OFFICE OF INSPECTOR GENERAL

Management Information Report

Management and Performance Challenges Facing the Railroad Retirement Board

Report No. 16-03
January 11, 2016

RAILROAD RETIREMENT BOARD

Introduction

This statement has been prepared pursuant to the Reports Consolidation Act of 2000 and the requirements of Office of Management and Budget Circular A-136, which require that the Inspectors General identify what they consider the most serious management challenges facing their respective agency and briefly assess the agency's progress in addressing those challenges. By statute, the following is also included in the Railroad Retirement Board's (RRB) fiscal year 2015 Performance and Accountability Report. The RRB's response is included in this report as Appendix 1.

Congress created the railroad retirement system nearly 80 years ago. The Railroad Retirement Act (RRA) created a nationwide retirement system for railroad workers to provide income security in old age. Over the years, the program has been expanded to include disabled workers, elderly spouses and widows, children, and parents of young children. In 1938, Congress added a nationwide system of unemployment insurance, and later a program of sickness insurance benefits. During fiscal year 2014, the Railroad Retirement Board (RRB) paid about $12 billion in retirement and survivor benefits to approximately 562,000 beneficiaries and approximately $84 million in net unemployment and sickness insurance benefits. This included almost $1 million in temporary extended unemployment benefits under the American Recovery and Reinvestment Act of 2009, to more than 25,000 claimants.[1]

Our identification of challenges facing RRB management is based on recent audits, evaluations, investigations, and current issues of concern to the Office of Inspector General (OIG). The RRB OIG identified the following seven major management challenges facing the RRB during fiscal year 2015.

Most Serious Management and Performance Challenges Facing the RRB as of October 1, 2015 (as identified by the Inspector General)	
Challenge 1	*Program Integrity to Strengthen Disability Programs*
Challenge 2	*Information Technology Security and Modernization*
Challenge 3	*Oversight of Railroad Medicare*
Challenge 4	*Preventing and Detecting Improper Payments*
Challenge 5	*Agency Succession Planning*
Challenge 6	*Material Weakness for Financial Statement Reporting*
Challenge 7	*Limited Transparency at the National Railroad Retirement Investment Trust*

[1] RRB, *An Agency Overview* (Chicago, IL.: January 2015).

Challenge 1 – Program Integrity to Strengthen Disability Programs

There are two types of disability awards administered by the RRB, the occupational disability annuity and the total and permanent disability annuity. The occupational disability annuity is based on the employee's inability to perform their regular railroad duties, not their ability to perform other types of jobs. Occupational disability annuities are payable to qualified applicants at or after the age of 60 with 10 years of service, or at any age if the employee has at least 20 years of railroad service. According to the RRB's 2015 Annual Report, in fiscal year 2014, occupational disability annuities totaling approximately $1.9 billion were paid to approximately 58,900 annuitants.[2] In fiscal year 2014, the approval rate for occupational disabilities was approximately 98 percent. A total and permanent annuity is payable, regardless of age, to employees with at least 10 years of service but requires that the applicant is not able to perform any job in the national economy. In its comments to us, the RRB provided clarification of the population of disability annuitants; noting that about 5,300 individuals are receiving annuities based on an occupational disability only, approximately 36,400 are receiving total and permanent annuities, and about 17,100 individuals entered the RRB program through the occupational disability program but have now reached minimum retirement age. These populations account for $160 million, $1.2 billion and $515 million, respectively, of the approximate $1.9 billion reported as annual disability annuity payments. This information was not reflected in the RRB's 2015 Annual Report.

These two disability benefits remain the subject of sustained scrutiny by the Congress and OIG as a result of program vulnerabilities and ineffective oversight by the RRB.

In 2007, the OIG initiated a joint investigation with the Federal Bureau of Investigation that unraveled a complex occupational disability fraud scheme perpetrated by a number of Long Island Rail Road (LIRR) retirees, doctors, and disability facilitators. This case was referred to and prosecuted by the U.S. Attorney's Office for the Southern District of New York. All 33 people charged in connection with the LIRR disability fraud scheme have either pled guilty (28 individuals) or been convicted at trial (5 individuals). Federal sentences imposed by the court totaled 544 months of prison time, 594 months of probation, 456 months of supervised release, 57 months of home confinement, 300 hours of community service, and approximately $614 million in restitution, forfeiture, and fines. OIG estimates that more than 700 individuals may have been involved in this fraud scheme and investigations are ongoing.

[2] RRB, *2015 Annual Report* (Chicago, IL.: September 2015).

Throughout the LIRR investigation and subsequently, significant deficiencies were identified within the occupational disability program and the OIG has made numerous recommendations for improvement through audits, OIG Alerts, and investigations. Further, according to a 2009 Government Accountability Office (GAO) audit of the RRB's occupational disability program "a nearly 100-percent approval rate in a federal disability program is troubling, and could indicate lax internal controls in RRB's decision-making process, weaknesses in program design, or both."

The OIG remained so concerned by the RRB's failure to address deficiencies in its occupational disability program that in February 2014, the OIG issued a seven-day letter alerting the RRB of its concerns, and outlined particularly serious and flagrant problems, abuses, and deficiencies relating to the occupational disability program. The OIG urged the agency to acknowledge the areas of deficiency by instituting necessary corrective actions.[3]

In May 2015, the U.S. House of Representatives Committee on Oversight and Government Reform's Subcommittee on Government Operations convened a hearing to examine if the RRB was doing enough to prevent fraud in its occupational disability program and to assess the RRB's process for determining which workers are eligible for benefits. In testimony, the Inspector General detailed the systemic deficiencies within the RRB's occupational disability program, as well as several key recommendations to address these deficiencies.

In response to significant Congressional pressure and oversight by the Office of Management and Budget (OMB) and the OIG, the RRB has recently taken some preliminary steps to improve its occupational disability program. It released its Disability Program Improvement Plan, which outlines 18 initiatives aimed at improving program integrity within its disability program. Further, the RRB has requested approximately $3.3 million in budget funds to improve program integrity. The RRB also contracted with an outside consultant for a benefit payment fraud prevention/detection assessment and advisory examination. The RRB has also indicated that it is exploring more effective ways to prevent and detect fraud and to enhance the program's integrity.

However, foundational flaws that leave the RRB's occupational disability program susceptible to fraud and abuse remain, including an agency culture that focuses on paying benefits quickly; thereby increasing the likelihood of erroneous payments. The OIG contends that as responsible public stewards, RRB management must implement comprehensive and meaningful procedural and cultural change to ensure that disability benefits are adjudicated accurately; awarding benefits only to those who are eligible, after an independent and thorough review of the application and all required supporting documentation.

[3] RRB OIG, *Seven-Day Letter to Congress* (Chicago, IL.: February 10, 2014).

Further, the RRB must work to ensure programmatic improvements, even those requiring legislative changes, are made expeditiously. If implemented properly, the OIG's prior recommendations provide valuable steps to improve program integrity. Without these changes, the RRB's propensity to inaccurately adjudicate disability applications will continue to cost the RRB and its eligible beneficiaries millions in unwarranted expenses annually.

Challenge 2 – Information Technology Security and Modernization

As with all Federal agencies, the RRB faces the challenge of how to modernize its technology and safeguard sensitive data, while accomplishing the agency's mission. The RRB is continually updating and enhancing existing technologies and implementing new systems; however, the OIG has concerns that these changes do not adequately address the inherent risks in information technology (IT) security and projects.

In the coming years, RRB plans to undergo several major IT initiatives, such as:

- RRB systems modernization,
- migration of the Program Accounts Receivable (PAR) system to the Financial Management Integrated System (FMIS), and
- continued implementation of its "Office in the Cloud" plan, which is technology to offer a virtual office to a mobile workforce.

Each of these initiatives is a major project, requiring significant planning and oversight. IT acquisitions and improvements are so difficult that this issue is on GAO's High Risk List because federal IT investments too frequently fail or incur cost overruns and schedule slippages, while contributing little to mission-related outcomes. Such projects are often suffering from a lack of disciplined and effective management, such as project planning, requirements definition, and program oversight and governance. In many instances, agencies have not consistently applied the best practices that are critical to successfully acquiring IT investments.

The RRB systems modernization is one of the largest IT projects ever undertaken by the RRB. This is a five year project intended to translate approximately 12 million lines of code to more modern computer language, followed by a systems reengineering project. The RRB estimated the project to cost $15.6 million. Projects of such size, length, and cost are at significant risk of cost overruns and project failure.

In September 2014, the OIG issued an audit report on the data management application controls and selected general controls in FMIS.[4] The audit found that while controls for data and configuration management, contractor segregation of duties and contingency planning were adequate, some control deficiencies existed. Therefore, with the RRB planning the migration of the PAR system to FMIS, similar deficiencies and risks could arise.

The RRB "Office in the Cloud Plan", cloud technology for a mobile workforce comes with possible security and privacy risks of valuable data, as well as long

[4] RRB OIG, *Audit of the Data Management Application Controls and Selected General Controls in the Financial Management Integrated System* (Chicago, IL.: September 30, 2014).

term considerations of cost and data access. These security and cost risks remain a concern of the OIG.

Finally, in March 2015, the OIG issued an audit report on the information security at the RRB, which is mandated by the Federal Information Security Management Act of 2002 (FISMA).[5] The audit included testing the effectiveness of the information security policies, procedures, and practices of a representative subset of the agency's information systems; accessing agency compliance with FISMA requirements and related information security policies, procedures, standards, and guidelines; and preparing a report on selected elements of the agency's information security program in compliance with the OMB fiscal year 2014 FISMA reporting instructions. The audit determined that the RRB is continuing to make progress in implementing an information security program that meets the requirements of FISMA but a fully effective security program has not been achieved. The OIG made several recommendations related to its findings.

Given the historic challenges in IT, both at RRB and across government, as well as the increased scrutiny of information technology security, the OIG considers these, and other major technology initiatives to be of increased risk, requiring close attention and oversight.

[5] RRB OIG, *Fiscal Year 2014 Audit of Information Security at the Railroad Retirement Board,* 15-04 (Chicago, IL.: March 16, 2015).

Challenge 3 – Oversight of Railroad Medicare

The Railroad Medicare Program provides medical care for qualified railroad retirees. The Railroad Medicare Program is managed by one nationwide Medicare contractor, Palmetto GBA, which processes the Medicare Part B claims for railroad retirement beneficiaries. The RRB is responsible for administering its contract with Palmetto GBA. In fiscal year 2014, the RRB withheld approximately $538 million in premiums and Palmetto processed about $821 million in payments for services covered by Medicare Part B.[6] Centers for Medicare and Medicaid Services (CMS) reimburses the RRB for expenses related to administering this program, approximately $32.3 million in fiscal year 2014.[7]

In June 2015, the OIG reported deficiencies relating to payments for chiropractic services. During the audit, the OIG determined that controls were not sufficient to ensure that payments for Railroad Medicare chiropractic services complied with Medicare requirements. The report details the RRB's inadequate oversight over the Railroad Medicare contract, exposing it to vulnerabilities in payments for chiropractic services. From 2009 through 2013, it was estimated that approximately $14 million out of $21 million total paid claims were medically unnecessary improper payments for chiropractic services.[8] Palmetto's medical reviews did not validate the medical necessity for billed chiropractic services and its procedures did not adequately identify the ongoing risks associated with chiropractic service claim payments. These risks include: the frequency of chiropractic visits, the use of dual modifiers, commonly upcoded chiropractic services, and high risk chiropractic services.

The audit concluded that neither RRB nor Palmetto had instituted a cost effective method of post-payment recovery when improper chiropractic service payments occur in volume. The OIG issued eleven recommendations to address the deficiencies identified during the audit. In response to one recommendation, RRB management indicated that it would not be cost effective to recover the estimated $14 million in improper chiropractic service payments identified during our audit. The OIG is not in agreement with RRB management's response and considers their rationale insufficient, as a thorough cost benefit analysis had not been performed.

Another concern relating to Medicare is the RRB's non-use of the Fraud Preventative System (FPS). Implemented in July 2011 by CMS, the system is utilized by the CMS to assist in reducing improper Medicare payments.[9] While FPS has been integrated with CMS systems that process claims, it has not been integrated with the Palmetto's payment-processing system.

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[6] *Fiscal Year 2015, U.S. Railroad Retirement Board, Annual Report,* (Chicago, IL).

[7] RRB, *Performance and Accountability Report, Fiscal Year 2014* (Chicago, IL.: November 2014).

[8] RRB OIG, *Audit of Railroad Retirement Board Medicare Contract Oversight Did Not Effectively Mitigate Chiropractic Service Risks,* 15-07 (Chicago, IL.: June 4, 2015).

[9] GAO, Medicare Fraud Prevention: *CMS Has Implemented a Predictive Analytics System, but Needs to Define Measures to Determine Its Effectiveness.* GAO-13-104 (Washington, D.C.: October 2012).

The Railroad Medicare Program continues to be a challenge to the RRB and a significant concern to the OIG. The RRB will be challenged to continue to improve controls over the more than $800 million in Railroad Medicare payments made on behalf of its beneficiaries.

Challenge 4 – Preventing and Detecting Improper Payments

In May 2015, the OIG issued an audit assessing the RRB's fiscal year 2014 compliance with the Improper Payments Elimination and Recovery Act (IPERA) of 2010, which amended the Improper Payments Information Act of 2002.[10] The audit determined that the RRB was not in full compliance with IPERA reporting requirements.[11] Specifically, RRB did not comply with the risk assessment requirements because it did not assess risks for all of the programs that they administer, such as Medicare, procurement, credit programs, payments to vendors, and payments to federal employees. As a result, the OIG was unable to assess compliance with the requirement that RRB publish improper payment estimates for all of the programs and activities identified as susceptible to significant improper payments. Additionally, the audit revealed that improvements were needed for the RRA program and the Railroad Unemployment Insurance Act (RUIA) program, to ensure completeness of reported amounts for the RRA, as well as the accuracy of the reported improper payment amounts for the RRA and the RUIA programs, to include understatements and insufficient supporting documentation.

RRB developed a risk assessment plan in response to the OIG's determination that the RRB was not in compliance with IPERA. RRB reports that its plan was established to evaluate all of their payment outlays susceptible to improper payments in accordance with IPERA and OMB guidance. The OIG will review the risk assessment plan developed by RRB and assess it for sufficiency in fiscal year 2016.

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[10] Public Laws 111-204 and 107-300, respectively.

[11] RRB OIG, *Audit of the Railroad Retirement Board Compliance with the Improper Payment Elimination Recovery Act of 2010 in the Fiscal Year 2014 Performance and Accountability Report*, 15-06 (Chicago, IL.: May 15, 2015).

Challenge 5 – Agency Succession Planning

The RRB, like most Federal agencies, is faced with a significant portion of its workforce currently eligible to retire or able to do so in the near future. RRB's Bureau of Human Resources estimated that, by fiscal year 2016, more than 40 percent of personnel will be eligible for retirement, with approximately 62 percent having 20 years or more of service.[12] A top priority for agency leadership is to ensure the transfer of knowledge to ensure continuing and uninterrupted operations of the agency. However, for the RRB, staff attrition is both a challenge and a benefit; potentially allowing for expedited improvement to the agency culture to better prevent improper payments in its disability and other programs.

In September 2011, the OIG reported that the RRB had identified staff attrition as an ongoing concern. The report also stated that these changes would impact every aspect of the agency's operations, to include senior level management. The RRB has a Human Capital Management Plan and Succession Plan but it was not funded. Also, while the plan identified the RRB's need to retain and restore employees, the impact of declining budgetary resources was not considered. The OIG concluded that RRB management should enhance the plan by evaluating the possibility of staff and financial reductions and then by establishing a contingency plan to address staff and funding necessities for plan readiness.

While attrition presents a significant challenge, it also presents a unique opportunity for the RRB to quickly change its culture. As discussed in Challenge 1, RRB's culture focuses on paying benefits quickly, increasing the likelihood of erroneous payments in the disability program; a foundational flaw that leaves the program susceptible to fraud and abuse. One way to make significant and timely change to an agency's culture is through the introduction of new personnel who provide new ideas, different views, and a willingness to question the status quo. Of course, the agency would need to promote new thinking and views in order to change its culture.

Attrition of a significant portion of its staff is a significant challenge facing the RRB, and it should look for ways to maximize the effectiveness of these changes to leverage new skills and thinking.

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[12] RRB, *Draft Succession Management Framework,* (Chicago, IL.: Updated August 2014).

Challenge 6 – Material Weakness for Financial Statement Reporting

The OIG is mandated to audit the RRB's consolidated balance sheet, as well as the related statements of net cost, changes in net position, the budgetary resources for the years ended; the statement of social insurance; the statement of changes in social insurance; and the related notes to the financial statements. RRB management's responsibility is the preparation and fair presentation of said financial statements in accordance with accounting principles generally accepted in the United States of America. Upon RRB's completion of these financial statements, the OIG is responsible for expressing an opinion on the financial statements, which are based on the audit being conducted in accordance with the auditing standards generally accepted in the United States of America.

The OIG reported a material weakness for financial reporting in fiscal year 2014. This material weakness included the previously reported significant deficiency for budgetary reporting. Corrective actions for the budgetary reporting deficiencies indentified have not been completed. In the course of the audit, material financial recording errors were detected and internal control procedures were not consistently performed timely or effectively.

The OIG's audit concerns regarding ineffective controls included various reconciliations that were executed after the year-end financial statements were prepared and a payroll reconciliation that was ineffective for fiscal year 2014.

Another significant audit concern relating to financial reporting management was emphasized in a separate audit, which found partial or no supporting documentation for many of the recorded transactions, and the policies and procedures for internal controls and transactions that had not been clearly documented or maintained. Although RRB's management is working to address these recommendations, its actions for all of the recommendations have not been completed or have not been in place long enough to permit evaluation.

This material weakness, which consists of ineffective controls and the lack of communication with the National Railroad Retirement Investment Trust's (NRRIT) auditor (discussed further in Challenge 7), continues to exist. The lack of communication with the NRRIT auditor is the basis for the disclaimer opinion rendered for the RRB's financial statements.

Challenge 7 – Limited Transparency at the National Railroad Retirement Investment Trust

The NRRIT was established by the Railroad Retirement and Survivors' Improvement Act of 2001 (RRSIA). The NRRIT is a tax-exempt entity, independent of the Federal government, whose purpose is to manage and invest railroad retirement assets. The NRRIT is authorized to invest the assets entrusted to it in a diversified investment portfolio in the same manner as private sector retirement plans. The NRRIT is also responsible for transferring funds to the RRB to pay benefits that are not covered through current tax receipts from railroad employees or employers. Over $26 billion in assets were held by the NRRIT on behalf of railroad retirees and their families at the end of fiscal year 2014.[13]

In March 2008, the OIG published a statement of concern, which stated that reliance on the annual audits of the NRRIT's financial statements had left the NRRIT with fewer safeguards than those established to protect other similar retirement investments.[14] While the RRB has legal standing to enforce the NRRIT's compliance with RRSIA, the authority is not supported by adequate legislative authority to assert an oversight role that may support such enforcement activities.

The OIG continues to have concerns that oversight of the NRRIT is inadequate. The OIG's position is that improved transparency and oversight of the NRRIT could be accomplished through a combination of independent performance audits conducted in compliance with Generally Accepted Government Auditing Standards (GAGAS) and a transparent annual financial statement audit, along with independent investigations, evaluations, and assessments, as appropriate.[15]

The following outlines the specific challenges related to the NRRIT.

Performance Audits

The NRRIT has commissioned four periodic performance audits since its inception in 2002, but has not established a formal policy for such audits. There is no indication that the performance audits commissioned by the NRRIT are performed in accordance with GAGAS, which provide a framework for conducting high quality audits with competence, integrity, objectivity, and independence. Of concern is that the NRRIT self-selects the audit areas. Comparable entities, such as the Thrift Savings Plan and private pensions, are subject to performance audits by one or more independent external entities.

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[13] RRB, *Performance and Accountability Report, Fiscal Year 2014* (Chicago, IL.: November 2014).
[14] RRB OIG, *Statement of Concern: National Railroad Retirement Investment Trust Lack of Provision for Performance Audits* (Chicago, IL.: March 31, 2008).
[15] GAO, *Government Auditing Standards, 2011 Revision*, GAO-12-331G (Washington, D.C.: December 2011).

In contrast, the NRRIT defines the subject and scope of its performance audits. It is the OIG's opinion that selection by the NRRIT of the audits to be performed prevents thorough oversight of the NRRIT's assets and operations. The OIG strongly opposes any arrangement that allows the NRRIT to control performance audits. It is also the OIG's opinion that a statutory amendment to provide for performance audits would have greater permanence, since the NRRIT could not legally opt to discontinue new oversight practices.

In fiscal year 2014, GAO reported on performance audit policies and practices that exist for overseeing the NRRIT, performance audit policies in place at comparable organizations, and options that could be pursued to improve NRRIT performance audit policies.[16] While the report did not contain any formal recommendations, it did list options for expanded NRRIT oversight including:

- granting the OIG authority to conduct performance audits, which would ensure that these reviews are initiated and performed independent of the NRRIT;
- requiring periodic audits with external input on scope, which would ensure NRRIT performance audits continue; and/or
- establishing an office of internal audit, which could ensure performance audits are independently initiated and conducted.

These options could be adopted through either an agreement between the key parties or through legislation.

The OIG continues to strongly believe that performance audits would be most efficiently conducted by the OIG and encourages the RRB and NRRIT to develop a legislative proposal that would mandate this change.

<u>Disclaimer of Opinion on RRB Financial Statements</u>

The OIG's lack of access to the NRRIT's auditor has resulted in the OIG issuing a disclaimer of opinion for fiscal years 2013, 2014, and we expect to do so again for fiscal year 2015. The OIG is required by law to audit the financial statements of the RRB, and the NRRIT is a significant component of the RRB. In order to comply with the American Institute of Certified Public Accountants (AICPA) group financial statement auditing standard, the OIG contacted the NRRIT requesting direct communication with, and cooperation from their auditor.[17]

[16] GAO, *Retirement Security: Oversight of the National Railroad Retirement Investment Trust,* GAO-14-312 (Washington, D.C.: May 15, 2014).
[17] AICPA, AU-C Section 600, Special Considerations - Audits of Group Financial Statements (including the Work of Component Auditors).

To date, there has been no communication or cooperation from the NRRIT's auditor, directly or indirectly.

In view of the fact that the OIG cannot obtain sufficient appropriate audit evidence with respect to the NRRIT, we cannot issue an opinion on the RRB's financial statements. To prevent future disclaimers of opinion, it's imperative that RRB management counsel the NRRIT regarding its auditor's responsibilities to comply with the AICPA's group financial statement requirements.

RRB Management's Comments & Our Response

The OIG provided a draft of this statement to the RRB for inclusion in its fiscal year 2015 Performance and Accountability Report. Subsequently, the RRB provided written comments, which are reprinted in Appendix I.

Regarding Challenge 1, the RRB listed several changes it has made to its disability program, such as establishing a medical provider database, ensuring all cases are subject to second review, implementing independent medical exams for most cases, formation of an Anti-Fraud Task Force, and enhancing training on disability adjudication. The RRB also provided information on additional changes to be implemented. The RRB reiterated that management is continuing to prioritize and take decisive actions to strengthen the initial disability determination process, as well as the program's overall integrity, despite a lack of funding. While the OIG acknowledges that the RRB has implemented various actions to improve its occupational disability program, these changes do not always meet the intent of OIG recommendations made and do not address the foundational flaws in the occupational disability program that remain, as evidenced by an occupational disability approval rate of 97 percent in fiscal year 2015. Further concerning is the high approval rate for total and permanent disability annuities for railroad workers, relative to the total and permanent disability approval rate for the overall U.S. population. In fiscal year 2015, about 80 percent of total and permanent applications were approved for railroad workers, compared to the nationwide Social Security Administration's most recent approval rate of 51.8 percent.[18] While some differences in populations may cause a portion of the discrepancy, this is a significant difference in approval rates at a time when the Social Security Administration's Disability trust fund (which funds are used to pay the RRB's total and permanent annuities) is facing significant financial challenges. The changes needed to the RRB's disability program require a long-term commitment to change the agency's culture of paying benefits quickly without adequate external validation or review. Therefore, as responsible public stewards, RRB management must implement an effective control system to ensure that disability benefits are adjudicated accurately.

[18] Social Security Administration, Annual Statistical Report on the Social Security Disability Insurance Program, 2014, SSA Publication No. 13-11826 (Washington, D.C.: November 2015).

In its response, the RRB also explained actions implemented and approaches taken to improve the functions and operations of the agency to address Challenges 2 through 6.

In its comments on challenge 7, the RRB continues to believe that oversight of the NRRIT is sufficient under current law, and provides information on a memorandum of understanding that was signed in 2015 that requires performance reviews over three year cycles, beginning in calendar year 2015. The OIG still contends that increased and independent oversight of the approximately $26 billion held by the NRRIT is imperative to accomplish all of its statutory mandates and to ensure the long-term stability of the NRRIT. The OIG continues to encourage the RRB to establish a legislative proposal allowing the appropriate oversight of the NRRIT to protect its assets and assure effective management of the NRRIT. Finally, the RRB reiterates that it does not believe a disclaimer of opinion is necessary on the RRB's financial statements. The disclaimer of opinion is issued due to the lack of access to the NRRIT's auditor, coupled with the risk that undetected misstatements that are both material and pervasive could exist. The OIG reiterates that NRRIT's net assets meet the definition of pervasive because they represent a substantial portion of the financial statements. Therefore, a qualified opinion cannot be rendered.

Martin J. Dickman
Inspector General

Management's Comments

These are Management's comments on the Management and Performance Challenges identified by the Railroad Retirement Board (RRB) Inspector General.

Program Integrity to Strengthen Disability Programs

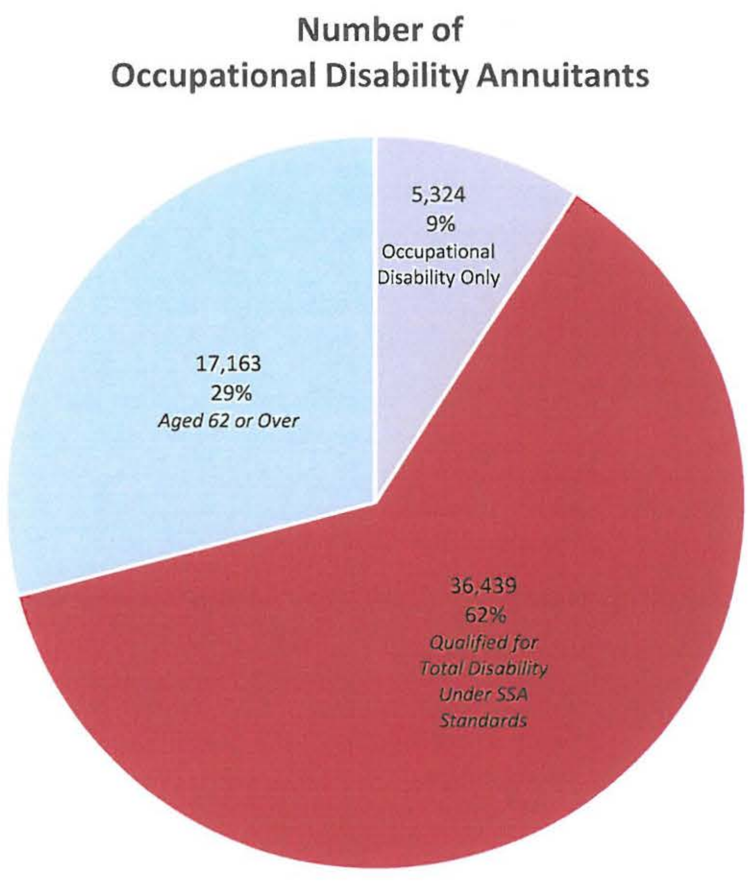
Despite a lack of new funding, RRB management continues to prioritize and take decisive actions to strengthen both the initial disability determination process as well as overall program integrity.

In terms of overall disability approval rates, it is noteworthy that a large percentage (62 percent) of RRB claimants meets Social Security Administration's standards for Total Disability, i.e., inability to perform any job in the national economy. Further, the railroad retirement program serves a workforce that is overwhelmingly male and disability program entrants are significantly older than those entering the social security disability program. For this reason, significantly higher rates of disability awards should be expected in the RRB program as compared with the SSA program. During fiscal year 2014, the RRB awarded Occupational disability benefits to 1,040 railroad workers.

At the end of Fiscal Year (FY) 2014, the Railroad Retirement Board (RRB) was paying 5,324 annuitants solely by reason of Occupational Disability.

The RRB was also paying 36,439 disability annuitants who entered the program under Occupational Disability provisions of the Railroad Retirement Act but also met the Total disability provisions of the Social Security Act.

An additional 17,163 had then met the minimum retirement age of 62 and would be entitled to a non-disability retirement if they were not already on the disability rolls.



During Fiscal Year FY 2014 the RRB paid approximately:

	Number	Paid Per Annum
Receiving an annuity by reason of Occupational Disability Only	5,324	$160,000,000
Entered the Program Under the Occupational Disability Standards Who Meet the Total Disability Standards of the Social Security Administration	36,439	$1,224,000,000
Entered the Program Under the Occupational Disability Standards Who Have Reached the Social Security Minimum Retirement Age of 62	17,163	515,000,000
Totals	58,926	$1,899,000,000

The above numbers include all individuals who were awarded annuities on the basis of disability. Under the Railroad Retirement Act, a disability annuity terminates when an individual ceases to be disabled, dies, or attains full retirement age, which is between the ages of 65 and 67 depending upon the individual's year of birth. See 45 USC 231d(c)(2). Therefore, an individual who is initially awarded a disability annuity has that annuity terminated when they reach full retirement age and they then begin to receive an age and service annuity. This conversion of annuity type is not reflected in the RRB's Annual Report. Once an individual is categorized as disabled, they stay in that category for actuarial reporting purposes until they no longer receive a benefit, even if they are over full retirement age. As a result, a significant portion of the occupational disability awards cited in the RRB's Annual Report include individuals receiving age and service annuities.

In response to OIG recommendations and ad hoc communications as well as the Government Accountability Office (GAO) audit findings, the agency has taken meaningful action to improve the central critical functions of the RRB's disability program including:

<u>2014</u>

- Established Medical Provider Database to facilitate provider analysis.
- Established an Anti-Fraud Task Force.
- Initiated fraud awareness training.
- Ensured that all cases would be subject to a second review.
- Enhanced notifications to annuitants.
- Hired a Director of Audit Affairs.

2015

- Implemented Independent Medical Examinations for most cases.
- Completed review of contracted sources by the Disability Advisory Committee for the purpose of making recommendations for improvement.
- Implemented concurrent processing of freeze determination with the disability rating under the Railroad Retirement Act (RRA).
- Provided enhanced training in disability adjudication and increased the frequency of visits by professional medical providers to support claims examiners.
- Established a multi-component team from the RRB with the responsibility for reviewing SSA's disability program and identifying "best practices" that can be utilized by the RRB.
- Implemented continuing disability reviews for high risk cases.
- Established a quality control unit and related performance goals.
- Approved regulatory change requiring applicants to submit all medical evidence related to disability claims.

In addition, the Board has directed the following program improvements be implemented:

- Revise the job information process/forms to ensure that disability examiners have adequate and uniform vocational information available to them when adjudicating applications.
- Review and revise application forms to ensure that all relevant information is obtained.
- Resume continuing disability reviews for occupational disability cases on a more routine basis.
- Create a matrix analyzing those attributes associated with a higher level of fraud and require annuitants who meet the parameters of the matrix to annually certify their continued eligibility.
- Explore options to obtain more timely earnings data to support stronger initial adjudication and post-entitlement program integrity.
- Set up procedures to identify and address cases of potential fraud before claims are approved.

The Board has taken a strong anti-fraud stance and communicated its expectations for program improvement to operational management. We have taken a constructive approach to program change within the parameters established by law.

Information Technology Security and Modernization

Information Technology (IT) initiatives require close attention and oversight to mitigate the risks of implementing change. The RRB systems modernization approach is to show success with small projects, communicate these successes across the agency to gain support and build confidence to accomplish the remaining larger critical tasks, in an iterative and incremental approach. The project will take place in two phases to minimize the risk from limited funding, as well as build confidence that the migration of 40 years of legacy code can be transformed without loss of functionality. This phased approach uses automation in the early stages, develops an understanding of the legacy environment, removes dead code, identifies duplicate code, and implements efficiencies in a short period of time.

The success of the software development process depends on the ability to create reusable code. The RRB will continuously monitor, measure, and perform value driven services to ensure the predictable outcome of a successful migration. The development environment requires a flexible approach to testing that includes manual and automated test execution. The goal of using tools in the development effort is to automate the efficient creation of software products. These tools will be employed in varying degrees of automation to coincide with the depth and breadth of testing, and the complexity of the application or component being tested.

The project management required to achieve this successful migration is based on agile principles such as:

- Focusing the team on the rapid realization of specific business value.
- Breaking up yearlong projects into a series of short releases focused on the most critical or Key Performance Indicators to increase the opportunity for success.
- Ensuring frequent standup meetings, or daily scrums, as an effective means to convey information, and to facilitate quick resolution of identified risks and issues.
- Co-locating teams to result in a better understanding of activities and deliverables.
- Enforcing team accountability and stakeholder responsibility by keeping everyone informed using dynamic dashboards.
- Delivering high customer satisfaction by following a repeatable, consistent, proven implementation methodology.
- Measuring and communicating captured value to our customers.

The iterative software development model delivers value and provides confidence from early repeated success, early risk mitigation and discovery, complexity management through simplification, relevant progress tracking leading to better predictability, higher quality and less defects, early and regular process improvement, prototyping, and feedback communication loops.

The IT Enterprise Roadmap outlines the plan to enable a future ready RRB workforce equipped with modern tools and technologies to do their jobs in the most efficient, effective, and secure manner that leads to sustained customer satisfaction in the railroad community we serve. The IT Enterprise Roadmap introduces the concept of Office in the Cloud. This robust and secure concept provides sustained operations for the future. Applications are modernized to run on virtual servers and do real-time processing in a secure Private Cloud. This initiative enables self-service solutions for the railroad community, mobile applications, and a virtual office that allows our workforce to accomplish tasks securely without physical constraints of the four-walled office. IT security risks in the virtual office are much smaller and better managed than the agency's current environment. All data at rest will be encrypted to FIPS 140-2 standard.

All RRB Office in the Cloud initiatives will require Federal Risk and Authorization Management Program (FedRAMP) certification. The FedRAMP is a U.S. government-wide program with the goal to accelerate adoption of secure cloud solutions and provide a standardized approach to security assessment, authorization, and continuous monitoring for cloud products and services. The FedRAMP is based on the stringent security requirements defined by NIST 800-53 standard and provides a uniform approach to risk based management.

At a minimum, the virtual office is enabled using Secure Socket Layer Virtual Private Network (SSL VPN). Each employee will use the HSPD-12 PIV card to logon for multi-factor authentication. Furthermore, security monitoring at the Security Operations Center (SOC) gives the agency advanced capabilities to proactively block and remediate any security threats we come across.

The agency continues to make strides in improving our information security program as mandated by the Federal Information Security Management Act of 2014 (FISMA). We recently implemented EINSTEIN III (E3A) to enhance our cybersecurity awareness and help detect and prevent malicious traffic that may target the RRB information systems. We are implementing a continuous monitoring strategy by enrolling in the Department of Homeland Security (DHS) Continuous Diagnostics and Mitigation (CDM) program. The CDM tools are scheduled to be applied at the RRB in the Calendar Year 2016. In addition, we continue to work diligently to address FISMA open audit recommendations and related Plan of Action and Milestones (POAM) recommendations as we strive towards implementing a fully effective information security program.

Oversight of Railroad Medicare

During option year (OP) 2 of the Specialty Medicare Administrative Contract (SMAC) which began on October 1, 2014, the Medicare Contracting Officer Representative (MCOR) and Medicare Contract Operations Specialist (MCOS) conducted the following reviews as required by the Federal Acquisition Regulations (FAR) to ensure that our Medicare contractor (Palmetto GBA) was in complete compliance with the Statement of Work (SOW):

1. Quality Assurance Surveillance Plan (QASP) reviews - QASP reviews provide oversight on the quality, quantity and timeliness of contractor performance. For OP 2, a total of 9 business functions were reviewed, which covered 51 performance standards.

2. A Continuity of Operations Plan (COOP) was conducted in option year 2 to ensure that the RRB SMAC follows its own COOP plan and that it is appropriately tested by the contractor.

3. Quality Control Plan Review Report – we reviewed the quality control program for the SMAC in the Claims including Document Control, Medical Review and Medicare Secondary Payer departments.

All recommendations that were made as a result of these reviews were accepted by Palmetto, GBA and implemented in OP 2.

OP 2 was completed on September 30, 2015, and we are in the process of assessing our contractor's performance (as required under the FAR). Also, overall responsibility and handling of the management and operations of the Medicare program is assigned by law to CMS which means that Palmetto, GBA must adhere to the guidelines and procedures established by CMS. In addition to modifying and testing the updated Medicare MCR process and conducting numerous audits/reviews, the MCOR and MCOS attended training to:

- Gain a better understanding of their responsibilities under the FAR;
- Ensure that the contractor is performing its responsibilities as required; and
- Look for additional ways to protect the Medicare Trust Fund.

The following initiatives were implemented during OP2:

1. A Joint Operating Agreement was approved in late option year 2 and signed in October 2015 by the RRB SMAC and Health Integrity Zone 4 Program Integrity Contractor to refer potential Medicare overpayments to the SMAC's benefit integrity unit. This

endeavor will more fully ensure that Medicare overpayments are pursued for RRB beneficiaries.

2. CMS implemented the Comprehensive Error Rate Testing (CERT) program to measure improper payments in the Medicare Fee-for-Service program. As of July 1, 2015, the RRB SMAC is now part of the CMS CERT program. The CMS CERT contractor will sample claims through June 30, 2016. The final report with CERT findings is scheduled to be published in November 2017.

3. In accordance with the Improper Payment Elimination and Recovery Improvement Act of 2012 (IPERIA), we submitted a Medicare Part B Risk Assessment to the Management Control Review Committed (MCRC). The Medicare Part B Risk Assessment was approved by the MCRC on September 24, 2015.

4. Time sheet reviews at the RRB SMAC have been implemented and conducted by the MCOR and MCOS in option year 2 to ensure appropriate time is being reported to the work being performed. In option year two, we conducted two quarterly reviews. All recommendations that were made, as a result of these reviews, were accepted and implemented by the RRB SMAC.

We are currently working with Palmetto GBA to develop a more robust a MR strategy and system changes to protect the Medicare trust fund and prevent improper payments. A few of the initiatives being developed include but are not limited to:

1. Develop and implement new review screens for chiropractic services on a widespread service-specific-basis to validate medical necessity.

2. Perform statistical analysis of the top providers by number of allowed services to determine if there are any outlier providers in the billing data.

3. Develop and implement an edit to reject any chiropractic services billed with a dual modifier combination.

We are in discussion with CMS on the following initiative:

1. Establishing a tentative timeframe for implementing the Health Integrated General Ledger Accounting System for the RRB SMAC.

2. The RRB SMAC requested access to the CMS Fraud Prevention System (FPS) database which identifies the highest risk claims for fraud, waste and abuse. The CMS recommended that implementation of the RRB SMAC access be delayed until the FPS contract rebid process is awarded.

As OP 3 begins, we will continue to conduct reviews of our SMAC contractor, Palmetto, GBA to ensure its compliance with the SOW and work with it, wherever possible, to reduce waste, fraud and abuse in an effort to protect the Medicare Trust Fund.

Preventing and Detecting Improper Payments

The Railroad Retirement Board has developed Risk Assessment Plans for all programs we administer including Railroad Retirement Act (RRA), Railroad Unemployment Insurance Act

(RUIA), Medicare, Employee Payments and Vendor Payments. In addition, we agreed with the OIG to reevaluate our methodologies to ensure all appropriate areas are included in our improper payment computations for the RRA program. These changes were implemented with the Fiscal Year 2015 Improper Payment analysis.

Agency Succession Planning

In response to our aging workforce and high attrition rates, coupled with static budget levels, the Executive Committee has focused their efforts on succession management, specifically, developing the agency's current human capital and fulfilling mission critical hiring goals to meet the agency's needs. Focusing on these two strategies, the agency has succeeded at dealing with periods of high retirement eligibility of its workforce. At the end of fiscal year 2015, 23.8% of our agency was eligible for retirement. That percentage only increases by 4% by the end of fiscal year 2016. Prior to 2013, our ability to replace staff was limited due to budget constraints. In the past two years, however, we have brought on 165 new employees.

We are proud to report that in fiscal year 2015, 38.8% of new hires were Veterans, which supports the Administration's commitment to utilize the talents of Veterans to help the Government meet today's dynamic challenges.

While it is important to bring in new personnel with fresh perspectives, we still believe that an important contributor to our success in meeting our mission is the quality and experience of our current workforce. In fiscal year 2015, we purchased and implemented the Learning Management System (LMS) and developed and published several training sessions. We also re-established the Training Section within the Bureau of Human Resources in order to develop processes, training and systems that can maximize the growth potential for current employees and new hires. We also continue to take advantage of the rehired retiree program to support the knowledge transfer to our newer employees.

Although our Human Capital and Succession Plans were not fully funded, we have implemented key aspects of these plans, ensuring continuing and uninterrupted operations of the agency in spite of staff attrition concerns.

Material Weakness for Financial Statement Reporting

We understand that the material weakness consists of ineffective controls and lack of communication with the NRRIT auditor. The lack of communication with the NRRIT auditor is the basis for the disclaimer opinion rendered for the RRB's financial statements and it will be addressed further in the response to Challenge 7.

Regarding the ineffective controls, corrective actions have taken place in fiscal year 2015. In fiscal year 2015 the following were substantially automated in the agency's Financial Management Integrated System (FMIS); *Statement of Budgetary Resources, Combining Statement of Budgetary* Resources and the financial statement note *Reconciliation of Net Cost of Operations to Budget*. In addition, our Accounting Procedures Guide was rewritten with detailed instructions for operating within a new cloud shared service capability – FMIS, and additional guidance was added for reconciliations, including payroll reconciliations. Finally, budgetary accounting training was provided to accounting members during fiscal year 2015.

These actions have significantly improved accuracy and consistency of recorded amounts and effectiveness of controls.

Limited Transparency at the National Railroad Retirement Investment Trust

The National Railroad Retirement Investment Trust (NRRIT) is established by section 15(j) of the Railroad Retirement Act to invest funds from the Railroad Retirement Account which are not needed to pay current benefits. The Inspector General believes that the Railroad Retirement Board conducts insufficient oversight of the Trust operations and investments, and consequently recommends amendments to the Act to require independent performance audits by the Inspector General. The Inspector General further recommends RRB management counsel NRRIT to allow the IG access to the NRRIT auditor. RRB management continues to believe the oversight of the NRRIT is sufficient under current law.

Initially, RRB management believes the language of section 15(j) and the legislative history leading to its enactment clearly establish the intent of Congress to protect the assets of the Trust and the NRRIT itself from political influence. Moreover, in a May 2014 Report by GAO concerning oversight of the NRRIT (GAO -14-312), the GAO in concluding remarks noted this purpose and further, that the NRRIT is not without oversight beyond mandatory financial audits. In particular, GAO noted the Trust's condition is monitored by the RRB through regular reports and other communications. GAO also noted that the NRRIT on its own initiative commissioned four performance audits since 2002 which were comparable to and in some cases more comprehensive than those of comparable state pension plans. Moreover, in Fiscal Year 2015, the RRB and NRRIT concluded a Memorandum of Understanding requiring performance reviews over three year cycles beginning with calendar 2015. The priority for the audit topics under the agreement is determined from a selection of fourteen listed topics after consultation between the NRRIT and the RRB. The topic for the first audit under the agreement will be determined after the selection of the independent auditor in the last calendar quarter of this year. In RRB's view, the history of continuing cooperation between NRRIT and RRB on this and other matters renders any amendment recommended by the Inspector General unnecessary.

The RRB management also believes the Inspector General is not required to issue a disclaimer of opinion on the RRB financial statements. Although the Inspector General is required by law to audit the RRB financial statement, the standards of the American Institute of Certified Public Accountants (AICPA) allow auditors to express a qualified opinion, rather than a disclaimer of opinion, where possible effects of undetected misstatements do not have pervasive effect on the financial statement. The RRB does not believe the Inspector General has established that any undetected misstatements in the context of the NRRIT audit are pervasive within the meaning of the AICPA standards. Accordingly, RRB does not believe the situation warrants a disclaimer of opinion on the RRB financial statements. RRB will continue to work with the Inspector General to identify solutions for preventing future audit disclaimers.