anywhere from 5 to more than 12 years ago. (See figure 8.)

**Figure 8: Elapsed Years Between the OIG Review of GAO FECA Files and the Last Follow-up with Employees' Treating Physicians Found in Wage-Loss Compensation Case Files**



Source: OIG analysis of GAO FECA case files.

An employee's treating physician generally has the most knowledge about the employee's work-related medical condition, as well as any non-work related medical issues, and recommends specific treatment options for the employee. Without regular contact with

<sup>25</sup>GAO Order 2810.1.

<sup>26</sup>GAO, *Return-to-Work Strategies From Other Systems May Improve Federal Programs*, [GAO/HEHS-96-133](#) (Washington, D.C.: July 1996).

<sup>27</sup>[GAO/HEHS-96-133](#).

<sup>28</sup>[GAO/HEHS-96-133](#).

physicians, GAO may miss opportunities to identify jobs suitable for injured employees and take steps to reemploy them as soon as medically possible.

Figure 9 illustrates a case of infrequent contact with a treating physician to determine work limitations.

**Figure 9: Example of No Follow-Up with Treating Physician Hindering Potential Re-employment**

A GAO employee was injured at work in 1994 and eventually returned to part-time employment in 1997. In 1999, the employee separated from GAO on disability retirement. In 2001, an HCO employee benefit specialist sent a letter to the employee's physician requesting the physician complete a GAO Work Capacity Evaluation Form and stating that GAO was in the process of reviewing all of its work-related injury claims with the intent of returning individuals to work in their former positions or creating modified job assignments. The letter, however, did not address the fundamental job duties of the position the employee held, or other job accommodations that the agency was willing to provide. The physician's completed form only indicated that the employee was unable to work, with no medical reasons given to support the physician's opinion. For example, the physician gave no indication whether the employee would be able to work a modified schedule, how long the employee's restrictions would apply, whether maximum medical improvement had been reached, or whether there were other medical facts, situational factors, equipment, or devices that needed to be considered in identifying a position for the employee. There is no evidence in the file that GAO followed up with a targeted letter to the physician to clarify or obtain additional information about the employee's duty status or medical progress.

By not following up with the physician, GAO did not have the information it needed to evaluate whether a job offer was appropriate, with or without accommodations. Between June 1, 2002, and December 14, 2013, GAO paid more than \$489,100 in compensation and \$241,600 in medical expenses for this case.

Source: GAO Workers' Compensation Case File and OIG analysis of OWCP's Integrated Federal Employees' Compensation System data.

GAO's policy does not define operational guidance or procedures that describe what medical information the agency considers necessary and relevant for determining work restrictions; how to contact physicians to obtain that information; or what offices and individuals to involve for their relevant technical expertise—such as the Reasonable Accommodation Coordinator; the Accommodation Committee; and the Chief Administrative Officer. Furthermore, GAO's policy does not clearly establish guidance or procedures for monitoring OWCP's plans for employees' return to work with a new employer, in cases where efforts to return the employee to work with GAO are not successful.

**Injured Employees are Not Referred to Physician Specialists to Help Determine Potential to Resume Employment**

Federal regulations<sup>29</sup> state that an agency may require an employee to report for an examination to determine medical limitations that may affect placement decisions, if the employee applies for or receives benefits as a result of an on-the-job injury or disease. In addition, the regulations<sup>30</sup> state that an agency has the option to offer a medical examination (including a psychiatric evaluation) in any situation where it needs additional medical documentation to make an informed management decision. GAO's workers' compensation policy states that the agency may refer an employee to a physician specialist of its choosing to help it make such a determination.

Our review of 13 wage-loss compensation case files showed no evidence that GAO had referred any of the employees to a physician specialist for examination. While referrals to

<sup>29</sup>5 C.F.R. § 339.301(c); 20 C.F.R. 10.320-10.324.

<sup>30</sup>5 C.F.R. § 339.302.

a physician specialist should be considered on a case-by-case basis, such referrals can help GAO make an informed employment decision. Without this information, the agency may miss opportunities to return employees to suitable work.

GAO's policy does not include operational procedures or guidance for making a referral or for taking action based on the medical evidence obtained.

Figures 10 and 11 illustrate case outcomes when injured employees are not referred to physician specialists to help determine their potential to resume employment.

**Figure 10: Example of No Referral to a Physician Specialist to Help Determine Potential Re-employment**

A GAO employee was injured while on official duty in 1984. The employee subsequently was separated from GAO service through termination-disability in 1985. Notes in the file indicated that, in 1991, the employee's physician assessed him or her as totally disabled; however, in 2000, an OWCP rehabilitation and disability management consultant noted in a report that documentation of the employee's medical condition lacked evidence of total disability. In addition, the consultant noted that previous attempts at re-employment were unsuccessful, in part, due to the employee's insistence that his or her primary responsibility was childrearing and he or she would consider only home-based employment. The consultant further noted that the employee appeared unmotivated to return to competitive employment, and the basis of the employee's alleged disability was difficult to assess objectively and was in great part based on the employee's self-report. The consultant finally noted that efforts to investigate or develop a light duty job offer would not be worthwhile unless OWCP was willing to solicit a current (and objective) second medical opinion of the employee's diagnoses and functional capacity, and GAO could offer permanent modified employment. The consultant noted that this claim implied significant financial exposure. There is no evidence in the case file that GAO referred the employee to a physician specialist to help make a determination regarding potential reemployment. By not referring the employee to a specialist as suggested, GAO missed an opportunity to determine the employee's re-employment options. Between June 1, 2002, and December 14, 2013, GAO paid more than \$424,250 in compensation and \$81,480 in medical expenses.

Source: GAO Workers' Compensation Case File and OIG analysis of OWCP's Integrated Federal Employees' Compensation System data.

**Figure 11: Example of No Referral to a Physician Specialist to Help Determine Potential Re-employment**

A GAO employee was injured at work in 1985 and was separated from GAO service on termination-disability in 1987. In 1998, OWCP referred the employee for a second medical evaluation by a specialist, whose report noted that the injuries for which the employee was receiving benefits had "long since resolved," and "there was no need for any further treatment" for the injuries. The specialist completed a work capacity evaluation form indicating that the employee could work 8 hours per day with lifting restrictions for 4-6 weeks. In 1999, GAO OIG asked HCO what it had done to return the employee to work in some capacity. HCO stated that nothing had been done because of a medical issue unrelated to the employee's work-related injury, and said it would discuss the case with the Office of General Counsel. There is no evidence in the file of communications between HCO and the Office of General Counsel about this case. In addition, there is no evidence in the file that GAO referred the employee to a physician specialist to evaluate the medical issue unrelated to the employee's work-related injury and to determine his or her potential to work. By not referring the employee to a specialist, GAO missed an opportunity to determine the employee's re-employment options. Between June 1, 2002, and December 14, 2013, GAO paid more than \$291,700 in compensation and \$22,900 in medical expenses.

Source: GAO Workers' Compensation Case File and OIG analysis of OWCP's Integrated Federal Employees' Compensation System data.

### **Contact with Injured Employees to Assess Their Ability to Return to Work is Infrequent**

Federal regulations<sup>31</sup> state that an employer may contact an employee at reasonable intervals to request periodic medical reports addressing his or her ability to return to work. GAO workers' compensation policy states that unit heads, after consultation with HCO, may at reasonable intervals request that the employee provide them with periodic medical reports from their physician addressing the employee's ability to work.<sup>32</sup>

<sup>31</sup>20 C.F.R. §10.506.

<sup>32</sup>GAO Order 2810.1.

In a report, GAO highlighted the importance of establishing early contact and staying in touch with disabled employees to help maintain their motivation to return to work.<sup>33</sup> The report noted that contacting an employee helps reassure him or her that there is a job to return to, and that the employer is concerned about his or her recovery.

We found that GAO's contacts with injured employees receiving wage-loss compensation were infrequent. Out of the 13 wage-loss compensation case files, 10 did not have evidence in their FECA files that GAO contacted the employees. For the 3 cases that had such evidence, the most recent contacts were over 16 years ago in the first case, over 19 years in the second case, and in third case, 36 years ago.

GAO's policy does not establish operating procedures or guidance on how to initiate contact or implement information received from those contacts.

Figure 12 illustrates a case of infrequent contact with an injured employee preventing GAO from assessing the employee's ability to return to work.

**Figure 12: Example of No Contact with Employee Preventing GAO from Assessing the Employee's Ability to Return to Work**

An employee, who was 79 years old, as of December 14, 2013, sustained an injury in 1976. In 1978, the employee notified GAO that the doctor had released him or her to return to work. GAO informed the employee that a medical statement from the physician was needed indicating that the employee was completely well and able to continue his or her duties on a full-time basis. GAO subsequently received a signature-stamped medical statement from the employee's physician indicating that the employee was presently receiving no treatment and that the employee could return to work on a full-time basis with no restrictions. Within 5 days, the employee reported to work and was informed that the doctor's report was not acceptable because it lacked an original signature on the medical statement and additional information was needed before the employee could return to work. The following day the employee voluntarily resigned, citing tensions created by an intolerable work environment. There is no evidence in the case file indicating that GAO contacted the employee in the last 36 years.

Because GAO did not maintain communication with the employee, GAO did not remind the employee that he or she was expected to seek re-employment within his or her medical restrictions, possibly with another government agency or private employer. Between June 1, 2002, and December 14, 2013, GAO paid more than \$232,350 in compensation and \$62,550 in medical expenses.

Source: GAO Workers' Compensation Case File and OIG analysis of OWCP's Integrated Federal Employees' Compensation System data.

### **Third-Party Liability Cases Not Monitored to Minimize GAO's Workers' Compensation Program Costs**

In some FECA-covered cases, a third party may be found legally liable for damages. The potential for third-party liability exists in a variety of situations. For instance, the driver of a vehicle causing an accident in which an employee is injured, the owner of a building where unsafe conditions cause an employee to fall, and a manufacturer whose defective product causes an employee's injury, could all be considered third parties to the injury. FECA requirements<sup>34</sup> state that the Secretary of Labor may require the employee to pursue the case personally or assign it to the United States for prosecution. If the employee (or the beneficiary, in the event of death) is required to do this and refuses, he or she is no longer entitled to FECA compensation. FECA also has specific requirements<sup>35</sup> for cases in which damages are recovered. After deducting the cost of the subrogation lawsuit and a

<sup>33</sup>GAO/HEHS-96-133.

<sup>34</sup>5 U.S.C. § 8131.

<sup>35</sup>5 U.S.C. § 8132.

reasonable attorney's fee from the damages awarded in the lawsuit, the employee must refund to the federal government the total amount of FECA compensation it paid, and credit the remainder of the damage award against any future compensation payable for that claim.

GAO's workers' compensation policy only briefly describes procedural steps that employees and supervisors should take to report a potential third-party case before a third-party case is prosecuted.<sup>36</sup> This information is located in a question-and-answer chapter of the order. According to *Standards for Internal Control in the Federal Government*,<sup>37</sup> management is responsible for developing detailed policies, procedures and practices to fit agency operations. GAO's workers' compensation policy, however, does not establish detailed policies and procedures for managing, collecting and documenting information about, and overseeing third-party cases after damages have been recovered.

Our review of 31 workers' compensation cases identified three cases resulting in third party recoveries. None of these cases had evidence in the file to demonstrate that HCO had obtained a statement of recovery, which would confirm, among other things:

- the gross amount of damages awarded;
- the amount of damages retained by the injured employee;
- all compensation and medical benefits paid by GAO;
- the amount to be refunded to GAO; and
- any surplus damages, if any, against which future compensation payments must be credited.

Without this information, it is difficult to ensure recovered funds are properly credited to GAO and costs of the program are minimized.

Figure 13 illustrates a third-party case resulting in recoveries with no statement of recovery to help GAO determine how much money it should have received.

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<sup>36</sup>GAO Order 2810.1.

<sup>37</sup>[GAO/AIMD-00-21.3.1.](#)



**Figure 13: Example of a Third-Party Settlement with Missing Statement of Recovery**

An employee, who was 50 years old, as of December 14, 2013, was injured on the job by a third party in 1992. In 1996, the employee was separated from GAO service through a removal for unavailability for duty. In 1996, the attorney who handled the third-party lawsuit sent a check for \$25,196, with a notation on the check indicating the full and final lien payment, to the Department of Labor's Office of the Solicitor. In a letter from the Department of Labor's Solicitor to the attorney, the Solicitor stated that the Office was unable to close its file because it had not received a statement of recovery reflecting the full distribution of the third-party settlement. The letter also stated that the full distribution of the settlement was needed to determine the exact amount of the refund due and to establish a third-party credit. In 2008, an HCO human capital specialist sent a letter to the OWCP claims examiner requesting "an explanation of the third-party check (whose account and when this amount applied)." The letter, however, did not request a copy of the statement of recovery, which would confirm, among other things, the gross amount of damages awarded and the amount to be refunded to GAO. The claims examiner's written reply instructed the human capital specialist to contact the National Office for that information. There is no evidence in GAO's workers' compensation file that the human capital specialist followed up with the National Office to request the statement of recovery.

Without a statement of recovery, it is difficult to ensure that recovered funds are properly credited to GAO and costs of the program are minimized. Between June 1, 2002, and December 14, 2013, the employee received more than \$934,400 in compensation benefits and medical expenses.

Source: GAO Workers' Compensation Case File and OIG analysis of OWCP's Integrated Federal Employees' Compensation System data.

### **Policy Intended to Prevent, Identify, and Report Potential Fraud for Investigation Lacks Specific Fraud-Prevention Controls and Is Outdated**

FECA regulations state that employees who obtain benefits fraudulently could be prosecuted.<sup>38</sup> If the employee is convicted, his or her compensation benefits would be terminated. GAO's work examining FECA fraud-prevention controls has identified several promising practices that could help to reduce the risk of fraud within the FECA program.<sup>39</sup> GAO reported that the promising practices link back to fraud-prevention concepts contained in GAO's Fraud Prevention Framework and *Standards for Internal Control in the Federal Government*,<sup>40</sup> and include:

- having full-time staff dedicated to the FECA program;
- periodically reviewing claimants' eligibility;
- analyzing data for potential fraud indicators; and
- effectively using investigative resources.

Further, GAO reported that these promising practices have resulted in successful investigations and prosecutions of FECA-related fraud at some agencies, and could help to further enhance the program's fraud-prevention controls.

Current GAO policy requires all employees to promptly refer any suspected criminal misconduct or other serious wrongdoing in a GAO program to GAO's OIG.<sup>41</sup> GAO's *Standards for Internal Control in the Federal Government* emphasize that policies and

<sup>38</sup>20 C.F.R. 10.16(a).

<sup>39</sup>GAO, *Federal Employees' Compensation Act: Preliminary Observations on Fraud-Prevention Controls*, [GAO-12-402](#) (Washington, D.C.: Jan. 25, 2012).

<sup>40</sup>[GAO-12-402](#) and [GAO/AIMD-00-21.3.1](#).

<sup>41</sup>GAO Order 1130.1, *Handling Information That May Indicate Criminal Misconduct Or Serious Wrongdoing In Federal Programs or Operations* (November 16, 2010).

procedures should be periodically reviewed for continued relevance and effectiveness and updated as needed. GAO's workers' compensation policy states that when case review or other sources identify instances of potential fraud, HCO will compile available information, immediately refer the matter to Labor's OIG for investigation, and continue to closely monitor the case until it is resolved.<sup>42</sup> However, HCO has not established specific fraud-prevention controls which may help to prevent and detect potential FECA fraud. In addition, GAO's workers' compensation policy does not reflect current GAO policy and procedures for reporting potential fraud to GAO's OIG, as required. As a result, potential FECA fraud, waste, and abuse could go undetected by HCO and unreported to GAO OIG.

Based on our review of 31 workers' compensation cases, four cases of potentially fraudulent claims are under review by our Office of Investigations to determine whether an investigation or other action is warranted.

## **Conclusions**

GAO's workers' compensation program is intended to provide case management and oversight services to, among other things, offer job opportunities that will return employees to work as soon as medically possible and to prevent inappropriate benefits and unnecessary costs. While OWCP has responsibility for adjudicating claims for benefits, the employing agency (i.e., GAO) has primary financial and management responsibility for administering its own FECA cases. This is accomplished through active case management controls and activities such as monitoring medical information and staying in touch with injured employees and their treating physicians, identifying suitable jobs, and returning them to work as soon as possible. However, GAO lacks properly designed controls—operational procedures, guidance, and fraud-prevention controls—to ensure the agency pays only valid claims for continuation of benefits and employees return to work when able. Without effective controls, GAO lacks reasonable assurances that its FECA program costs are minimized and potential program fraud is prevented.

## **Recommendations**

We recommend that the Comptroller General direct the Chief Human Capital Officer to immediately take the following five actions:

1. Develop and implement operational procedures that include specific case documentation procedures to be followed by HCO case management specialist to help ensure HCO maintains
  - Case files documenting the history and status of all GAO employees receiving workers' compensation benefits. The procedures should, at a minimum, outline responsibilities for visiting OWCP to assure GAO's files are complete.
  - Sufficient up-to-date information on all employees receiving workers' compensation benefits. The procedures should, at minimum, outline responsibilities for maintaining medical information, timeframes for collecting and evaluating medical information, content of medical evidence, and follow-up actions if medical evidence is not received within specified timeframes.

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<sup>42</sup>Fraud is the intentional deception that could cause detriment to others or to the government. Fraud includes a false representation, by false or misleading statements or by concealment of a fact with the intention to deceive. Fraud also includes misappropriation of GAO assets or resources.

2. Develop and implement clearly defined procedures that establish a framework and delineate responsibilities within GAO for identifying candidates for re-employment and developing re-employment strategies that foster improved return to work outcomes.
3. Develop and implement policy and procedures addressing the responsibilities of GAO employees and management in identifying and reporting potential third-party liability claims, and the case management and oversight responsibilities of HCO to help ensure GAO is reimbursed from recoveries.
4. To help reduce the risk of and identify potential fraud within GAO's program, establish specific workers' compensation fraud-prevention controls to help reduce the risk of and identify potential fraud within GAO's program.
5. Update the existing workers' compensation policy to reflect current GAO policy requiring all GAO officers and employees to promptly notify the GAO OIG concerning the possible existence of FECA program fraud, waste, and abuse as outlined in GAO Order 1130.1.

### **Agency Comments and Our Evaluation**

The Inspector General provided GAO with a draft of this report for review and comment. In its written comments, reprinted in appendix III, GAO agreed with our recommendations, but disagreed with some of the characterizations in the draft report. The agency also provided technical comments that we incorporated, as appropriate.

Many of GAO's comments reflect a fundamental difference between GAO's views regarding responsibility for management of FECA cases and our own. GAO believes, as evidenced in its comments, that OWCP bears responsibility for managing GAO's cases and, when appropriate, finding suitable employment for individuals who can work. As discussed in our report, both OWCP and GAO have important roles and responsibilities in ensuring that continuing entitlement to workers' compensation is valid and employees are returned to work when able. The OIG believes that active case management is a team approach and consists of more than just OWCP intervention. The OIG's view that management of GAO cases is a shared responsibility is based on GAO policy, best practices, and GAO's recommendations to other federal agencies to improve management of their FECA programs. We believe that the best outcomes stem from an active team approach where the OWCP, GAO, the employee, and medical providers use all available tools to ensure medical recovery and a sustainable return to work. Because OWCP manages thousands of cases government-wide and GAO's appropriated dollars are paid out to benefit recipients, we believe that GAO must take an active role in case management if program costs are to be effectively managed.

As an initial matter, GAO asserted that our report could lead readers to believe that GAO incurs over \$20 million in FECA program costs annually. Our report identifies the annual costs of the program and addresses the specific time period for which cumulative costs are discussed.

In its comments, GAO asserted that our report gives the erroneous impression that it has paid claims that were unauthorized, fraudulent, or otherwise invalid. Our report revealed some unauthorized compensation and benefit payments, possible fraudulent activity that we have referred to OIG investigative staff. In addition, our report revealed that GAO has not effectively managed its FECA program to ensure that claims for continuation of benefits were valid and no instances in which the initial claims appeared to have been invalid.

GAO commented that the presentation of findings leads readers to believe that issues identified occurred recently. As discussed in our report, we reviewed and analyzed the full period for which case file information was available, including medical information. In addition, we reviewed the agency's most recent efforts to identify employees for reemployment and to pursue options to return them to suitable work. Timeframes and years of actions in specific cases are identified in the case examples.

In addition, GAO commented that the agency does not believe that any individuals currently on the long-term rolls could be successfully returned to work because of advanced age and the length of time in disability status. The agency notes that four such individuals have no wage-earning capacity or reasonable prognosis for improvement. As our report highlights, GAO generally did not use best practices that GAO and others have found to increase the likelihood of employees' return to work before decisions were made regarding the work capacity of these individuals. We believe this contributed to employees remaining on the long-term rolls at or beyond retirement age. As discussed in our report, the current case status for the majority of individuals on the long-term rolls does not reflect that they have no wage-earning capacity. While GAO noted that it had determined that the likelihood was extremely low for returning to work those employees who had been on the workers' compensation rolls for many years, GAO could not provide documentation supporting this determination. Although program costs are borne by the agency, not OWCP, GAO did not effectively respond to this financial incentive by taking effective action to ensure that continuing benefit eligibility was valid and opportunities for suitable employment were pursued. We believe it is incumbent upon GAO to actively manage its workers' compensation program. In 2003, HCO requested OGC Legal Services to review GAO's workers' compensation program and make recommendations in an effort to control or reduce program costs. The OGC analysis and recommendations directly parallel those of the current OIG review of the agency's FECA program.

GAO commented that we criticize the agency for not maintaining duplicate copies of the records OWCP uses to decide entitlement to survivor benefits. GAO also asserted that OWCP requires individuals receiving survivor benefits to submit information annually to OWCP, but not to the employing agency, regarding continuing eligibility for benefits. However, as discussed in our report, GAO's workers' compensation policy directs HCO to maintain case files documenting the history and status of all GAO employees receiving workers' compensation benefits. As we illustrated in our report, if GAO had been monitoring its death benefit cases, improper payments to a deceased dependent may have been identified and prevented.

GAO also commented that our report figures (i.e., case studies) present incomplete information. Specifically, GAO commented that

- Figure 6 did not address OWCP's failure to respond to GAO's request. Our report states that GAO did not have evidence in its workers' compensation file documenting key decisions or resolution of issues identified in correspondence between HCO, Office of General Counsel, and OWCP. As a result, HCO lacked documentation needed to prevent or identify improper payments that continued for 17 years after the claimant transferred to another agency.
- Figure 7 faulted GAO for not maintaining documentation concerning an employee's death or the number of dependents, and the possession of such documents would have no effect on the adjudication of the claim. As highlighted in our report, GAO's workers' compensation policy requires HCO to maintain case files documenting the history and status of all GAO employees receiving workers' compensation benefits.

We recently determined that a family member receiving survivor death benefits had been deceased for several months, but compensation benefit payments continued through September 2014. We stated that although GAO plays no role in survivor benefit decisions, it can still provide evidence for OWCP to consider as a result of its monitoring activities. If GAO had been monitoring this case, the improper payments may have been prevented.

- Figure 9 provided no evidence to support that further inquiry with the claimant's physician would have yielded a different result. As our report indicates, GAO did not obtain the relevant medical information necessary to identify work restrictions and evaluate whether a job offer was appropriate. Consequently, GAO lacked support that further inquiry with the claimant's physician would have yielded a different result.
- Figures 10 and 11 did not recognize the fact that OWCP did not refer the claimants to specialists. Regardless of OWCP's action, as our report indicates, GAO did not exercise its own authority to refer the employees to a physician specialist to determine medical limitations that affected placement decisions.
- Figure 12 did not address the fact OWCP placed the claimant in PN status, meaning that the claimant has no wage-earning capacity and no reasonable prognosis for improvement. As our report shows, 36 years ago, the employee's disability had ceased and no residuals of the employment-related injury remained which prevented the employee from performing the regular duties of his or her position at the time of injury. As our report indicates, GAO has continued to pay the wage-loss compensation after the employee's full recovery from a work-related injury and has not been in contact with the employee in 36 years.
- Figure 13 shows no link between a third-party liability case and a claimant's entitlement to ongoing benefits. As discussed in our report, this example is intended to illustrate the impact GAO's weak third-party liability case management and program oversight policy and practices have had on its ability to minimize the agency's workers' compensation program costs. As our report indicates, GAO's lack of follow-up with DOL's Office of the Solicitor make it difficult to ensure that recovered funds are properly credited to GAO and costs of the program are minimized.

## Appendix I: Objective, Scope and Methodology

This report addresses the extent to which GAO has effectively managed its Federal Employees' Compensation Act (FECA) program to ensure that it pays only valid claims for continuation of benefits and that employees are returned to work when able. To achieve our audit objective, we identified and reviewed applicable policies, procedures, professional standards, laws, and regulations. We interviewed Human Capital Office managers and staff who administer GAO's FECA program. In addition, we met with GAO's Chief Human Capital Officer (CHCO) and Deputy CHCO, the Director of Employee Relations and Benefits, and Office of the General Counsel, Legal Services attorneys to obtain their perspectives on GAO policies and procedures for workers' compensation case management and oversight.

We reviewed GAO's Chargeback Billing List Detail for July 1, 2012 through September 30, 2013 to determine the number of current and former employees receiving wage-loss compensation, medical benefits only, and death benefits. The Chargeback Billing List is a statement containing the names of, and costs for, current and former GAO employees receiving FECA benefits. We identified 31 individuals receiving benefits and reviewed available case files for these individuals to determine whether they contained current information documenting their eligibility for benefits and evidence of efforts to return employees to work, if applicable. We used GAO's *Standards for Internal Control in the Federal Government*,<sup>43</sup> GAO's workers' compensation policy, and federal laws and regulations governing FECA to determine whether GAO has established effective internal controls for case management and oversight.

We obtained and analyzed compensation and bill payment history electronic data from the Department of Labor's Integrated Federal Employees' Compensation System (iFECS), from June 15, 1978 to December 14, 2013, for all 31 employees. To test the reliability of the data, we performed electronic testing of select data elements to check for: missing data—either missing records or missing values in key data elements; duplicate records; invalid or duplicate unique identifiers; dates outside valid time periods; and values in key data elements outside a designated range. In addition, we reviewed related documentation and interviewed DOL Office of Workers' Compensation Programs (OWCP) Division of Federal Employees' Compensation officials who are knowledgeable about the data and iFECS. To assess the accuracy of key data elements, we selected a simple random sample of 60 (of 3,043) compensation and 60 (of 10,831) bill payment transactions<sup>44</sup> that occurred for the 31 employees between June 1, 2002 and December 14, 2013—the most current timeframes for which data were available at the time we initiated our audit. We compared these payments with record-level compensation and bill payment data in OWCP's Agency Query System. We determined that the data was sufficiently reliable for the purposes of this report.

We conducted this performance audit from September 2013 through September 2014 in accordance with generally accepted government auditing standards (GAGAS), except for the quality control and assurance standard requiring an external peer review of our audit

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<sup>43</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

<sup>44</sup>We calculated the sample size of 60 compensation transactions and 60 bill payment transactions assuming a binomial distribution for a proportion estimate, an expected error rate of 0 percent, an upper error limit of 5 percent, and a 95 percent confidence level.

organization every three years. This exception did not affect the planning or performance of our audit. The Office of Inspector General is scheduled for a peer review in fiscal year 2015. GAGAS requires that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

**Appendix II: Age and Costs of GAO's Workers' Compensation Cases, as of December 14, 2013**

Case Number	Years Since Injury	Total Costs
252XXXXXX	Less than 1	\$320
252XXXXXX	Less than 1	\$1,222
252XXXXXX	1	\$1,423
252XXXXXX	1	\$24,663
252XXXXXX	2	\$1,150
252XXXXXX	3	\$11,876
252XXXXXX	4	\$277,763
252XXXXXX	11	\$9,615
252XXXXXX	12	\$190,144
250XXXXXX	15	\$104,392
250XXXXXX	17	\$33,469
250XXXXXX	19	\$814,989
250XXXXXX	20	\$994,128
250XXXXXX	21	\$1,442,859
250XXXXXX	21	\$833,390
250XXXXXX	22	\$648,758
250XXXXXX	23	\$385,345
250XXXXXX	24	\$1,279,236
500XXXXXX	25	\$1,445,084
500XXXXXX	25	\$647,665
500XXXXXX	26	\$1,596,140
500XXXXXX	28	\$761,957
500XXXXXX	30	\$858,950
500XXXXXX	30	\$994,759
130XXXXXX	33	\$1,130,987
110XXXXXX	34	\$1,407,007
020XXXXXX	37	\$868,404
130XXXXXX	37	\$725,096
090XXXXXX	39	\$92,667
100XXXXXX	44	\$1,339,511
X14XXXXXX	49	\$1,389,230

Source: OIG analysis of GAO FECA case files and OWCP Integrated Federal Employees' Compensation System data.



## Appendix III: Comments from the U.S. Government Accountability Office



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

September 24, 2014

Mr. Adam Trzeciak  
Inspector General  
U.S. Government Accountability Office  
441 G Street NW  
Washington, D.C. 20548

Re: OIG Review of GAO's Federal Employees' Compensation Act Program  
(OIG Engagement Code 999836)

Dear Mr. Trzeciak:

Thank you for the opportunity to review and comment on your draft report on GAO's Federal Employees' Compensation Act (FECA) program. The draft report examined GAO's case files of the 31 current and former GAO employees, or their survivors, who were receiving benefits under FECA as of December 14, 2013. The draft report made five recommendations designed to help improve the management of the program. We have made, and will continue to make, numerous improvements to the program and recognize that more needs to be done. We agree with the recommendations, we intend to act on them, and we thank you for providing them. However, we respectfully disagree with some of the characterizations in the draft report, which may leave readers with incorrect perceptions on some aspects of the program.

As an initial matter, the draft report states in several places that the total cost of GAO's FECA program is more than \$20.3 million. Readers of the draft report could be led to believe that GAO incurs over \$20 million in costs annually. The \$20.3 million is the cumulative cost of the 31 cases examined, some dating back decades. GAO's total FECA costs for the past year were actually \$1,091,426.75 and GAO's annual FECA costs have risen by less than \$200,000 since 2003.<sup>1</sup> GAO recommends that the draft report make clear the exact time period costs are incurred when specifically identified in the draft report, including annual individual beneficiary amounts.

The draft report provides examples of instances in which GAO did not take actions that, if taken, may have reduced GAO's FECA costs. Most of these examples state the amount GAO has paid to the claimant in question. GAO believes such examples give the erroneous impression that GAO paid claims that were invalid. In fact, nowhere does

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<sup>1</sup> The year, for purposes of FECA administration, runs from July 1 through the following June 30. The figure listed above was GAO's FECA cost for the period July 1, 2013 through June 30, 2014.

the draft report conclude that GAO paid any FECA claims that were unauthorized, fraudulent, or otherwise invalid.

The draft report also presents its findings so that readers are led to believe that the issues identified occurred recently. Actually, of the 31 claimants examined, 24 were placed on GAO's rolls before 2003 and, while our record keeping has not been what it should have been; GAO has made several improvements in recent years.

The draft report discusses opportunities that GAO missed to bring employees back to work. GAO does not believe that any individuals currently on the long-term rolls could be successfully returned to work. Four such individuals are in "PN" status, meaning that the Office of Workers Compensation Programs (OWCP), not GAO, had determined that they have no wage-earning capacity and no reasonable prognosis for improvement. Although not reflected in the files that your office examined,<sup>2</sup> it should be noted that GAO has previously examined whether certain claimants were eligible to return to work. Ultimately, based on discussions with officials from other FECA programs and their experiences with OWCP, as well as our review of the cases, GAO determined that the likelihood of bringing back employees who had been on the workers' compensation rolls for many years was extremely remote, while the resources expended to challenge their claims would be significant. In many instances, the employee's advanced age and time in disability status would have rendered attempts to bring back that employee to work futile.<sup>3</sup> The draft report appears to implicitly acknowledge this, as it contains no recommendations that GAO take any further action to return any current long-term claimants to work.

Furthermore, the draft report overstates GAO's authority and responsibility with respect to its FECA program, while minimizing the role played by OWCP. OWCP controls the major aspects of the FECA program and OWCP regulations limit the employing agency's role. For instance, FECA-related records in an employing agency's files remain OWCP's property. GAO can raise questions to OWCP, but it has no authority concerning whether a claim is accepted or whether benefits should be reduced or terminated. Nevertheless, the draft report suggests that had GAO kept more complete records concerning its FECA claimants, GAO's FECA costs would be much less.

For example, the draft report faults GAO for not maintaining up-to-date medical records for its claimants. The draft report suggests that if GAO had recent medical information, it could have noticed changes in its claimants' conditions that would have affected their entitlement to benefits. However, claimants receiving continuing benefits are required to submit medical evidence to OWCP, not to GAO. 20 C.F.R. § 10.501. While GAO

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<sup>3</sup> Indeed, one example in the draft report of an instance in which GAO could have done more to return a claimant to work notes that the claimant was 79 years old and in disability status for almost 40 years at the time of your office's review.

certainly has responsibility for monitoring its cases and raising concerns, OWCP, not GAO, weighs the value of the medical evidence and has the power to grant or deny a claim, or send the claimant to additional physicians for a second or third opinion. Only OWCP has the power to change a claimant's benefits. 20 C.F.R. § 10.540.

Likewise, although the draft report criticizes GAO for not maintaining duplicate copies of the records OWCP uses to decide entitlement to survivor benefits, GAO plays no role in survivor benefits decisions. As with all claims for FECA compensation, OWCP decides whether an individual is entitled to survivor benefits, including whether the individual has submitted to OWCP the correct documents in support of their claim. Here, the beneficiaries of five former employees on GAO's chargeback list receive survivor benefits. In four of those cases, the former employee (the decedent) had not been employed with GAO for many years prior to death. According to OWCP's Procedures Manual, the claimant and OWCP, not the employing agency, are responsible for collecting information regarding such claims. OWCP Procedures Manual, ch. 2-0700, ¶ 4(c). Moreover, OWCP requires individuals receiving survivor's benefits to submit information annually to OWCP, but not the employing agency, regarding their continuing eligibility for benefits.<sup>4</sup> See 20 C.F.R. § 10.540.

Moreover, the draft report does not acknowledge the practical reality of working with OWCP in years past. Indeed, the draft report specifically discusses three instances in which GAO attempted to obtain information from OWCP in order to properly monitor cases, but OWCP was non-responsive. These examples were typical of the lack of cooperation the Human Capital Office (HCO) and Office of General Counsel (OGC) experienced when dealing with OWCP in the past. When GAO personnel have attempted to review OWCP's files in the past, OWCP placed limits on GAO's access to the files. In addition, OWCP claims examiners frequently did not respond to requests for information from GAO staff. Your office's 1999 report on GAO's FECA program confirmed these difficulties, noting numerous examples of GAO staff's unsuccessful attempts to obtain documents from OWCP, and instances in which OWCP staff did not return your office's phone calls and made your office wait months to review its files. That said, we need to continue to review claim status and pursue any concerns we have with OWCP.

The draft report further notes concerns with GAO's procedures for protecting against fraud in its FECA program. In fact, GAO has previously identified certain individuals on GAO's FECA rolls as candidates for surveillance, because they were suspected of possible fraud. We have investigated numerous allegations and made appropriate

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<sup>4</sup> In this regard, the draft report's statement that "all 5 individuals' families continue to receive FECA compensation benefits without sufficient evidence to support their claims" is misleading. OWCP presumably has sufficient evidence in its files to support their claims. Otherwise, their compensation would be terminated.

conclusions about the levels of evidence, the resources involved, and whether there was sufficient cause to challenge the OWCP determinations.

The draft report also contains figures that present incomplete information, as follows:

- As Figure 6 states, GAO sent two letters to OWCP in 2000 asking that OWCP transfer the claimant from GAO's rolls to those of another agency. Figure 6 does not address the fact that OWCP failed to respond to GAO's request.
- Figure 7 faults GAO for not maintaining documentation concerning an employee's death or the number of his dependents. However, as figure 7 states, OWCP determined that the claimant's death was covered under FECA and approved monthly survivor benefits. Thus, GAO's possession of the documents in question would have had no effect on the adjudication of the claim.
- Figure 9 assumes that GAO should have taken further action towards bringing a claimant back to work after the claimant's physician indicated that the employee was completely unable to work. There is no evidence to support the conclusion that further inquiry with the claimant's physician would have yielded a different result.
- Figure 10 does not address the fact that OWCP did not refer the claimant to a specialist, as its own consultant recommended.
- Figure 11 does not address the fact that OWCP, which referred this claimant to a specialist, failed to act after the specialist noted that the claimant's injuries had resolved and the claimant could return to work.
- Figure 12 does not address the fact OWCP placed this claimant in PN status, meaning that the claimant has no wage-earning capacity and no reasonable prognosis for improvement.
- Figure 13 suggests a link between GAO's inability to obtain a statement of recovery in a third party liability case and a claimant's entitlement to ongoing benefits. There is no such link. GAO does not have the authority to pursue 3<sup>rd</sup> party claims. That authority falls under the Department of Labor.

Finally, the draft report does not fully acknowledge the efforts GAO has made in recent years to improve management of its FECA program. Specifically, GAO's HCO and OGC forged a more proactive and cooperative relationship geared towards better management of the FECA program. As a direct result of this cooperation, in 2010 and 2011, HCO and OGC identified and successfully challenged two suspect claims for total disability filed by employees. The employees were each 46 years old at the time they filed their claims. Had the claims been accepted, GAO would have paid compensation

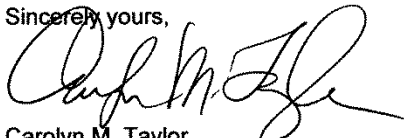
to the employees for the remainder of their lives, and quite possibly to their dependents after their deaths. Thus, GAO likely saved upwards of \$1 million in future FECA costs by challenging these claims.

In March 2013, HCO began working to establish a Memorandum of Understanding (MOU) with the Department of Labor to use its electronic claims filing system known as the Employee's Compensation Operations and Management Portal (ECOMP). ECOMP will enable GAO to electronically access information about its claimants, such as up-to-date medical information, that it currently does not have ready access to in every case, and will not need to maintain duplicate information in its files. The MOU was finalized by DOL and GAO on September 10, 2014.

In fiscal year 2012, HCO began recruiting, and was able to recently hire, a human capital specialist with many years of experience to manage its claims. HCO has also (1) established a work log to track and monitor all cases (2) implemented a quarterly review of all cases listed on the chargeback report (3) developed worksheets to assist timekeepers in tracking continuation of pay to ensure GAO is in compliance with the regulations and (4) conducted site visits to DOL to obtain missing file documentation. As of September 4, 2014, all cases have been reviewed to assess their current status and to determine whether additional documentation was needed. All documentation missing from GAO's files has been either located or requested from OWCP. HCO staff attended OPM-sponsored FECA training in April 2014, participated in the OWCP Inter Agency Meeting in June 2014, and worked with OWCP to establish liaisons concerning ECOMP and FECA chargeback reports – such technical advisors/liaisons were not previously identified for GAO.

In closing, we appreciate your work on this program and believe our actions position us to effectively manage the FECA program going forward. I am available to discuss these matters with you at your convenience.

Sincerely yours,



Carolyn M. Taylor  
Chief Human Capital Officer

cc: Karl J. Maschino, Chief Administrative Officer  
Susan Poling, General Counsel  
Denise Hunter, Acting Deputy Chief Administrative Officer  
William White, Deputy Chief Human Capital Officer  
William Anderson, Controller  
Adebiyi Adesina, FMBO

#### **Appendix IV: Major Contributors to This Report**

Key contributors to this report were Sandra Burrell and Cynthia Hogue. Technical assistance was provided by James Ashley, Jill Lacey, Ying Long, Minette Richardson, and Gloria Hernandez-Saunders.

## **Appendix V: Report Distribution**

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